

To What Extent Can Another Party Remove Fiduciary Liability?

No one may remove your liability.

*“... **any provision in an agreement or instrument which purports to relieve a fiduciary from responsibility or liability for any responsibility, obligation, or duty under this part shall be void as against public policy.**” [purport: to promise explicitly or to imply]*

ERISA Sec. 1110.

Consider: Could or should a personally liable fiduciary rely for protection on a promise which any court must rule as null and void?

Fiduciaries fly solo. This site creates the documents fiduciaries need, fast and easy.

Sec. 1110 Liability removal not allowed

TITLE 29--LABOR
CHAPTER 18--EMPLOYEE RETIREMENT INCOME SECURITY PROGRAM
SUBCHAPTER I--PROTECTION OF EMPLOYEE BENEFIT RIGHTS
Subtitle B--Regulatory Provisions
Part 4--fiduciary responsibility
Sec. 1110. Exculpatory provisions; insurance

Except as provided in sections 1105(b)(1) and 1105(d) of this title, **any provision** in an agreement or instrument which purports to relieve a fiduciary from responsibility or liability for **any responsibility, obligation, or duty** under this part **shall be void as against public policy.**

Nothing in this subpart shall preclude a plan from purchasing insurance for its fiduciaries or for itself to cover liability or losses occurring by reason of the act or omission of a fiduciary, if such insurance permits recourse by the insurer against the fiduciary in the case of a breach of a fiduciary obligation by such fiduciary, a fiduciary from purchasing insurance to cover liability under this part from and for his own account; or an employer or an employee organization from purchasing insurance to cover potential liability of one or more persons who serve in a fiduciary capacity with regard to an employee benefit plan.

(Pub. L. 93-406, title I, Sec. 410, Sept. 2, 1974, 88 Stat. 886.)