

1-1 By: Zaffirini S.B. No. 626
1-2 (In the Senate - Filed February 9, 2021; March 11, 2021,
1-3 read first time and referred to Committee on Jurisprudence;
1-4 March 23, 2021, reported favorably by the following vote: Yeas 4,
1-5 Nays 0; March 23, 2021, sent to printer.)

1-6 COMMITTEE VOTE

	Yea	Nay	Absent	PNV
1-7				
1-8	X			
1-9	X			
1-10	X			
1-11			X	
1-12	X			

1-13 A BILL TO BE ENTITLED
1-14 AN ACT

1-15 relating to guardianships, management trusts, and certain other
1-16 procedures and proceedings for persons who are incapacitated.

1-17 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-18 SECTION 1. Section 1021.001, Estates Code, is amended to
1-19 read as follows:

1-20 Sec. 1021.001. MATTERS RELATED TO GUARDIANSHIP PROCEEDING.

1-21 (a) For purposes of this code, in a county in which there is no
1-22 statutory probate court or county court at law exercising original
1-23 probate jurisdiction, a matter related to a guardianship proceeding
1-24 includes:

1-25 (1) the granting of letters of guardianship;

1-26 (2) the settling of an account of a guardian and all
1-27 other matters relating to the settlement, partition, or
1-28 distribution of a ward's estate;

1-29 (3) a claim brought by or against a guardianship
1-30 estate;

1-31 (4) an action for trial of title to real property that
1-32 is guardianship estate property, including the enforcement of a
1-33 lien against the property;

1-34 (5) an action for trial of the right of property that
1-35 is guardianship estate property;

1-36 (6) after a guardianship of the estate of a ward is
1-37 required to be settled as provided by Section 1204.001:

1-38 (A) an action brought by or on behalf of the
1-39 former ward against a former guardian of the ward for alleged
1-40 misconduct arising from the performance of the person's duties as
1-41 guardian;

1-42 (B) an action calling on the surety of a guardian
1-43 or former guardian to perform in place of the guardian or former
1-44 guardian, which may include the award of a judgment against the
1-45 guardian or former guardian in favor of the surety;

1-46 (C) an action against a former guardian of the
1-47 former ward that is brought by a surety that is called on to perform
1-48 in place of the former guardian;

1-49 (D) a claim for the payment of compensation,
1-50 expenses, and court costs, and any other matter authorized under
1-51 Chapter 1155; and

1-52 (E) a matter related to an authorization made or
1-53 duty performed by a guardian under Chapter 1204; and

1-54 (7) the appointment of a trustee for a trust created
1-55 under Section 1301.053 or 1301.054, the settling of an account of
1-56 the trustee, and all other matters relating to the trust.

1-57 (a-1) For purposes of this code, in a county in which there
1-58 is no statutory probate court, but in which there is a county court
1-59 at law exercising original probate jurisdiction, a matter related
1-60 to a guardianship proceeding includes:

1-61 (1) all matters and actions described in Subsection

2-1 (a);
2-2 (2) the interpretation and administration of a
2-3 testamentary trust in which a ward is an income or remainder
2-4 beneficiary; and
2-5 (3) the interpretation and administration of an inter
2-6 vivos trust in which a ward is an income or remainder beneficiary.
2-7 (b) For purposes of this code, in a county in which there is
2-8 a statutory probate court, a matter related to a guardianship
2-9 proceeding includes:
2-10 (1) all matters and actions described in Subsections
2-11 [Subsection] (a) and (a-1);
2-12 (2) a suit, action, or application filed against or on
2-13 behalf of a guardianship or a trustee of a trust created under
2-14 Section 1301.053 or 1301.054; and
2-15 (3) a cause of action in which a guardian in a
2-16 guardianship pending in the statutory probate court is a party.
2-17 SECTION 2. Section 1052.052(b), Estates Code, is amended to
2-18 read as follows:
2-19 (b) Each case file must contain each order, judgment, and
2-20 proceeding of the court and any other guardianship filing with the
2-21 court, including each:
2-22 (1) application for the granting of guardianship;
2-23 (2) citation and notice, whether published or posted,
2-24 including the return on the citation or notice;
2-25 (3) bond and official oath or declaration;
2-26 (4) inventory, appraisal, and list of claims;
2-27 (5) exhibit and account;
2-28 (6) report of renting;
2-29 (7) application for sale or partition of real estate;
2-30 (8) report of sale;
2-31 (9) application for authority to execute a lease for
2-32 mineral development, or for pooling or unitization of lands,
2-33 royalty, or other interest in minerals, or to lend or invest money;
2-34 (10) report of lending or investing money; and
2-35 (11) report of guardians of the persons.
2-36 SECTION 3. Section 1103.003, Estates Code, is amended to
2-37 read as follows:
2-38 Sec. 1103.003. EFFECTIVE DATE OF GUARDIANSHIP. If the
2-39 application filed under Section 1103.001 is heard before the
2-40 proposed ward's 18th birthday, a guardianship created under this
2-41 chapter may not take effect and the person appointed guardian may
2-42 not take the oath or make the declaration as required under Section
2-43 1105.051 or give a bond as required under Section 1105.101 until the
2-44 proposed ward's 18th birthday.
2-45 SECTION 4. Section 1105.001, Estates Code, is amended by
2-46 adding Subdivision (1-a) and amending Subdivision (2) to read as
2-47 follows:
2-48 (1-a) "Declaration" means a declaration taken by a
2-49 person appointed to serve as a guardian to qualify to serve.
2-50 (2) "Oath" means an oath ~~[required by this chapter to~~
2-51 ~~be] taken by a person appointed to serve as a guardian to qualify to~~
2-52 serve.
2-53 SECTION 5. Section 1105.002, Estates Code, is amended to
2-54 read as follows:
2-55 Sec. 1105.002. MANNER OF QUALIFICATION OF GUARDIAN.
2-56 (a) Except as provided by Subsection (b), a guardian is considered
2-57 to have qualified when the guardian has:
2-58 (1) taken and filed the oath, or made and filed the
2-59 declaration, required under Section 1105.051;
2-60 (2) given the required bond;
2-61 (3) filed the bond with the clerk; and
2-62 (4) obtained the judge's approval of the bond.
2-63 (b) A guardian who is not required to give a bond is
2-64 considered to have qualified when the guardian has taken and filed
2-65 the ~~[required]~~ oath, or made and filed the declaration, as required
2-66 under Section 1105.051.
2-67 SECTION 6. Section 1105.003, Estates Code, is amended to
2-68 read as follows:
2-69 Sec. 1105.003. PERIOD FOR TAKING OATH OR MAKING DECLARATION

