

STATE OF OKLAHOMA

2nd Session of the 44th Legislature (1994)

HOUSE BILL NO. 2015

By: Davis

AS INTRODUCED

An Act relating to probate procedure and guardianship; amending 58 O.S. 1991, Sections 541 and 550, which relate to certain vouchers and accounts; modifying certain procedure; requiring certain proof of payment if requested; providing for certain time for certain filings and information; exempting certain itemized accountings; requiring certain oaths; amending 30 O.S. 1991, Sections 3-124, 4-201 and 4-763, which relate to sale or lease of certain properties; modifying certain procedures for manner of sale; providing for certain waivers; providing for notice; authorizing certain conveyance procedures; adding to list of persons from whom certain bonds are not necessary; repealing 58 O.S. 1991, Sections 547 and 551, which relate to certain probate reports and certain items without vouchers; and providing an effective date.

BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

SECTION 1. AMENDATORY 58 O.S. 1991, Section 541, is amended to read as follows:

Section 541. At the final accounting for settlement of the estate or at any other time when required by the court, either upon its own motion or upon the application of any person interested in the estate, the executor or administrator must render, for the information of the court, an exhibit under oath, showing the amount of money received and expended by him, the amount of all claims presented against the estate and the names of the claimants, and all other matters necessary to show the condition of its affairs; provided, however, that if waived in writing by all persons entitled to distribution or if the personal representative is the sole recipient, no itemized accounting of income and expenses shall be required in the final accounting. It shall be sufficient for the personal representative to state under oath that:

1. All income has been properly received and expenses lawfully made;

2. All allowed and approved claims have been paid;

3. All funeral expenses, taxes and costs of the administrator have been paid; and

4. The estate is ready for closing.

SECTION 2. AMENDATORY 58 O.S. 1991, Section 550, is amended to read as follows:

Section 550. In rendering his account, the executor or administrator must ~~produce and~~, upon request of the court or an interested party, file vouchers or other proof of payment for all charges, debts, claims, and expenses which he has paid, which must remain in the court; and he may be examined on oath touching such payments, and also touching any property and effects of the decedent, and the disposition thereof. When any voucher is required for other purposes, it may be withdrawn on leaving a certified copy on file; if a voucher is lost, or for other good reason cannot be produced on the settlement, the payment may be proved by the oath of any competent witness.

SECTION 3. AMENDATORY 30 O.S. 1991, Section 3-124, is amended to read as follows:

Section 3-124. ~~Ne~~ When the ward owns an interest in a tract of real property in addition to a homestead interest, no conveyance, deed, contract or lease executed pursuant to the authority granted by Section ~~60~~ 3-123 of this act title shall be valid, unless the sale or leasing be conducted in the manner provided by law for the sale or leasing of other lands of an incapacitated or partially incapacitated person, be approved by the court in which the guardianship proceeding is pending, and the spouse of the ward be a party to such conveyance, deed, contract or lease and join in the execution and acknowledgment thereof, but when the ward owns no interest in a tract of real property other than a homestead interest or possible homestead interest, a guardian may execute a conveyance thereof on behalf of the ward for the purpose of waiving such homestead interest or possible homestead interest, if so authorized by order of the Court in which such proceeding is pending, made pursuant to application and notice sent by ordinary mail to the persons set forth in Section 3-110 of this title at least ten (10) days prior to the hearing of such application.

SECTION 4. AMENDATORY 30 O.S. 1991, Section 4-201, is amended to read as follows:

Section 4-201. A. Before the entry of an order appointing a person or organization as a guardian of the person and before the letters issue, the court may require the person or organization to be appointed to provide a bond to the State of Oklahoma, with sufficient sureties, to be approved by the court, and in such penal sum as he shall order, conditioned that the guardian will faithfully execute the duties of his trust according to law.

B. 1. Before the entry of an order appointing a person or organization as the guardian of a minor or as the guardian or limited guardian of the property of an incapacitated or partially

incapacitated person takes effect, and before the letters issue, the court shall require the person or organization to be appointed to provide a bond, in an amount not less than the value of intangible personal property as alleged in the petition or otherwise determined by the court at the hearing on the petition, to the State of Oklahoma, with sufficient sureties, to be approved by the court, and in such penal sum as he shall order, conditioned that the guardian will faithfully execute the duties of his trust according to law.

2. Except as otherwise provided by paragraph 3 of this subsection, upon a finding by the court that:

- a. the anticipated annual income to a ward for one (1) year plus the value of the personal property of the ward is less than Forty Thousand Dollars (\$40,000.00); and
- b. the guardian of the ward is either a parent, spouse, brother, sister, grandparent, child or grandchild of the ward,

the court may order that a bond is not necessary.

3. A bond shall be required and maintained for cases subject to the Uniform Veterans Guardianship Act.

C. In the event the intangible personal property of the ward, as determined by the inventory, is in a greater amount than as alleged in the petition or determined by the court at the hearing on the petition, the guardian will file at the time the inventory is filed a bond to the full amount of the intangible personal property, which bond will be in substitution for the bond originally filed on the appointment of the guardian. The amount of the bond in the future may be adjusted up or down in amount based upon the intangible personal property shown in future annual accountings, provided however, no bond shall be reduced except upon order of the court.

SECTION 5. AMENDATORY 30 O.S. 1991, Section 4-763, is amended to read as follows:

Section 4-763. Every guardian authorized to sell real estate shall, before the sale, give bond to the State of Oklahoma, with sufficient surety to be approved by the court, with condition to sell the same in the manner and to account for the proceeds of the sale as provided for by the Oklahoma Guardianship and Conservatorship Act. The court may order that such bond is not required if the court specifically finds that the general bond, if any, of the guardian is of a sufficient penal amount to provide for the proceeds of the sale in addition to the property secured by said bond or upon a finding by the court that:

1. The anticipated annual income to a ward for one (1) year plus the value of the personal property of the ward, after sale, is less than Forty Thousand Dollars (\$40,000.00); and

2. The guardian of the ward is either a parent, spouse, brother, sister, grandparent, child or grandchild of the ward.

SECTION 6. REPEALER 58 O.S. 1991, Sections 547 and 551, are hereby repealed.

SECTION 7. This act shall become effective September 1, 1994.

44-2-8382 KSM