

FIRST REGULAR SESSION

# HOUSE BILL NO. 1013

102ND GENERAL ASSEMBLY

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INTRODUCED BY REPRESENTATIVE REEDY.

2283H.011

DANA RADEMAN MILLER, Chief Clerk

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## AN ACT

To repeal sections 475.040 and 475.275, RSMo, and to enact in lieu thereof two new sections relating to guardianships.

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*Be it enacted by the General Assembly of the state of Missouri, as follows:*

Section A. Sections 475.040 and 475.275, RSMo, are repealed and two new sections  
2 enacted in lieu thereof, to be known as sections 475.040 and 475.275, to read as follows:

475.040. If it appears to the court, acting on the petition of the guardian, the  
2 conservator, the respondent or of a ward over the age of fourteen, or on its own motion, at any  
3 time before the termination of the guardianship or conservatorship, that the proceeding was  
4 commenced in the wrong county, or that the domicile ~~[or residence]~~ of the ward or protectee  
5 has ~~[been]~~ changed to another county, or in case of conservatorship of the estate that it would  
6 be for the best interest of the ward or disabled person and his estate, the court may order the  
7 proceeding with all papers, files and a transcript of the proceedings transferred to the probate  
8 division of the circuit court of another county. The court to which the transfer is made shall  
9 take jurisdiction of the case, place the transcript of record and proceed to the final settlement  
10 of the case as if the appointment originally had been made by it.

475.275. 1. The conservator, at the time of filing any settlement with the court, shall  
2 exhibit all securities or investments held by him to an officer of the bank or other depository  
3 wherein the securities or investments are held for safekeeping or to an authorized  
4 representative of the corporation which is surety on his bond, or to the judge or clerk of a  
5 court of record in this state, or upon request of the conservator or other interested party, to any  
6 other reputable person designated by the court, who shall certify in writing that he has  
7 examined the securities or investments and identified them with those described in the

EXPLANATION — Matter enclosed in bold-faced brackets ~~[thus]~~ in the above bill is not enacted and is intended to be omitted from the law. Matter in **bold-face** type in the above bill is proposed language.

8 account and shall note any omission or discrepancies. If the depository is the conservator, the  
9 certifying officer shall not be the officer verifying the account. The conservator may exhibit  
10 the securities or investments to the judge of the court, who shall endorse on the account and  
11 copy thereof, a certificate that the securities or investments shown therein as held by the  
12 conservator were each in fact exhibited to him and that those exhibited to him were the same  
13 as those in the account and noting any omission or discrepancy. The certificate, and the  
14 certificate of an official of the bank in which are deposited any funds for which the  
15 conservator is accountable, showing the amount on deposit, shall be prepared and signed in  
16 duplicate and one of each shall be filed by the conservator with his account.

17 2. (1) As used in and pursuant to this section, a "pooled account" is an account within  
18 the meaning of this section and means any account maintained by a fiduciary for more than  
19 one principal and is established for the purpose of managing and investing and to manage and  
20 invest the funds of such principals. No fiduciary shall or may place funds into a pooled  
21 account unless the account meets the following criteria:

22 (a) The pooled account is maintained at a bank or savings and loan institution;

23 (b) The pooled account is titled in such a way as to reflect that the account is being  
24 held by a fiduciary in a custodial capacity;

25 (c) The fiduciary maintains, or causes to be maintained, records containing  
26 information as to the name and ownership interest of each principal in the pooled account;

27 (d) The fiduciary's records contain a statement of all accretions and disbursements;  
28 and

29 (e) The fiduciary's records are maintained in the ordinary course of business and in  
30 good faith.

31 (2) The public administrator of any county ~~[with a charter form of government and~~  
32 ~~with more than six hundred thousand but less than seven hundred thousand inhabitants]~~  
33 serving as a conservator **or personal representative** and using and utilizing pooled accounts  
34 for the investing~~[-investment,]~~ and management of ~~[conservatorship]~~ **estate** funds shall have  
35 any such accounts ~~[audited]~~ **examined** on at least an annual basis ~~[and no less than one time~~  
36 ~~per year]~~ by an independent certified public accountant. ~~[The audit provided shall review the~~  
37 ~~records of the receipts and disbursements of each estate account. Upon completion of the~~  
38 ~~investigation, the certified public accountant shall render a report to the judge of record in this~~  
39 ~~state showing the receipts, disbursements, and account balances as to each estate and as well~~  
40 ~~as the total assets on deposit in the pooled account on the last calendar day of each year.]~~ **The**  
41 **examination shall:**

42 (a) **Compare the pooled account's year-end bank statement and obtain the**  
43 **reconciliation of the pooled account from the bank statement to the fiduciary's general**  
44 **ledger balance on the same day;**

45           **(b) Reconcile the total of individual accounts in the fiduciary's records to the**  
46 **reconciled pooled account's balance and note any difference;**

47           **(c) Confirm if collateral is pledged to secure amounts on deposit in the pooled**  
48 **account in excess of Federal Deposit Insurance Corporation coverage; and**

49           **(d) Confirm the account balance with the financial institution.**

50           **(3) A public administrator using and utilizing pooled accounts as provided by**  
51 **this section shall certify by affidavit that he or she has met the conditions for**  
52 **establishing a pooled account as set forth in subdivision (2) of this subsection.**

53           **(4) The county shall provide for the expense of [~~such audit~~] the report. If and where**  
54 **the public administrator has provided the judge with [~~the audit~~] the report pursuant to and**  
55 **required by this subsection and section, the public administrator shall not be required to**  
56 **obtain the written [~~certification~~] verification of an officer of a bank or other depository on**  
57 **any estate asset maintained within the pooled account as otherwise required in and under**  
58 **subsection 1 of this section.**

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