3-1 AND GIVING BOND. (a) Except as provided by Section 1103.003, an
 3-2 oath may be taken and subscribed or a declaration may be made, and a
 3-3 bond may be given and approved, at any time before:

3-4 (1) the 21st day after the date of the order granting
 3-5 letters of guardianship; or

3-6 (2) the letters of guardianship are revoked for a
 3-7 failure to qualify within the period allowed.

3-8 (b) A guardian of an estate must give a bond before being
 3-9 issued letters of guardianship unless a bond is not required under
 3-10 this title.

3-11 SECTION 7. The heading to Subchapter B, Chapter 1105,
 3-12 Estates Code, is amended to read as follows:

3-13 SUBCHAPTER B. OATHS AND DECLARATIONS

3-14 SECTION 8. Section 1105.051, Estates Code, is amended to
 3-15 read as follows:

3-16 Sec. 1105.051. OATH OR DECLARATION OF GUARDIAN. (a) A
 3-17 guardian shall:

3-18 (1) take an oath to discharge faithfully the duties of
 3-19 guardian for the person or estate, or both, of a ward; or

3-20 (2) make a declaration as prescribed by Subsection
 3-21 (d).

3-22 (b) If the Health and Human [Department of Aging and
 3-23 Disability] Services Commission is appointed guardian, a
 3-24 commission [department] representative shall take the oath or make
 3-25 the declaration required by Subsection (a).

3-26 (c) An oath taken by a person named as guardian or temporary
 3-27 guardian, as applicable, must be substantially as follows:

3-28 I, _____ (insert person's name), do solemnly swear that
 3-29 I will discharge faithfully the duties of guardian of _____
 3-30 (insert "the person," "the estate," or "the person and estate") of
 3-31 _____ (insert ward's name), an incapacitated person,
 3-32 according to law.

3-33 (d) A declaration made by a person named as guardian or
 3-34 temporary guardian, as applicable, must be substantially as
 3-35 follows:

3-36 My name is _____ (insert person's name), my date of birth is
 3-37 _____ (insert person's date of birth), and my address is
 3-38 _____ (insert person's address, including country). I declare
 3-39 under penalty of perjury that the information in this declaration
 3-40 is true and correct. I solemnly declare that I will discharge
 3-41 faithfully the duties of _____ (insert "guardian" or
 3-42 "temporary guardian," as applicable) of _____ (insert "the
 3-43 person," "the estate," or "the person and estate") of _____
 3-44 (insert ward's name), an incapacitated person, according to law.
 3-45 Signed on _____ (insert date of signing).

3-46 SECTION 9. Section 1105.052, Estates Code, is amended to
 3-47 read as follows:

3-48 Sec. 1105.052. ADMINISTRATION OF OATH OR MAKING OF
 3-49 DECLARATION. The ~~[An]~~ oath prescribed by Section 1105.051 may be
 3-50 taken before any person authorized to administer oaths under the
 3-51 laws of this state. The declaration prescribed by Section 1105.051
 3-52 must be signed by the declarant.

3-53 SECTION 10. Section 1105.103(f), Estates Code, is amended
 3-54 to read as follows:

3-55 (f) If the guardian fails to give the bond required under
 3-56 Subsection (d) and the judge has not extended the period for giving
 3-57 the bond, the judge, without citation, shall remove the guardian
 3-58 and appoint a competent person as guardian, who shall:

3-59 (1) administer the guardianship according to the
 3-60 provisions of a will or law;

3-61 (2) take the oath or make the declaration required of a
 3-62 guardian under Section 1105.051 before the person enters on the
 3-63 administration of the guardianship; and

3-64 (3) give bond in the same manner and in the same amount
 3-65 provided by this title for the issuance of original letters of
 3-66 guardianship.

3-67 SECTION 11. Section 1151.351(b), Estates Code, is amended
 3-68 to read as follows:

3-69 (b) Unless limited by a court or otherwise restricted by

4-1 law, a ward is authorized to the following:

4-2 (1) to have a copy of the guardianship order and
4-3 letters of guardianship and contact information for the probate
4-4 court that issued the order and letters;

4-5 (2) to have a guardianship that encourages the
4-6 development or maintenance of maximum self-reliance and
4-7 independence in the ward with the eventual goal, if possible, of
4-8 self-sufficiency;

4-9 (3) to be treated with respect, consideration, and
4-10 recognition of the ward's dignity and individuality;

4-11 (4) to reside and receive support services in the most
4-12 integrated setting, including home-based or other community-based
4-13 settings, as required by Title II of the Americans with
4-14 Disabilities Act (42 U.S.C. Section 12131 et seq.);

4-15 (5) to consideration of the ward's current and
4-16 previously stated personal preferences, desires, medical and
4-17 psychiatric treatment preferences, religious beliefs, living
4-18 arrangements, and other preferences and opinions;

4-19 (6) to financial self-determination for all public
4-20 benefits after essential living expenses and health needs are met
4-21 and to have access to a monthly personal allowance;

