

By Representative Geller

1 A bill to be entitled
2 An act relating to guardians; creating s.
3 744.1085, F.S.; providing for the regulation of
4 professional guardians; providing a definition;
5 providing for a bond; providing educational
6 requirements; providing for random fiscal field
7 audits; increasing financial return audit fees
8 to defray the costs of conducting random fiscal
9 field audits; amending s. 624.606, F.S.;
10 redefining the term "surety insurance";
11 authorizing issuance of a blanket fiduciary
12 bond; amending s. 744.3135, F.S.; requiring
13 criminal history and credit check; amending s.
14 744.3145, F.S.; excluding professional
15 guardians from certain educational
16 requirements; providing an effective date.

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18 Be It Enacted by the Legislature of the State of Florida:

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20 Section 1. Section 744.1085, Florida Statutes, is
21 created to read:

22 744.1085 Regulation of professional guardians;
23 application; definition; bond required; educational
24 requirements; audits.--

25 (1) The provisions of this section shall be in
26 addition to and supplemental to any other provision of the
27 Florida Guardianship Law.

28 (2) For the purposes of this section, the term
29 "professional guardian" means any person who receives
30 compensation to be a guardian for more than one ward who is
31 not a relative.

1 (3) Each professional guardian shall post a blanket
2 fiduciary bond with the clerk of the circuit court in the
3 county in which the guardian's primary place of business is
4 located. The guardian shall provide proof of the fiduciary
5 bond to the clerks of each additional circuit court in which
6 he or she applies for appointment as a professional guardian.
7 The bond shall be maintained by the guardian in an amount not
8 less than \$50,000. The bond shall cover all wards assigned to
9 the guardian at any given time. The liability of the provider
10 of the bond shall be limited to the face amount of the bond,
11 regardless of the number of wards assigned to the professional
12 guardian. Each employee of a professional guardian who has
13 direct contact with the ward or the ward's assets shall be
14 subject to the provisions of this subsection. The bond shall
15 be payable to the Governor of the State of Florida and his or
16 her successors in office and conditioned on the faithful
17 performance of all duties by the guardian. In form, the bond
18 shall be joint and several. The bond shall be in addition to
19 any bonds required pursuant to s. 744.351. This subsection
20 shall not apply to any attorney who is licensed to practice
21 law in this state, to any financial institution as defined in
22 s. 744.309(4), or an office of public guardian.

23 (4) Each professional guardian must receive a minimum
24 of 40 hours of instruction and training by October 1, 1998, or
25 within 1 year after appointment as a professional guardian,
26 whichever is later. Each professional guardian must receive a
27 minimum of 16 hours of continuing education every 2 calendar
28 years after the year in which the initial 40-hour educational
29 requirement is met. The instruction and education must be
30 completed through a course approved by the chief judge of the
31 circuit court and taught by a court-approved organization.

1 The expenses incurred to satisfy the educational requirements
2 prescribed in this section shall be paid by the guardian,
3 individually. The court, in its discretion, may impose
4 additional requirements. This subsection shall not apply to
5 any attorney who is licensed to practice law in this state.

6 (5) In addition to the provisions in s. 744.368, each
7 clerk of the circuit court shall conduct a random fiscal field
8 audit of at least 0.5 percent of the annual accounting reports
9 required to be filed with the court by professional guardians.
10 For the purposes of this section, a fiscal field audit shall
11 be conducted on the premises of the ward and shall include an
12 inspection of all financial records and accounting statements,
13 including, but not limited to, bank and brokerage statements,
14 and receipts of all expenditures. Each circuit court shall
15 increase the annual financial return audit fees in an amount
16 sufficient to defray the costs associated with conducting the
17 random fiscal field audits required by this subsection.

18 Section 2. Paragraphs (e) and (f) of subsection (1) of
19 section 624.606, Florida Statutes, are amended, and paragraph
20 (g) is added to subsection (1) of said section, to read:

21 624.606 "Surety insurance" defined.--

22 (1) "Surety insurance" includes:

23 (e) Fidelity insurance as defined in s. 624.6065 for
24 the purposes of the Florida Insurance Code other than part XX
25 of chapter 627; ~~or~~

26 (f) Residual value insurance as defined in s.
27 624.6081; or

28 (g) A blanket fiduciary bond issued to professional
29 guardians pursuant to s. 744.1085.

30 Section 3. Section 744.3135, Florida Statutes, is
31 amended to read:

1 744.3135 Credit and criminal investigation.--The court
2 <U>shall ~~may~~ require a prospective guardian to submit, at his own
3 expense, to an investigation of the prospective guardian's
4 credit history and ~~or~~ an investigatory check by the National
5 Crime Information Center and the Florida Crime Information
6 Center systems, ~~or both. The court may order these~~
7 ~~investigations if it deems it necessary.~~

8 Section 4. Subsection (6) is added to section
9 744.3145, Florida Statutes, to read:

10 744.3145 Guardian education requirements.--

11 (6) The provisions of this section do not apply to
12 professional guardians.

13 Section 5. This act shall take effect October 1, 1997.

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16 HOUSE SUMMARY

17 Provides for the regulation of for-profit guardians.
18 Requires a surety bond in the amount of \$50,000 for each
19 such guardian. Provides for educational requirements and
20 for random fiscal field audits. Redefines the term
21 "surety insurance" to include a blanket fiduciary bond
22 issued to professional guardians. Requires criminal
23 history and credit checks. Excludes professional
24 guardians from described educational requirements.

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