

**386B.10-080 Exculpation of trustee.**

- (1) A term of a trust relieving a trustee of liability for breach of trust is unenforceable to the extent that it:
  - (a) Relieves the trustee of liability for breach of trust committed in bad faith or with reckless indifference to the purposes of the trust or the interests of the beneficiaries; or
  - (b) Was inserted as the result of an abuse by the trustee of a fiduciary or confidential relationship to the settlor.
- (2) An exculpatory term drafted or caused to be drafted by the trustee is invalid as an abuse of a fiduciary or confidential relationship unless the trustee proves that the exculpatory term is fair under the circumstances and that its existence and contents were adequately communicated to the settlor. The requirements of this subsection are satisfied if the settlor was represented by independent counsel at the time the exculpatory term was drafted or caused to be drafted.

**Effective:** July 15, 2014

**History:** Created 2014 Ky. Acts ch. 25, sec. 86, effective July 15, 2014.