4-22 (7) to receive timely and appropriate health care and
4-23 medical treatment that does not violate the ward's rights granted
4-24 by the constitution and laws of this state and the United States;

4-25 (8) to exercise full control of all aspects of life not
4-26 specifically granted by the court to the guardian;

4-27 (9) to control the ward's personal environment based
4-28 on the ward's preferences;

4-29 (10) to complain or raise concerns regarding the
4-30 guardian or guardianship to the court, including living
4-31 arrangements, retaliation by the guardian, conflicts of interest
4-32 between the guardian and service providers, or a violation of any
4-33 rights under this section;

4-34 (11) to receive notice in the ward's native language,
4-35 or preferred mode of communication, and in a manner accessible to
4-36 the ward, of a court proceeding to continue, modify, or terminate
4-37 the guardianship and the opportunity to appear before the court to
4-38 express the ward's preferences and concerns regarding whether the
4-39 guardianship should be continued, modified, or terminated;

4-40 (12) to have a court investigator or ~~or~~ guardian ad
4-41 litem ~~[, or attorney ad litem]~~ appointed by the court to investigate
4-42 a complaint received by the court from the ward or any person about
4-43 the guardianship;

4-44 (13) to participate in social, religious, and
4-45 recreational activities, training, employment, education,
4-46 habilitation, and rehabilitation of the ward's choice in the most
4-47 integrated setting;

4-48 (14) to self-determination in the substantial
4-49 maintenance, disposition, and management of real and personal
4-50 property after essential living expenses and health needs are met,
4-51 including the right to receive notice and object about the
4-52 substantial maintenance, disposition, or management of clothing,
4-53 furniture, vehicles, and other personal effects;

4-54 (15) to personal privacy and confidentiality in
4-55 personal matters, subject to state and federal law;

4-56 (16) to unimpeded, private, and uncensored
4-57 communication and visitation with persons of the ward's choice,
4-58 except that if the guardian determines that certain communication
4-59 or visitation causes substantial harm to the ward:

4-60 (A) the guardian may limit, supervise, or
4-61 restrict communication or visitation, but only to the extent
4-62 necessary to protect the ward from substantial harm; and

4-63 (B) the ward may request a hearing to remove any
4-64 restrictions on communication or visitation imposed by the guardian
4-65 under Paragraph (A);

4-66 (17) to petition the court and retain counsel of the
4-67 ward's choice who holds a certificate required by Subchapter E,
4-68 Chapter 1054, to represent the ward's interest for capacity
4-69 restoration, modification of the guardianship, the appointment of a

5-1 different guardian, or for other appropriate relief under this
 5-2 subchapter, including a transition to a supported decision-making
 5-3 agreement, except as limited by Section 1054.006;

5-4 (18) to vote in a public election, marry, and retain a
 5-5 license to operate a motor vehicle, unless restricted by the court;

5-6 (19) to personal visits from the guardian or the
 5-7 guardian's designee at least once every three months, but more
 5-8 often, if necessary, unless the court orders otherwise;

5-9 (20) to be informed of the name, address, phone
 5-10 number, and purpose of Disability Rights Texas, an organization
 5-11 whose mission is to protect the rights of, and advocate for, persons
 5-12 with disabilities, and to communicate and meet with representatives
 5-13 of that organization;

5-14 (21) to be informed of the name, address, phone
 5-15 number, and purpose of an independent living center, an area agency
 5-16 on aging, an aging and disability resource center, and the local
 5-17 mental health and intellectual and developmental disability
 5-18 center, and to communicate and meet with representatives from these
 5-19 agencies and organizations;

5-20 (22) to be informed of the name, address, phone
 5-21 number, and purpose of the Judicial Branch Certification Commission
 5-22 and the procedure for filing a complaint against a certified
 5-23 guardian;

5-24 (23) to contact the Department of Family and
 5-25 Protective Services to report abuse, neglect, exploitation, or
 5-26 violation of personal rights without fear of punishment,
 5-27 interference, coercion, or retaliation;

5-28 (24) to have the guardian, on appointment and on
 5-29 annual renewal of the guardianship, explain the rights delineated
 5-30 in this subsection in the ward's native language, or preferred mode
 5-31 of communication, and in a manner accessible to the ward; and

5-32 (25) to make decisions related to sexual assault
 5-33 crisis services, including consenting to a forensic medical
 5-34 examination and treatment, authorizing the collection of forensic
 5-35 evidence, consenting to the release of evidence contained in an
 5-36 evidence collection kit and disclosure of related confidential
 5-37 information, and receiving counseling and other support services.

5-38 SECTION 12. Sections 1153.001(a) and (c), Estates Code, are
 5-39 amended to read as follows:

5-40 (a) Within one month after receiving letters of
 5-41 guardianship, a guardian of an estate shall provide notice
 5-42 requiring each person who has a claim against the estate to present
 5-43 the claim within the period prescribed by law. The notice must be:

5-44 (1) published in a newspaper of general circulation
 5-45 [~~printed~~] in the county in which the letters were issued; and

5-46 (2) sent to the comptroller by certified or registered
 5-47 mail, if the ward remitted or should have remitted taxes
 5-48 administered by the comptroller.

5-49 (c) If there is no [a] newspaper of general circulation [~~is~~
 5-50 ~~not printed~~] in the county in which the letters of guardianship were
 5-51 issued, the notice must be posted and the return made and filed as
 5-52 otherwise required by this title.

5-53 SECTION 13. Section 1155.054(d), Estates Code, is amended
 5-54 to read as follows:

5-55 (d) If the court finds that a party in a guardianship
 5-56 proceeding acted in bad faith or without just cause in prosecuting
 5-57 or objecting to an application in the proceeding, the court may
 5-58 order [~~require~~] the party to reimburse the ward's estate for all or
 5-59 part of the attorney's fees awarded under this section and shall
 5-60 issue judgment against the party and in favor of the estate for the
 5-61 amount of attorney's fees ordered [~~required~~] to be reimbursed to
 5-62 the estate.

