

CHAPTER 617—H.F.No.1255

[Coded in Part]

An act relating to taxation based upon gross earnings; defining certain businesses subject thereto; amending Minnesota Statutes 1971, Section 295.01, Subdivision 9, and by adding a subdivision.

Be it enacted by the Legislature of the State of Minnesota:

Section 1. Minnesota Statutes 1971, Section 295.01, Subdivision 9, is amended to read:

Subd. 9. **TAXATION; GROSS EARNINGS TAX; TELEGRAPH COMPANY.** Every person, company, joint stock association, or corporation, wherever organized or incorporated, owning or operating any telegraph ~~or telephone~~ line within this state shall be deemed a telegraph ~~or telephone~~ company, ~~as the case may be.~~

Sec. 2. Minnesota Statutes 1971, Section 295.01, is amended by adding a subdivision to read:

Subd. 10. **TELEPHONE COMPANY.** The term "telephone company" as used in this chapter means any person, firm, association or corporation, excluding municipal telephone companies, owning or operating any telephone line or telephone exchange for hire wholly or partly within this state, including radio and other advancements in the art of telephony.

Sec. 3. This act is effective for all taxable years commencing after December 31, 1973.

Approved May 23, 1973.

CHAPTER 618—H.F.No.1282

[Coded in Part]

An act relating to probate; establishing conservatorships; prescribing and regulating powers, duties and procedures in conservatorships and guardianships; amending Minnesota Statutes 1971, Sections 525.54; 525.541; 525.542; 525.543; 525.55; 525.551; 525.56; 525.57; 525.58; 525.581; 525.582; 525.59; 525.591; 525.60; 525.61; 525.611; 525.612; and amending Minnesota Statutes 1971, Chapter 525, by adding sections.

Changes or additions indicated by underline, deletions by ~~strikeout~~.

Be it enacted by the Legislature of the State of Minnesota:

Section 1. Minnesota Statutes 1971, Section 525.54, is amended to read:

525.54 PROBATE CODE; PERSONS SUBJECT TO GUARDIANSHIP AND CONSERVATORSHIP. Subdivision 1. PERSONS SUBJECT TO GUARDIANSHIP. The court may appoint one or two persons suitable and competent to discharge the trust as guardians of the person or estate or of both of any person who is a minor, who because of old age, or imperfection or deterioration of mentality is incompetent to manage his person or estate, who because of excessive intoxication, gambling, idleness, or debauchery, so spends or wastes his estate or injures his person as to be likely to expose himself or his family to want or suffering, or who, though not otherwise incompetent to manage his person or estate, requests the court to appoint such a guardian, provided such person is a resident of the county or being a nonresident of this state has property in the county. No guardian of the person of any minor shall be appointed while proceedings for his care and custody are pending in any juvenile court of this state. Nothing herein contained shall diminish the power of any court to appoint a guardian to serve or protect the interest of any minor or other person under disability in any proceedings therein, nor abridge the rights of the father and mother, if suitable and competent, as the natural guardians of their minor children.

Subd. 2. PERSONS SUBJECT TO CONSERVATORSHIP. The court may appoint one or two persons suitable and competent to discharge the trust as conservators of the person or estate or of both of any person who is a minor, or who because of old age or other cause is unable properly to care for himself or for his property, or who because of old age or other cause is likely to be deceived or imposed upon by artful or designing persons, or who, for these causes or other cause requests the court to appoint such a conservator and establishes to the satisfaction of the court the need thereof, provided such person is a resident of the county or being a non-resident of this state has property in the county. No conservator of the person of any minor shall be appointed while proceedings for his care and custody are pending in any juvenile court of this state.

