

SENATE BILL NO. 365

102ND GENERAL ASSEMBLY

INTRODUCED BY SENATOR CRAWFORD.

1488S.01H

KRISTINA MARTIN, Secretary

AN ACT

To repeal sections 475.040 and 475.275, RSMo, and to enact in lieu thereof two new sections relating to guardianships.

Be it enacted by the General Assembly of the State of Missouri, as follows:

Section A. Sections 475.040 and 475.275, RSMo, are
2 repealed and two new sections enacted in lieu thereof, to be
3 known as sections 475.040 and 475.275, to read as follows:

475.040. If it appears to the court, acting on the
2 petition of the guardian, the conservator, the respondent or
3 of a ward over the age of fourteen, or on its own motion, at
4 any time before the termination of the guardianship or
5 conservatorship, that the proceeding was commenced in the
6 wrong county, or that the domicile [or residence] of the
7 ward or protectee has [been] changed to another county, or
8 in case of conservatorship of the estate that it would be
9 for the best interest of the ward or disabled person and his
10 estate, the court may order the proceeding with all papers,
11 files and a transcript of the proceedings transferred to the
12 probate division of the circuit court of another county.
13 The court to which the transfer is made shall take
14 jurisdiction of the case, place the transcript of record and
15 proceed to the final settlement of the case as if the
16 appointment originally had been made by it.

475.275. 1. The conservator, at the time of filing
2 any settlement with the court, shall exhibit all securities

EXPLANATION-Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

3 or investments held by him to an officer of the bank or
4 other depository wherein the securities or investments are
5 held for safekeeping or to an authorized representative of
6 the corporation which is surety on his bond, or to the judge
7 or clerk of a court of record in this state, or upon request
8 of the conservator or other interested party, to any other
9 reputable person designated by the court, who shall certify
10 in writing that he has examined the securities or
11 investments and identified them with those described in the
12 account and shall note any omission or discrepancies. If
13 the depository is the conservator, the certifying officer
14 shall not be the officer verifying the account. The
15 conservator may exhibit the securities or investments to the
16 judge of the court, who shall endorse on the account and
17 copy thereof, a certificate that the securities or
18 investments shown therein as held by the conservator were
19 each in fact exhibited to him and that those exhibited to
20 him were the same as those in the account and noting any
21 omission or discrepancy. The certificate, and the
22 certificate of an official of the bank in which are
23 deposited any funds for which the conservator is
24 accountable, showing the amount on deposit, shall be
25 prepared and signed in duplicate and one of each shall be
26 filed by the conservator with his account.

27 2. (1) As used in and pursuant to this section, a
28 "pooled account" is an account within the meaning of this
29 section and means any account maintained by a fiduciary for
30 more than one principal and is established for the purpose
31 of managing and investing and to manage and invest the funds
32 of such principals. No fiduciary shall or may place funds
33 into a pooled account unless the account meets the following
34 criteria:

35 (a) The pooled account is maintained at a bank or
36 savings and loan institution;

37 (b) The pooled account is titled in such a way as to
38 reflect that the account is being held by a fiduciary in a
39 custodial capacity;

40 (c) The fiduciary maintains, or causes to be
41 maintained, records containing information as to the name
42 and ownership interest of each principal in the pooled
43 account;

44 (d) The fiduciary's records contain a statement of all
45 accretions and disbursements; and

46 (e) The fiduciary's records are maintained in the
47 ordinary course of business and in good faith.

48 (2) The public administrator of any county [with a
49 charter form of government and with more than six hundred
50 thousand but less than seven hundred thousand inhabitants]
51 serving as a conservator **or personal representative** and
52 using and utilizing pooled accounts for the investing[,
53 investment,] and management of [conservatorship] **estate**
54 funds shall have any such accounts [audited] **examined** on at
55 least an annual basis [and no less than one time per year]
56 by an independent certified public accountant. [The audit
57 provided shall review the records of the receipts and
58 disbursements of each estate account. Upon completion of
59 the investigation, the certified public accountant shall
60 render a report to the judge of record in this state showing
61 the receipts, disbursements, and account balances as to each
62 estate and as well as the total assets on deposit in the
63 pooled account on the last calendar day of each year.] **The**
64 **examination shall:**

65 (a) **Compare the pooled account's year-end bank**
66 **statement and obtain the reconciliation of the pooled**

67 account from the bank statement to the fiduciary's general
68 ledger balance on the same day;

69 (b) Reconcile the total of individual accounts in the
70 fiduciary's records to the reconciled pooled account's
71 balance and note any difference;

72 (c) Confirm if collateral is pledged to secure amounts
73 on deposit in the pooled account in excess of Federal
74 Deposit Insurance Corporation coverage; and

75 (d) Confirm the account balance with the financial
76 institution.

77 (3) A public administrator using and utilizing pooled
78 accounts as provided by this section shall certify by
79 affidavit that he or she has met the conditions for
80 establishing a pooled account as set forth in subdivision
81 (2) of this subsection.

82 (4) The county shall provide for the expense of [such
83 audit] **the report**. If and where the public administrator
84 has provided the judge with [the audit] **the report** pursuant
85 to and required by this subsection and section, the public
86 administrator shall not be required to obtain the written
87 [certification] **verification** of an officer of a bank or
88 other depository on any estate asset maintained within the
89 pooled account as otherwise required in and under subsection
90 1 of this section.

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