5-63 SECTION 14. Section 1158.105(a), Estates Code, is amended
 5-64 to read as follows:

5-65 (a) A successful bid or contract for the sale of estate
 5-66 personal property shall be reported to the court. The laws
 5-67 regulating the approval [~~confirmation~~] or disapproval of a sale of
 5-68 real estate apply to the sale [~~of personal property~~], except that a
 5-69 conveyance is not required.

6-1 SECTION 15. The heading to Subchapter I, Chapter 1158,
6-2 Estates Code, is amended to read as follows:

6-3 SUBCHAPTER I. SALE OF REAL ESTATE: PUBLIC AUCTION [~~SALE~~]

6-4 SECTION 16. Section 1158.401(a), Estates Code, is amended
6-5 to read as follows:

6-6 (a) A public sale of real estate of an estate shall be made
6-7 at public auction. Except as otherwise provided by Section
6-8 1158.403(c) [~~this title~~], the guardian of the estate shall
6-9 advertise a public auction [~~sale~~] of real estate of the estate by a
6-10 notice published in the county in which the estate is pending, as
6-11 provided by this title for publication of notices or citations. The
6-12 notice must [~~include a reference to~~]:

- 6-13 (1) include a reference to the order of sale;
6-14 (2) include the time, place, and required terms of
6-15 sale; and
6-16 (3) briefly describe [~~a brief description of~~] the real
6-17 estate to be sold.

6-18 SECTION 17. Section 1158.402, Estates Code, is amended to
6-19 read as follows:

6-20 Sec. 1158.402. COMPLETION [~~METHOD~~] OF AUCTION [~~SALE~~]. A
6-21 public auction [~~sale~~] of real estate of an estate shall be completed
6-22 on the bid of [~~made at public auction to~~] the highest bidder.

6-23 SECTION 18. Section 1158.403, Estates Code, is amended to
6-24 read as follows:

6-25 Sec. 1158.403. TIME AND PLACE OF AUCTION [~~SALE~~]. (a)
6-26 Except as provided by Subsection (c), a public auction [~~sale~~] of
6-27 real estate of an estate shall be held [~~made~~] at:

6-28 (1) the courthouse door in the county in which the real
6-29 estate is located, or if the real estate is located in more than one
6-30 county, the courthouse door in any county in which the real estate
6-31 is located [~~guardianship proceedings are pending~~]; or

6-32 (2) another place in a [~~that~~] county described by
6-33 Subdivision (1) at which auctions [~~sales~~] of real estate are
6-34 specifically authorized to be held as designated by the
6-35 commissioners court of the county under Section 51.002(a), Property
6-36 Code [~~made~~].

6-37 (b) Except as otherwise provided by this subsection, the
6-38 auction [~~The sale~~] must occur between 10 a.m. and 4 p.m. on the
6-39 first Tuesday of the month after publication of notice has been
6-40 completed. If the first Tuesday of the month occurs on January 1 or
6-41 July 4, the auction must occur between 10 a.m. and 4 p.m. on the
6-42 first Wednesday of the month.

6-43 (c) If the court considers it advisable, the court may order
6-44 the auction [~~sale~~] to be held [~~made~~] in the county in which the
6-45 proceedings are pending [~~real estate is located~~], in which event
6-46 notice shall be published both in that county and in the county in
6-47 which the real estate is located [~~proceedings are pending~~].

6-48 SECTION 19. Section 1158.404, Estates Code, is amended to
6-49 read as follows:

6-50 Sec. 1158.404. CONTINUANCE OF AUCTION [~~SALE~~]. (a) A public
6-51 auction [~~sale~~] of real estate of an estate that is not completed on
6-52 the day advertised may be continued from day to day by an oral
6-53 public announcement of the continuance made at the conclusion of
6-54 the auction [~~sale~~] each day.

6-55 (b) A continued auction [~~sale~~] must occur within the hours
6-56 prescribed by Section 1158.403(b).

6-57 (c) The continuance of an auction [~~a sale~~] under this
6-58 section shall be shown in the report [~~of the sale~~] made to the court
6-59 under Section 1158.551.

6-60 SECTION 20. Section 1158.405, Estates Code, is amended to
6-61 read as follows:

6-62 Sec. 1158.405. FAILURE OF BIDDER TO COMPLY. (a) If a
6-63 person who successfully bids on real estate of the guardianship
6-64 estate offered [~~for sale~~] at public auction fails to comply with the
6-65 terms of the bid [~~sale~~], the property [~~real estate~~] shall be
6-66 readvertised and auctioned [~~sold~~] without any further order.

6-67 (b) The person defaulting on a bid as described by
6-68 Subsection (a) is liable for payment to the guardian of the estate,
6-69 for the estate's benefit, of:

7-1 (1) 10 percent of the amount of the bid; and
 7-2 (2) the amount of any deficiency in price on the second
 7-3 auction [sale].

7-4 (c) The guardian shall recover the amounts under Subsection
 7-5 (b) by suit in any court in the county in which the auction [sale]
 7-6 was held [made] that has jurisdiction over the amount claimed.

7-7 SECTION 21. The heading to Subchapter J, Chapter 1158,
 7-8 Estates Code, is amended to read as follows:

7-9 SUBCHAPTER J. SALE OF REAL ESTATE: CONTRACT FOR PRIVATE SALE

7-10 SECTION 22. Section 1158.451, Estates Code, is amended to
 7-11 read as follows:

7-12 Sec. 1158.451. TERMS [MANNER] OF SALE. The guardian of the
 7-13 estate may enter into a contract for the [A] private sale of real
 7-14 estate of the estate [shall be] made in the manner the court directs
 7-15 in the order of sale. Unless the court directs otherwise,
 7-16 additional advertising, notice, or citation concerning the sale is
 7-17 not required.