Sec. 2. Minnesota Statutes 1971, Section 525.541, is amended to read:

525.541 PETITIONERS. Any person may petition for the appointment of a guardian or guardians or conservator or conservators for any person believed to be subject to guardianship or conservatorship, provided that the petition of a person over the age of 14 years for the appointment of a guardian or guardians or conservator or conservators

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conservator or conservators of his own person or estate, and the petition of any person nominated by the will of a deceased parent with the written consent of the other parent if living and not under disability, for the appointment of a guardian or conservator or guardians or conservators for their minor child shall have priority over the petition of any other person. When any minor under guardianship or conservatorship attains the age of 14 years, he may petition for the appointment of a guardian or conservator or guardians or conservators nominated by him in lieu of the guardians or conservators theretofore appointed.

Sec. 3. Minnesota Statutes 1971, Section 525.542, is amended to read:

525.542 CONTENTS OF PETITION. The petition shall show (1) the name and address of the person for whom a guardian or conservator, is sought, (2) the date and place of his birth, (3) if he be a minor, the names and addresses of his parents, or if the parents be dead or have abandoned the minor, the names and addresses of his custodians and of any person named as testamentary guardians or conservators in the will of a decedent, (4) if he be not a minor, the names and addresses of his nearest kindred, (5) if he be married, the name and address of his spouse, (6) the reasons for the guardianship or conservatorship, (7) the probable value and general character of his real and personal property and the probable amount of his debts, (8) the names, ages, addresses, and occupations of the proposed guardians or conservators.

Sec. 4. Minnesota Statutes 1971, Section 525.543, is amended to read:

525.543 LIS PENDENS. After the filing of the petition, a certificate of the probate court certified to that fact may be filed for record in the office of the register of deeds of any county in which any real estate owned by the ward or conservatee is situated and if a resident of this state, in the county of his residence. Such certificate shall state that such a petition is pending and the name and address of the person for whom a guardian or conservator is sought. If a guardian or conservator be appointed on such petition, all contracts except for necessities, and all transfers of real or personal property made by the ward after such filing and before the termination of the guardianship or conservatorship shall be void.

Sec. 5. Minnesota Statutes 1971, Chapter 525, is amended by adding a section to read:

[525.544] PLANNING PROVISIONS. In the petition or in a written instrument executed before or after the petition is filed, the person may, if at the time of signing the same, he has

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sufficient capacity to form an intelligent preference, nominate a conservator or guardian or give instructions to the conservator or guardian or he may do both. The written instrument shall be executed and attested in the same manner as a will. The court shall appoint the person so nominated as conservator or guardian and shall charge him with the instructions, unless the court finds that the appointment of the nominee or the instructions or both are not in the best interests of the person to be placed under conservatorship or guardianship. When any person lacks capacity or fails to nominate a conservator or guardian, the court may appoint any qualified person. If proposed ward or conservatee lacks capacity or fails to give instructions, the court may give such powers as required.

Sec. 6. Minnesota Statutes 1971, Section 525.55, is amended to read:

525.55 NOTICE OF HEARING. If the petition be made by the person for whom a guardian or conservator is sought, or by a parent, custodian, or testamentary guardian or conservator of a minor under the age of 14 years, the court may hear the same with or without notice. In all other cases, upon the filing of the petition the court shall fix the time and place for the hearing thereof. At least 14 days prior to such time, personal service shall be made upon the ward or conservatee. If he have a spouse, custodian, or if there be a testamentary guardian or conservator named in the will of a decedent, notice shall be given to such persons and to such of the nearest kindred and in such manner as the court may direct. If he be ~~an inmate~~ a patient of any hospital or asylum, notice by mail shall be given to the superintendent thereof. If he be a non-resident or if after diligent search he cannot be found in this state, notice shall be given in such manner and to such persons as the court may determine.

