ENGROSSED HOUSE
BILL NO. 1243 By: Lepak of the House

and

Sykes of the Senate

An Act relating to guardian and ward; amending 30 O.S. 2011, Section 4-709, which relates to investment of monies belonging to estates; providing exemption from investment requirements for certain guardians under certain conditions; and providing an effective date.

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

SECTION 1. AMENDATORY 30 O.S. 2011, Section 4-709, is amended to read as follows:

Section 4-709. A. Except as ~~may be otherwise provided by law~~ <u>provided in subsection B of this section</u>, the money belonging to estates of minors and incapacitated or partially incapacitated persons, subject to the jurisdiction of the court, can only be invested in one or more of the following:

1. Real estate and first mortgages upon real property which do not exceed fifty percent (50%) of the actual value of the property;

2. United States bonds, or any other type of security certificate, or evidence of indebtedness which is guaranteed by the United States government, or any authorized agency thereof;

3. State bonds;

4. Bonds of municipal corporations;

5. Annuities covered by the Oklahoma Life and Health Insurance Guaranty Association, which do not exceed Three Hundred Thousand Dollars ($300,000.00), individually; or

6. Accounts in savings and loan associations and credit unions located in this state, and all types of interest-bearing time deposits and certificates of banks, savings and loan associations, and credit unions located in this state, not to exceed the amount insured by the United States government.

B. <u>When an individual guardian is investing the money belonging to estates of minors or incapacitated or partially incapacitated persons, subsection A of this section shall not apply, provided that the guardian has contracted with a person who is a registered investment advisor representative pursuant to the Oklahoma Uniform Securities Act of 2004 and a certified Financial Planner credentialed by the Certified Financial Planner Board of Standards, and provided further that the court authorizes such investments.</u>

<u>C.</u> Upon application to the court by the guardian of the estate of the incapacitated or partially incapacitated person, showing to the satisfaction of the court:

1. That the incapacitated or partially incapacitated person is vitally in need of a home;

2. That the incapacitated or partially incapacitated person owns no suitable homestead;

3. That the incapacitated or partially incapacitated person has sufficient monthly, semi-annual, or annual fixed income to retire an incurred indebtedness for the remaining unpaid cost of a homestead; and

4. That it would be in the best interest of the incapacitated or partially incapacitated person that a suitable homestead be purchased on that basis.

The court may enter an order authorizing the guardian to execute and deliver a note and mortgage, under such tenor and terms as the court will approve, for the purpose of securing payment of any remaining cost of such a homestead. Any note and mortgage given by a guardian under the provisions of this section shall, if authorized by the court as provided for in this section, be endorsed "approved" by the judge. When so authorized and endorsed, the note and mortgage shall be a binding obligation against the ward and the estate of the ward until fully paid. The ward, if subsequently restored to competency to transact business, shall be held firmly bound by the note and mortgage in the same manner and to the same extent as though the ward had given the homestead purchase-money note and mortgage.

~~C.~~ D. When an individual guardian enters into an agreement with a bank or trust company, or when the guardian is a bank or trust company qualified and acting under the supervision of the Banking

Board, or of the Comptroller of the Currency of the United States of America, the guardian may, upon application to the court, invest funds coming into its hands as guardian in any property, real, personal or mixed, in which an individual may invest the individual's own funds pursuant to the provisions of the Oklahoma Uniform Prudent Investor Act, unless otherwise provided by law.

SECTION 2. This act shall become effective November 1, 2017.

Passed the House of Representatives the 21st day of March, 2017.

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Presiding Officer of the House of Representatives

Passed the Senate the ___ day of __________, 2017.

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Presiding Officer of the Senate