7-18 SECTION 23. Section 1158.502, Estates Code, is amended to
 7-19 read as follows:

7-20 Sec. 1158.502. PROCEDURE. The procedure for the sale of an
 7-21 easement or right-of-way authorized under Section 1158.501 is the
 7-22 same as the procedure provided by law for a private sale of real
 7-23 property of a ward by contract [at private sale].

7-24 SECTION 24. The heading to Subchapter L, Chapter 1158,
 7-25 Estates Code, is amended to read as follows:

7-26 SUBCHAPTER L. APPROVAL [CONFIRMATION] OF SALE OF REAL PROPERTY AND
 7-27 TRANSFER OF TITLE

7-28 SECTION 25. Section 1158.551, Estates Code, is amended to
 7-29 read as follows:

7-30 Sec. 1158.551. REPORT. A successful bid or private
 7-31 contract for the sale of estate real property shall be reported to
 7-32 the court ordering the sale not later than the 30th day after the
 7-33 date the bid [sale] is made or the property is placed under
 7-34 contract. The report must:

7-35 (1) be in writing, sworn to, and filed with the clerk;

7-36 (2) include:

7-37 (A) the date of the order of sale;

7-38 (B) a description of the property being sold;

7-39 (C) the time and place of the auction or date the
 7-40 property is placed under contract [sale];

7-41 (D) the purchaser's name;

7-42 (E) the amount of the successful bid or the
 7-43 purchase price for [which] each parcel of property or interest in
 7-44 the parcel of property auctioned or placed under contract [was
 7-45 sold];

7-46 (F) the terms of the sale;

7-47 (G) whether the proposed sale of the property was
 7-48 made at public auction or by contract [privately]; and

7-49 (H) whether the purchaser is ready to comply with
 7-50 the order of sale; and

7-51 (3) be noted on the guardianship docket.

7-52 SECTION 26. Section 1158.552, Estates Code, is amended to
 7-53 read as follows:

7-54 Sec. 1158.552. ACTION OF COURT ON REPORT [~~OF SALE~~]. After
 7-55 the expiration of five days from the date a report [~~of sale~~] is
 7-56 filed under Section 1158.551, the court shall:

7-57 (1) consider [inquire into] the manner in which the
 7-58 auction described in the report was held or the contract described
 7-59 in the report [sale] was entered into [made];

7-60 (2) consider [hear] evidence in support of or against
 7-61 the report; and

7-62 (3) determine the sufficiency or insufficiency of the
 7-63 guardian's general bond, if any has been required and given.

7-64 SECTION 27. Section 1158.553, Estates Code, is amended to
 7-65 read as follows:

7-66 Sec. 1158.553. APPROVAL [CONFIRMATION] OF SALE WHEN BOND
 7-67 NOT REQUIRED. If the guardian of the estate of a ward is not
 7-68 required by Subtitle D to give a general bond, the court may approve
 7-69 [confirm] the sale of estate real property in the manner provided by

8-1 Section 1158.556(a) if the court finds that the sale is
8-2 satisfactory and made in accordance with law.

8-3 SECTION 28. Sections 1158.554(a), (b), and (c), Estates
8-4 Code, are amended to read as follows:

8-5 (a) If the guardian of an estate is required by Subtitle D to
8-6 give a general bond, before the court approves [~~confirms~~]
8-7 of real estate, the court shall determine whether the bond is
8-8 sufficient to protect the estate after the sale proceeds are
8-9 received.

8-10 (b) If the court finds that the general bond is sufficient,
8-11 the court may approve [~~confirm~~] the sale as provided by Section
8-12 1158.556(a).

8-13 (c) If the court finds that the general bond is
8-14 insufficient, the court may not approve [~~confirm~~] the sale until
8-15 the general bond is increased to the amount required by the court,
8-16 or an additional bond is given, and approved by the court.

8-17 SECTION 29. Section 1158.556, Estates Code, is amended to
8-18 read as follows:

8-19 Sec. 1158.556. APPROVAL [~~CONFIRMATION~~] OR DISAPPROVAL
8-20 ORDER. (a) If the court is satisfied that the proposed sale of real
8-21 property [~~a sale~~] reported under Section 1158.551 is [~~was~~]
8-22 for a fair price, [~~was~~] properly made, and [~~was~~] in conformity with law,
8-23 and the court has approved any increased or additional bond that the
8-24 court found necessary to protect the estate, the court shall enter
8-25 an order:

8-26 (1) approving [~~confirming~~] the sale;
8-27 (2) showing conformity with [~~the provisions of~~] this
8-28 chapter [~~relating to the sale~~];
8-29 (3) detailing the terms of the sale; and
8-30 (4) authorizing the guardian of the estate to convey
8-31 the property on the purchaser's compliance with the terms of the
8-32 sale.

8-33 (b) If the court is not satisfied that the proposed sale of
8-34 real property is [~~was~~] for a fair price, [~~was~~] properly made, and
8-35 [~~was~~] in conformity with law, the court shall enter [~~issue~~]
8-36 an order setting aside the bid or contract [~~sale~~] and ordering a new sale to
8-37 be made, if necessary.

8-38 (c) The court's action in approving [~~confirming~~] or
8-39 disapproving a report under Section 1158.551 [~~of a sale~~] has the
8-40 effect of a final judgment. Any person interested in the
8-41 guardianship estate or in the sale is entitled to have an order
8-42 entered under this section reviewed as in other final judgments in
8-43 probate proceedings.

