

LOSSES TO THE SEVERAL SYSTEMS RESULTING FROM EACH BREACH, AND TO RESTORE TO THE SEVERAL SYSTEMS ANY PROFITS OF THE FIDUCIARY WHICH HAVE BEEN MADE THROUGH USE OF ASSETS OF THE SEVERAL SYSTEMS BY THE FIDUCIARY, AND SHALL BE SUBJECT TO THE EQUITABLE OR REMEDIAL RELIEF WHICH A COURT MAY DEEM APPROPRIATE, INCLUDING REMOVAL OF THE FIDUCIARY. A FIDUCIARY MAY ALSO BE REMOVED FOR A VIOLATION OF § 1-209 OF THIS SUBTITLE.

(B) NO FIDUCIARY MAY BE LIABLE WITH RESPECT TO A BREACH OF FIDUCIARY DUTY UNDER THIS SUBTITLE IF THE BREACH WAS COMMITTED BEFORE THE FIDUCIARY BECAME A FIDUCIARY OR AFTER THE FIDUCIARY CEASED TO BE A FIDUCIARY.

COMMITTEE NOTE: This section formerly appeared as Art. 73B, § 77.

The term "several systems" is substituted for the term "plan" to reflect a change in the definition.

The last sentence of former § 77(a) is deleted as redundant.

The only other changes are stylistic or technical.

1-207. INDEMNIFICATION OF PERSONS SERVING IN FIDUCIARY CAPACITY.

(A) THE STATE SHALL INDEMNIFY EVERY FIDUCIARY WHO IS MADE, OR IS THREATENED TO BE MADE, A PARTY TO ANY ACTION, SUIT, OR PROCEEDING, INCLUDING ADMINISTRATIVE AND INVESTIGATIVE PROCEEDINGS BY REASON OF THE FIDUCIARY'S SERVICE IN A FIDUCIARY CAPACITY TO THE SEVERAL SYSTEMS, IN ACCORDANCE WITH AND SUBJECT TO THE CONDITIONS STATED IN THIS SECTION.

(B) IF, WITH RESPECT TO A CIVIL, ADMINISTRATIVE, OR INVESTIGATIVE ACTION, SUIT, OR PROCEEDING, THE FIDUCIARY ACTED IN GOOD FAITH AND IN A MANNER THE FIDUCIARY REASONABLY BELIEVED TO BE IN OR NOT OPPOSED TO THE BEST INTEREST OF THE SEVERAL SYSTEMS, AND, WITH RESPECT TO A CRIMINAL ACTION, HAD NO REASONABLE CAUSE TO BELIEVE THE CONDUCT WAS UNLAWFUL, THEN THE FIDUCIARY SHALL BE INDEMNIFIED FOR THOSE EXPENSES, INCLUDING REASONABLE ATTORNEY'S FEES, JUDGMENTS, FINES, AND ACCOUNTS WHICH WERE ACTUALLY AND REASONABLY INCURRED BY THE FIDUCIARY IN CONNECTION WITH THE PROCEEDING.

(C) THE TERMINATION OF ANY SUIT OR PROCEEDING, IN ANY MANNER, DOES NOT, OF ITSELF, CREATE A PRESUMPTION THAT THE FIDUCIARY DID NOT ACT IN GOOD FAITH AND IN A MANNER THE FIDUCIARY REASONABLY BELIEVED TO BE IN OR NOT OPPOSED TO THE BEST INTEREST OF THE SEVERAL SYSTEMS, AND WITH RESPECT TO A CRIMINAL ACTION OR PROCEEDING, HAD REASONABLE CAUSE TO BELIEVE THAT THE CONDUCT WAS UNLAWFUL.