Sec. 7. Minnesota Statutes 1971, Section 525.551, is amended to read:

525.551 HEARING; APPOINTMENT; BOND; NOTICE. Upon proof of the petition, the court shall appoint one or two persons suitable and competent to discharge the trust as general guardians or conservators of the person or estate or of both. Upon the filing of a bond in such amount as the court may direct and an oath according to law, or upon the filing of an acceptance of the trust pursuant to section 48.79, letters of guardianship or conservatorship shall issue. If there be no personal property, the court may waive the filing of a bond, but if the guardian or conservator receives or becomes entitled to any such property he shall immediately file a report thereof and a bond in such amount as the court may direct. If the ward or conservatee be a patient of a state hospital for the mentally ill, or committed to the guardianship or conservatorship of

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the commissioner of public welfare as mentally retarded, epileptic, dependent and neglected or is under the temporary custody of the commissioner of public welfare, the court shall notify the commissioner of public welfare of the appointment of a guardian or conservator or successor guardian or conservator of the estate of such ward or conservatee.

Sec. 8. Minnesota Statutes 1971, Chapter 525, is amended by adding a section to read:

[525.552] **REDUCTION OF BOND.** Any conservator or guardian may deposit money belonging to the conservatee or ward, in a bank or trust company or in a savings and loan association and make the money subject to withdrawal only upon order of the court. Upon such deposit, the court may reduce or waive bond.

Sec. 9. Minnesota Statutes 1971, Section 525.56, is amended to read:

525.56 GUARDIAN'S OR CONSERVATOR'S DUTIES. Subdivision 1. A guardian or conservator shall be subject to the control and direction of the court at all times and in all things.

Subd. 2. A general guardian or conservator of the person shall have charge of the person of the ward or conservatee.

Subd. 3. A general guardian or conservator of the estate shall

(1) Pay the reasonable charges for the support, maintenance, and education of the ward or conservatee in a manner suitable to his station in life and the value of his estate; but nothing herein contained shall release parents from obligations imposed by law for the support, maintenance, and education of their children;

(2) Pay all just and lawful debts of the ward or conservatee and the reasonable charges incurred for the support, maintenance, and education of his wife and children and, upon order of the court, pay such sum as the court may fix as reasonable for the support of any person unable to earn a livelihood who is or may become legally entitled to support from the ward or conservatee;

(3) Possess and manage the estate, collect all debts and claims in favor of the ward or conservatee, or, with the approval of the court, compromise the same, institute suit on behalf of the ward or conservatee and represent the ward or conservatee in any court proceedings, and invest all funds not currently needed for the debts and charges named in clauses (1) and (2) and the management of the estate, in accordance with the provisions of sections 48.84, 501.125, subdivision 1 and section 51.29, subdivision 2. Where a bank or trust company is a guardian or conservator, with or without coguardians or coconservators, it may invest in such

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securities without approval of the probate court, but the investments of other guardians or conservators in such securities shall be subject to the approval of the probate court except as otherwise specifically provided by law. A guardian or conservator shall also have the power to purchase certain contracts of insurance as provided in section 50.14, subdivision 14(b);

(4) Where a ward or conservatee has inherited an undivided interest in real estate, the court, on a showing that it is for the best interest of the ward or conservatee, may authorize an exchange or sale of the ward's or conservatee's interest or a purchase by the ward or conservatee of any interest other heirs may have in the real estate.

Sec. 10. Minnesota Statutes 1971, Section 525.57, is amended to read:

525.57 TRANSFER OF VENUE. When it is for the best interest of the ward or conservatee or his estate the venue may be transferred to another county. Upon the filing of a petition by any person interested in the ward or conservatee or in his estate the court shall fix the time and place for the hearing thereof, notice of which shall be given to such persons and in such manner as the court may direct. Upon proof that a transfer of venue is for the best interest of the ward or conservatee or his estate, and upon the settlement and allowance of the guardian's or conservator's accounts to the time of such hearing, the court shall transmit the entire file to the court of such other county in which all subsequent proceedings shall be had.