8-44 SECTION 30. Section 1158.557, Estates Code, is amended to
8-45 read as follows:

8-46 Sec. 1158.557. DEED. Real estate of an estate that is sold
8-47 shall be conveyed by a proper deed that refers to and identifies the
8-48 court order approving [~~confirming~~] the sale. The deed:

8-49 (1) vests in the purchaser all right and title of the
8-50 estate to, and all interest of the estate in, the property; and
8-51 (2) is prima facie evidence that the sale has met all
8-52 applicable requirements of the law.

8-53 SECTION 31. Section 1158.558(a), Estates Code, is amended
8-54 to read as follows:

8-55 (a) After the court has approved [~~confirmed~~] a sale and the
8-56 [~~one~~] purchaser has complied with the terms of the sale, the
8-57 guardian of the estate shall promptly execute and deliver to the
8-58 purchaser a proper deed conveying the property.

8-59 SECTION 32. Section 1163.005(a), Estates Code, is amended
8-60 to read as follows:

8-61 (a) The guardian of the estate shall attach to an account
8-62 the guardian's affidavit stating:

8-63 (1) that the account contains a correct and complete
8-64 statement of the matters to which the account relates;

8-65 (2) that the guardian has paid the bond premium for the
8-66 next accounting period;

8-67 (3) that the guardian has filed all tax returns of the
8-68 ward due during the accounting period;

8-69 (4) that the guardian has paid all taxes the ward owed

9-1 during the accounting period, the amount of the taxes, the date the
 9-2 guardian paid the taxes, and the name of the governmental entity to
 9-3 which the guardian paid the taxes; and
 9-4 (5) if the guardian is a private professional
 9-5 guardian, a guardianship program, or the Health and Human Services
 9-6 Commission [~~Department of Aging and Disability Services~~], whether
 9-7 the guardian or an individual certified under Subchapter C, Chapter
 9-8 155 [~~111~~], Government Code, who is providing guardianship services
 9-9 to the ward and who is swearing to the account on the guardian's
 9-10 behalf, is or has been the subject of an investigation conducted by
 9-11 the Judicial Branch [~~Guardianship~~] Certification Commission
 9-12 [~~Board~~] during the accounting period.

9-13 SECTION 33. Section 1163.101(c), Estates Code, is amended
 9-14 to read as follows:

9-15 (c) The guardian of the person shall file a sworn affidavit
 9-16 that contains:

9-17 (1) the guardian's current name, address, and
 9-18 telephone number;

9-19 (2) the ward's date of birth and current name, address,
 9-20 telephone number, and age;

9-21 (3) a description of the type of home in which the ward
 9-22 resides, which shall be described as:

9-23 (A) the ward's own home;

9-24 (B) a nursing home;

9-25 (C) a guardian's home;

9-26 (D) a foster home;

9-27 (E) a boarding home;

9-28 (F) a relative's home, in which case the
 9-29 description must specify the relative's relationship to the ward;

9-30 (G) a hospital or medical facility; or

9-31 (H) another type of residence;

9-32 (4) statements indicating:

9-33 (A) the length of time the ward has resided in the
 9-34 present home;

9-35 (B) the reason for a change in the ward's
 9-36 residence, if a change in the ward's residence has occurred in the
 9-37 past year;

9-38 (C) the date the guardian most recently saw the
 9-39 ward;

9-40 (D) how frequently the guardian has seen the ward
 9-41 in the past year;

9-42 (E) whether the guardian has possession or
 9-43 control of the ward's estate;

9-44 (F) whether the ward's mental health has
 9-45 improved, deteriorated, or remained unchanged during the past year,
 9-46 including a description of the change if a change has occurred;

9-47 (G) whether the ward's physical health has
 9-48 improved, deteriorated, or remained unchanged during the past year,
 9-49 including a description of the change if a change has occurred;

9-50 (H) whether the ward has regular medical care;
 9-51 and

9-52 (I) the ward's treatment or evaluation by any of
 9-53 the following persons during the past year, including the person's
 9-54 name and a description of the treatment:

9-55 (i) a physician;

9-56 (ii) a psychiatrist, psychologist, or other
 9-57 mental health care provider;

9-58 (iii) a dentist;

9-59 (iv) a social or other caseworker; or

9-60 (v) any other individual who provided
 9-61 treatment;

9-62 (5) a description of the ward's activities during the
 9-63 past year, including recreational, educational, social, and
 9-64 occupational activities, or a statement that no activities were
 9-65 available or that the ward was unable or refused to participate in
 9-66 activities;

9-67 (6) the guardian's evaluation of:

9-68 (A) the ward's living arrangements as excellent,
 9-69 average, or below average, including an explanation if the

10-1 conditions are below average;

10-2 (B) whether the ward is content or unhappy with
10-3 the ward's living arrangements; and

10-4 (C) unmet needs of the ward;

10-5 (7) a statement indicating whether the guardian's
10-6 power should be increased, decreased, or unaltered, including an
10-7 explanation if a change is recommended;

10-8 (8) a statement indicating that the guardian has paid
10-9 the bond premium for the next reporting period;

10-10 (9) if the guardian is a private professional
10-11 guardian, a guardianship program, or the Health and Human Services
10-12 Commission [~~Department of Aging and Disability Services~~], whether
10-13 the guardian or an individual certified under Subchapter C, Chapter
10-14 155, Government Code, who is providing guardianship services to the
10-15 ward and who is filing the affidavit on the guardian's behalf, is or
10-16 has been the subject of an investigation conducted by the Judicial
10-17 Branch [Guardianship] Certification Commission [~~Board~~] during the
10-18 preceding year; and

10-19 (10) any additional information the guardian desires
10-20 to share with the court regarding the ward, including:

10-21 (A) whether the guardian has filed for emergency
10-22 detention of the ward under Subchapter A, Chapter 573, Health and
10-23 Safety Code; and

10-24 (B) if applicable, the number of times the
10-25 guardian has filed for emergency detention and the dates of the
10-26 applications for emergency detention.

