

BILL ANALYSIS

Senate Research Center

H.B. 2189
By: Naishtat (Wentworth)
Jurisprudence
5-13-97
Engrossed

DIGEST

In 1993, the legislature passed legislation that reorganized and reformed the Texas Guardianship statutes. Independent of the 1993 reformation bill, there were several decedent's administration and guardianship statutes that were not addressed by such legislation. The 1995 technical corrections bill attempted to address most of the technical issues caused by the passage of the 1993 legislation, but some were overlooked. Beginning in 1993, guardianships were required to state in their accountings and reports whether or not any required bond premiums were paid and whether all outstanding taxes were paid. This requirement was an additional safeguard to ensure the administrator was fulfilling his or her court-ordered duties, to the benefit of the ward. Similar requirements for accountings in a decedent's administration, although intended, were not added. This bill would add requirements of statements concerning bonds and taxes by a personal representative in a decedent's estates to conform with similar requirements for a guardian in a guardianship.

PURPOSE

As proposed, H.B. 2189 adds requirements of statements concerning bonds and taxes by a personal representative in a decedent's estates to conform with similar requirements for a guardian in a guardianship.

RULEMAKING AUTHORITY

This bill does not grant any additional rulemaking authority to a state officer, institution, or agency.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Section 399(a), Probate Code, to require the personal representative of the estate of a decedent being administered under order of court, upon the expiration of 12 months from the date of qualification and receipt of letters, to return to the court an exhibit in writing under oath setting forth a list of all claims against the estate that were presented within the period covered by the account, specifying which have been allowed, which have been paid, which have been rejected and the date when rejected, which have been sued upon, and the condition of the suit, and show, among other items, a statement that the personal representative has paid all the required bond premiums for the accounting period.

SECTION 2. Amends Section 405, Probate Code, as follows:

Sec. 405. New heading: ACCOUNT FOR FINAL SETTLEMENT OF ESTATES OF DECEDENTS. Deletes text in reference to administration of the estate of a guardianship of person or estate, or of the person and estate of a ward. Requires each final account to be accompanied by proper vouchers in support of each item thereof not already accounted for and to show, among other items, that the personal representative has paid all required bond premiums. Deletes existing Subsection (b).

SECTION 3. Amends Section 743(b), Probate Code, to require the guardian of the person, whether or not there is a separate guardian of the estate, to submit to the court an annual report by sworn affidavit that contains, among other information, a statement that the guardian has paid the bond premium for the next reporting period. Makes conforming changes.

SECTION 4. Amends Section 749, Probate Code, to require for each final account for final settlement of estates of wards to be accompanied by proper vouchers in support of each item not already accounted for and to show, among other items, that the guardian has paid all required bond premiums; the tax returns the guardian has filed during the guardianship; the amount of taxes the ward owed during the guardianship that the guardian has paid; a complete account of the taxes the guardian has paid during the guardianship; and a description of all current delinquencies in the filing of tax returns and the payment of taxes and a reason for each delinquency.

SECTION 5. Effective date: September 1, 1997.
Makes application of this Act prospective.

SECTION 6. Emergency clause.