

ACT 362

H.B. NO. 3292

A Bill for an Act Relating to Trustees.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Section 607-18, Hawaii Revised Statutes, is amended to read as follows:

“§607-18 Fees and expenses of trustees. (a) Upon all moneys and other property received in the nature of revenue or income of the estate, such as rents, interest, dividends, and general profits, trustees, except trustees of a charitable trust, shall be allowed as commissions payable out of the income received during each year, seven per cent for the first \$5,000, and five per cent for all over \$5,000 the commissions to be payable as and when the income is received, but not [oftener] more often than once a year.

(b) Upon the principal of the estate, trustees shall be allowed as commissions one per cent on the value at the inception of the trust payable at the inception out of the principal, one per cent on the value of all or any part of the estate upon final distribution payable at the termination out of the principal, and two and one-half

per cent upon all cash principal received after the inception of the trust and neither being nor representing principal upon which the two and one-half per cent has previously at any time been charged, payable at the receipt out of the principal, and two and one-half per cent upon the final payment of any cash principal prior to the termination of the trust, payable at the final payment out of the principal, and in addition thereto [one-tenth] three tenths of one per cent on the value at the expiration of each year during the continuance of the trust payable annually out of the principal; provided that such [one-tenth] three tenths of one per cent on the principal shall not apply to trust estates created under a trust document which authorizes the trustees to employ others to perform bookkeeping and clerical services at the expense of the estate, unless first approved by the court, nor shall such [one-tenth] three tenths of one per cent be allowed when such authority is granted by statute. For the purposes of this [paragraph] subsection, the value of the estate shall be determined in such manner as the court may approve.

(c) Such further allowances may be made as the court deems just and reasonable for services performed in connection with sales or leases of real estate, contested or litigated claims against the estate, the adjustment and payment of extensive or complicated estate or inheritance taxes, the preparation of estate and income tax returns, the carrying on of the decedent's business pursuant to an order of court or under the provisions of any will, litigation in regard to the property of the estate, and such other special services as may be necessary for the trustee to perform, prosecute, or defend. All contracts between a trustee and a beneficiary other than the creator of the trust, for higher compensation than is allowed in this section shall be void.

(d) [These provisions] This section shall apply as well to future accounting in existing estates as to new estates."

SECTION 2. Statutory material to be repealed is bracketed. New statutory material is underscored.

SECTION 3. This Act shall take effect upon its approval.

(Approved June 14, 1988.)