10-27 SECTION 34. Sections 1251.101(a), (b), and (d), Estates
10-28 Code, are amended to read as follows:

10-29 (a) When the temporary guardian files the oath or
10-30 declaration prescribed by Section 1105.051 and the bond required
10-31 under this title, the court order appointing the temporary guardian
10-32 takes effect without the necessity for issuance of letters of
10-33 guardianship.

10-34 (b) The clerk shall note compliance with the oath or
10-35 declaration and bond requirements by the appointed temporary
10-36 guardian on a certificate attached to the order.

10-37 (d) The clerk may not issue certified copies of the order
10-38 until the oath or declaration and bond requirements are satisfied.

10-39 SECTION 35. Subchapter B, Chapter 1301, Estates Code, is
10-40 amended by adding Section 1301.0511 to read as follows:

10-41 Sec. 1301.0511. NOTICE REQUIRED FOR APPLICATION FOR
10-42 CREATION OF TRUST; CITATION OF APPLICANT NOT REQUIRED. (a) On the
10-43 filing of an application for creation of a management trust and
10-44 except as provided by Subsection (d), notice shall be issued and
10-45 served in the manner provided by Subchapter C, Chapter 1051, for the
10-46 issuance and service of notice on the filing of an application for
10-47 guardianship.

10-48 (b) It is not necessary to serve a citation on a person who
10-49 files an application for the creation of a management trust under
10-50 this subchapter or for that person to waive the issuance and
10-51 personal service of citation.

10-52 (c) If the person for whom an application for creation of a
10-53 management trust is filed is a ward, the sheriff or other officer,
10-54 in addition to serving the persons described by Section 1051.103,
10-55 shall personally serve each guardian of the ward with citation to
10-56 appear and answer the application.

10-57 (d) Notice under this section is not required if a
10-58 proceeding for the appointment of a guardian is pending for the
10-59 person for whom an application for creation of a management trust is
10-60 filed.

10-61 SECTION 36. Section 1301.101(a), Estates Code, is amended
10-62 to read as follows:

10-63 (a) Except as provided by Subsection (c), a management trust
10-64 created for a ward or incapacitated person must provide that:

10-65 (1) the ward or incapacitated person is the sole
10-66 beneficiary of the trust;

10-67 (2) the trustee may disburse an amount of the trust's
10-68 principal or income as the trustee determines is necessary to spend
10-69 for the health, education, maintenance, or support of the person

11-1 for whom the trust is created;

11-2 (3) the trust income that the trustee does not
11-3 disburse under Subdivision (2) must be added to the trust
11-4 principal;

11-5 (4) a trustee that is a corporate fiduciary serves
11-6 without giving a bond; ~~and~~

11-7 (5) subject to the court's approval and Subsection
11-8 (b), a trustee is entitled to receive reasonable compensation for
11-9 services the trustee provides to the person for whom the trust is
11-10 created as the person's trustee; and

11-11 (6) the trust terminates:

11-12 (A) except as provided by Paragraph (B), if the
11-13 person for whom the trust is created is a minor:

11-14 (i) on the earlier of:

11-15 (a) the person's death; or

11-16 (b) the person's 18th birthday; or

11-17 (ii) on the date provided by court order,
11-18 which may not be later than the person's 25th birthday;

11-19 (B) if the person for whom the trust is created is
11-20 a minor and is also incapacitated for a reason other than being a
11-21 minor:

11-22 (i) on the person's death; or

11-23 (ii) when the person regains capacity; or

11-24 (C) if the person for whom the trust is created is
11-25 not a minor:

11-26 (i) according to the terms of the trust;

11-27 (ii) on the date the court determines that
11-28 continuing the trust is no longer in the person's best interests,
11-29 subject to Section 1301.202(c); or

11-30 (iii) on the person's death.

11-31 SECTION 37. Section 1301.154(b), Estates Code, is amended
11-32 to read as follows:

11-33 (b) The trustee of a management trust created for a ward
11-34 shall provide a copy of the annual account to each ~~the~~ guardian of
11-35 the ward ~~ward's estate or person~~.

11-36 SECTION 38. Section 1301.203, Estates Code, is amended by
11-37 amending Subsection (a) and adding Subsection (a-1) to read as
11-38 follows:

11-39 (a) Except as provided by Subsection (a-1), if ~~if~~ the
11-40 person for whom a management trust is created is a minor, the trust
11-41 terminates on:

11-42 (1) the earlier of:

11-43 (A) the person's death; or

11-44 (B) the person's 18th birthday; or

11-45 (2) the date provided by court order, which may not be
11-46 later than the person's 25th birthday.

11-47 (a-1) If the person for whom a management trust is created
11-48 is a minor and is also incapacitated for a reason other than being a
11-49 minor, the trust terminates:

11-50 (1) on the person's death; or

11-51 (2) when the person regains capacity.

11-52 SECTION 39. Sections 1355.002(b), (c), (d), (e), and (f),
11-53 Estates Code, are amended to read as follows:

11-54 (b) This section applies only to a nonresident creditor who
11-55 is:

11-56 (1) a nonresident minor and has a nonresident guardian
11-57 of the estate appointed by a foreign court;

11-58 (2) [T] a nonresident person who is adjudged by a
11-59 foreign court [of competent jurisdiction] to be incapacitated and
11-60 has a nonresident guardian of the estate appointed by that
11-61 court; [T] or

11-62 (3) the nonresident former ward of a guardianship
11-63 terminated under Chapter 1204 who has no legal guardian qualified
11-64 in this state.

