

SECOND REGULAR SESSION

HOUSE BILL NO. 1342

94TH GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVE PORTWOOD.

Pre-filed December 3, 2007 and copies ordered printed.

D. ADAM CRUMBLISS, Chief Clerk

3267L.02I

AN ACT

To repeal section 475.190, RSMo, and to enact in lieu thereof one new section relating to the conservator's investment in property.

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

Section A. Section 475.190, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 475.190, to read as follows:

475.190. 1. The conservator shall invest the money of the protectee, from whatever source derived, unless it is required for other lawful purposes.

2. No investment, other than an investment (a) in the direct obligations of or obligations unconditionally guaranteed as to principal and interest by the United States or (b) in savings accounts and time deposits, including time certificates of deposit, in banking institutions to the extent such accounts or deposits are insured by the Federal Deposit Insurance Corporation or (c) in accounts of savings and loan associations to the extent such accounts are insured by the Federal Savings and Loan Insurance Corporation, shall be made without prior order of the court.

3. The conservator may invest in any other property, real or personal, [which] **unless** the court [finds is] **makes a finding on the record such investment is not** a reasonable and prudent investment [in the circumstances]. **Furthermore, the investment advisor retained by the conservator must acknowledge in writing that he or she is acting as a fiduciary on the account, and that the account will be managed as a fiduciary account.** An order of court authorizing investment under this subsection does not relieve a conservator or his **or her** sureties

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.

15 of responsibility and liability if the investment made is not in fact in accordance with the
16 Missouri prudent investor act, sections 469.900 to 469.913, RSMo.

17 4. Every conservator shall make a report at every annual settlement of the disposition
18 made by the conservator of the money belonging to the protectee entrusted to him **or her**. If it
19 appears that the money is invested in securities, then the conservator shall report a detailed
20 description of the securities and shall describe any real estate security and state where it is
21 situated, and its value, which report shall be filed in the court. The court shall carefully examine
22 into the report as soon as made, and, if in the opinion of the court the security is insufficient, the
23 court shall make such orders as are necessary to protect the interest of the protectee. The
24 conservator and his **or her** sureties are liable on their bond for any omission to comply with the
25 orders of the court. If the money has not been invested as authorized by law the conservator shall
26 state that fact and the reasons, and shall state that the conservator has been unable to make an
27 investment after diligent effort to do so.

28 5. If any conservator refuses or neglects to make the report at the time aforesaid, or
29 makes a false report thereof, [he] **such conservator** and his **or her** sureties are liable on their
30 bond for all loss or damage to the protectee occasioned by reason of his **or her** neglect or refusal
31 so to report, or by making a false report, and the conservator may, on account thereof, be
32 removed from his **or her** trust in the discretion of the court.

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