

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 for a bond;
5 providing educational requirements; providing
6 for random audits; increasing financial return
7 audit fees to defray the costs of conducting
8 random audits; amending s. 624.606, F.S.;
9 redefining the term "surety insurance";
10 authorizing issuance of a blanket fiduciary
11 bond; amending s. 744.3135, F.S.; requiring
12 criminal history and credit check; providing
13 for waiver; amending s. 744.3145, F.S.;
14 excluding professional guardians from certain
15 educational requirements; amending s. 744.3675,
16 F.S.; revising language with respect to the
17 annual guardianship plan; amending s. 744.454,
18 F.S.; forbidding professional guardian from
19 purchasing property or borrowing money from his
20 ward; providing an effective date.

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

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24 Section 1. Section 744.1085, Florida Statutes, is
25 created to read:

26 744.1085 Regulation of professional guardians;
27 application; bond required; educational requirements;
28 audits.--

29 (1) The provisions of this section shall be in
30 addition to and supplemental to any other provision of the
31 Florida Guardianship Law.

1 (2) 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 (3) Each professional guardian defined in s.
24 744.102(15), must receive a minimum of 40 hours of instruction
25 and training by October 1, 1998, or within 1 year after
26 becoming a professional guardian, whichever occurs later.
27 Each professional guardian must receive a minimum of 16 hours
28 of continuing education every 2 calendar years after the year
29 in which the initial 40-hour educational requirement is met.
30 The instruction and education must be completed through a
31 course approved by the chief judge of the circuit court and

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

7 (4) In addition to the provisions in s. 744.368, each
8 clerk of the circuit court shall conduct a random audit of at
9 least 0.5 percent of the annual accounting reports required to
10 be filed with the court by professional guardians. For the
11 purposes of this section, an audit may be conducted at the
12 office of the clerk, and/or at the domicile of the ward as
13 needed to make a complete fiscal audit and to inventory assets
14 for the ward. The audit shall include an inspection of all
15 financial records and accounting statements, including, but
16 not limited to, bank and brokerage statements, and receipts of
17 all expenditures, and shall include a field audit of assets
18 purchased for the ward. The professional guardian shall
19 cooperate with the clerk or the clerk's designee in completing
20 the audit. Each circuit court shall increase the annual
21 financial return audit fees in an amount sufficient to defray
22 the costs associated with conducting the random audits
23 required by this subsection. The clerk may contract for the
24 auditing services required by this section.

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

28 624.606 "Surety insurance" defined.--

29 (1) "Surety insurance" includes:
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1 (e) Fidelity insurance as defined in s. 624.6065 for
2 the purposes of the Florida Insurance Code other than part XX
3 of chapter 627; ~~or~~

4 (f) Residual value insurance as defined in s.
5 624.6081; or

6 (g) A blanket fiduciary bond issued to professional
7 guardians pursuant to s. 744.1085.

8 Section 3. Section 744.3135, Florida Statutes, is
9 amended to read:

10 744.3135 Credit and criminal investigation.--The court
11 ~~<U>shall may~~ require a prospective professional guardian to
12 submit, at his own expense, to an investigation of the
13 prospective guardian's credit history and ~~or~~ an investigatory
14 check by the National Crime Information Center or ~~and~~ the
15 Florida Crime Information Center ~~systems, or both. The court~~
16 ~~may order these investigations if it deems it necessary. The~~
17 court shall waive the credit and criminal investigation for a
18 guardian who is the spouse or child of the ward.

19 Section 4. Paragraph (b) of subsection (1) of section
20 744.3675, Florida Statutes, 1996 Supplement, is amended to
21 read:

22 744.3675 Annual guardianship plan.--Each guardian of
23 the person must file with the court an annual guardianship
24 plan which updates information about the condition of the
25 ward. The annual plan must specify the current needs of the
26 ward and how those needs are proposed to be met in the coming
27 year.

28 (1) Each plan must, if applicable, include:

29 (b) Information concerning the medical condition and
30 needs of the ward, including:

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1 1. A resume of any professional medical treatment
2 given to the ward during the preceding year;

3 2. The report of a physician who examined the ward no
4 more than 90 days before the beginning ~~end~~ of the applicable
5 reporting ~~report~~ period. Such report must contain an
6 evaluation of the ward's condition and a statement of the
7 current level of capacity of the ward; and

8 3. The plan for provision of medical, mental health,
9 and rehabilitative services in the coming year.

10 Section 5. Subsection (6) is added to section
11 744.3145, Florida Statutes, to read:

12 744.3145 Guardian education requirements.--

13 (6) The provisions of this section do not apply to
14 professional guardians.

15 Section 6. Section 744.454, Florida Statutes, 1996
16 Supplement, is amended to read:

17 744.454 Guardian forbidden to borrow or purchase;
18 exceptions.--A professional guardian may not purchase property
19 or borrow money from his ward ~~unless~~ A guardian who is not a
20 professional guardian may do so if:

21 (1) A court by written order authorizes the sale or
22 loan after a hearing to which interested persons were given
23 notice; or

24 (2) The property is sold at public sale and the
25 guardian is a spouse, parent, child, brother, or sister of the
26 ward or a cotenant of the ward in the property to be sold.

27 Section 7. This act shall take effect October 1, 1997.