11-65 (c) A debtor in this state who owes money to a nonresident
11-66 creditor to whom this section applies may pay the money:

11-67 (1) to the creditor's guardian of the estate qualified
11-68 in the domiciliary jurisdiction; or

11-69 (2) to the county clerk of:

12-1 (A) any county in this state in which real
12-2 property owned by the creditor is located; or

12-3 (B) if the creditor is not known to own real
12-4 property in this state, the county in which the debtor resides.

12-5 (d) A payment made under this section is for the nonresident
12-6 creditor's account and for the nonresident creditor's use and
12-7 benefit.

12-8 (e) A receipt for payment signed by the county clerk is
12-9 binding on the nonresident creditor as of the date and to the extent
12-10 of payment if the receipt states:

12-11 (1) the creditor's name; and

12-12 (2) the creditor's post office address, if the address
12-13 is known.

12-14 (f) A county clerk who receives a payment under Subsection
12-15 (c) for a nonresident creditor shall handle the money in the same
12-16 manner as provided for a payment to the account of a resident
12-17 creditor under Sections 1355.001, 1355.051, 1355.052, 1355.102,
12-18 1355.103, and 1355.104. Those sections apply to the handling and
12-19 disposition of money or any increase, dividend, or income paid to
12-20 the clerk for the use, benefit, and account of the nonresident
12-21 creditor to whom this section applies.

12-22 SECTION 40. Section 1355.105, Estates Code, is amended to
12-23 read as follows:

12-24 Sec. 1355.105. WITHDRAWAL OF MONEY BY CREDITOR OR
12-25 CREDITOR'S HEIR, ~~OR~~ REPRESENTATIVE, OR GUARDIAN. (a) On
12-26 presentation to the court clerk of an order of a county or probate
12-27 court of the county in which the money is held, money that is not
12-28 withdrawn by an authorized person as provided by this chapter may be
12-29 withdrawn by:

12-30 (1) the creditor, after termination of the creditor's
12-31 disability;

12-32 (2) a subsequent personal representative of the
12-33 creditor; ~~or~~

12-34 (3) the creditor's heirs; or

12-35 (4) a nonresident guardian of the estate appointed by
12-36 a foreign court for a creditor who is:

12-37 (A) a nonresident minor; or

12-38 (B) a nonresident person who is adjudged to be
12-39 incapacitated.

12-40 (b) Except as provided by Subsection (b-1), a [A] withdrawal
12-41 under Subsection (a) may be made at any time and without a special
12-42 bond for that purpose.

12-43 (b-1) A court may require a nonresident guardian of the
12-44 estate of a creditor who is a nonresident minor or nonresident
12-45 incapacitated person as described by Subsection (a)(4) to provide
12-46 proof that the nonresident guardian of the estate gave an adequate
12-47 bond in the foreign jurisdiction if the court determines that it is
12-48 in the nonresident minor's or nonresident incapacitated person's
12-49 best interest.

12-50 (c) The order presented under Subsection (a) must direct the
12-51 court clerk to deliver the money to:

12-52 (1) the creditor;

12-53 (2) ~~[r]~~ the creditor's personal representative;

12-54 (3) ~~[r, or]~~ the creditor's heirs named in the order; or

12-55 (4) if the creditor is a nonresident minor or
12-56 nonresident person who is adjudged to be incapacitated, the
12-57 creditor's nonresident guardian of the estate.

12-58 (d) Before the court may issue an order under this section,
12-59 the person's identity and credentials must be proved to the court's
12-60 satisfaction. For purposes of this subsection, a nonresident
12-61 guardian of the estate described by Subsection (c)(4) must present
12-62 to the court exemplified copies of the order of a foreign court
12-63 appointing the guardian and current letters of guardianship issued
12-64 in the foreign jurisdiction.

12-65 SECTION 41. (a) Except as otherwise provided by this
12-66 section, the changes in law made by this Act apply to:

12-67 (1) a guardianship created before, on, or after the
12-68 effective date of this Act; and

12-69 (2) an application for a guardianship pending on, or

13-1 filed on or after, the effective date of this Act.

13-2 (b) The changes in law made by this Act to Section 1021.001,
13-3 Estates Code, apply only to an action filed on or after the
13-4 effective date of this Act. An action filed before the effective
13-5 date of this Act is governed by the law in effect on the date the
13-6 action was filed, and the former law is continued in effect for that
13-7 purpose.

13-8 (c) The changes in law made by this Act to Section 1251.101,
13-9 Estates Code, and Chapter 1105, Estates Code, apply only to the
13-10 qualification of a guardian that occurs on or after the effective
13-11 date of this Act. The qualification of a guardian that occurs
13-12 before the effective date of this Act is governed by the law in
13-13 effect on the date the guardian qualifies to serve, and the former
13-14 law is continued in effect for that purpose.

13-15 (d) Section 1301.0511, Estates Code, as added by this Act,
13-16 applies only to an application for creation of a management trust
13-17 filed on or after the effective date of this Act. An application
13-18 for creation of a management trust filed before the effective date
13-19 of this Act is governed by the law in effect on the date the
13-20 application was filed, and the former law is continued in effect for
13-21 that purpose.

13-22 (e) The changes in law made by this Act to Sections 1301.101
13-23 and 1301.203, Estates Code, apply only to an application for the
13-24 creation or modification of a management trust filed on or after the
13-25 effective date of this Act. An application for the creation or
13-26 modification of a management trust filed before the effective date
13-27 of this Act is governed by the law in effect on the date the
13-28 application was filed, and the former law is continued in effect for
13-29 that purpose.

13-30 (f) The changes in law made by this Act to Section 1355.105,
13-31 Estates Code, apply only to an application for an order for the
13-32 delivery of money that is filed on or after the effective date of
13-33 this Act. An application for an order for the delivery of money
13-34 that is filed before the effective date of this Act is governed by
13-35 the law in effect on the date the application was filed, and the
13-36 former law is continued in effect for that purpose.

13-37 SECTION 42. This Act takes effect September 1, 2021.

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