Sec. 11. Minnesota Statutes 1971, Section 525.58, is amended to read:

525.58 FILING OF ACCOUNTS. Except where expressly waived by the court, every guardian or conservator annually shall file a verified account covering the period from the date of appointment or his last account. At the termination of the guardianship or conservatorship, or upon the guardian's or conservator's removal or resignation, he or his surety, or in the event of his death or disability, his representative or surety shall file a verified final account with a petition for the settlement and allowance thereof. Every account shall show in detail all property received and disbursed, the property on hand, the present address of the ward or conservatee and of the guardian or conservator, and unless the guardian or conservator be a corporation, the amount of the bond, the names and addresses of all sureties thereon, that each unincorporated surety is a resident of this state, is not under disability, and is worth the amount in which he justified.

Sec. 12. Minnesota Statutes 1971, Section 525.581, is amended to read:

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525.581 **NOTICE OF HEARING ON ACCOUNT.** The court on its own motion may, or upon the petition of the guardian or conservator or any person interested in the ward or conservatee or his estate shall, fix the time and place for the hearing on any account, notice of which shall be given in such manner and to such persons as the court may direct. Wherever any funds have been received from the veterans' administration, notice by mail shall be given to the regional office having charge thereof.

Sec. 13. Minnesota Statutes 1971, Section 525.582, is amended to read:

525.582 **ADJUDICATION ON ACCOUNT.** Unless otherwise ordered, the guardian or conservator shall, and other persons may, be examined on the hearing. If the account be correct, it shall be settled and allowed; if incorrect, it shall be corrected and then settled and allowed. The order of settlement and allowance shall show the amount of the personal property remaining. Upon settlement of the final account, and upon delivery of the property on hand to the person entitled thereto, the court shall discharge the guardian or conservator and his sureties. Any person for whom a guardian or conservator has been appointed and who has become of age or has been restored to capacity may show to the court that he has settled with his guardian or conservator and may petition for the guardian's or conservator's discharge without further hearing. Upon such petition, the court may discharge the guardian or conservator and his sureties.

Sec. 14. Minnesota Statutes 1971, Chapter 525, is amended by adding a section to read:

[525.583] **ALLOWANCE AND WAGES OF CONSERVATEE; LIMITED ACCOUNTABILITY OF CONSERVATOR.** The court, upon petition of the conservator, may authorize the conservator to pay to the conservatee out of the conservatorship estate a reasonable allowance for the personal use of the conservatee in such amount as the court may determine to be for the best interests of the conservatee. Unless otherwise ordered by the court, if the conservatee shall at any time during the continuance of the conservatorship be employed, his wages or salary for employment shall not be a part of the conservatorship estate and the wages and salaries shall be paid to the conservatee and shall be subject to his control to the same extent as if the conservatorship did not exist. The conservator shall not be accountable for such allowances or wages and salary.

Sec. 15. Minnesota Statutes 1971, Section 525.59, is amended to read:

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525.59 SUCCEEDING GUARDIAN OR CONSERVATOR. If a guardian or conservator dies, resigns, or is removed, the court with or without notice may appoint a successor.

Sec. 16. Minnesota Statutes 1971, Section 525.591, is amended to read:

525.591 SPECIAL GUARDIAN OR CONSERVATOR. Upon a showing of necessity or expediency, the court with or without notice may appoint a special guardian or conservator of the person or estate or both of any person designated in section 525.54, whether a petition for general guardianship or conservatorship has been filed or not. There shall be no appeal from any order appointing or refusing to appoint a special guardian or conservator. A special guardian or conservator of the person shall have charge of the person of the ward or conservatee. A special guardian or conservator of the estate shall collect the assets and conserve the estate, unless his powers are limited by the court in the order of appointment and in the letters to the performance of specified acts. Upon a showing of necessity or expediency, the court with or without notice may expressly confer upon a special guardian or conservator power to perform any or all acts in the administration of the guardianship or conservatorship, not exceeding the powers conferred by law upon general guardians or conservators.

Within 14 days after appointment, a special guardian or conservator of the estate shall file an inventory and appraisal of the personal property according to the requirements of sections 525.33 and 525.331. Upon the granting of letters of general guardianship or conservatorship, the power of a special guardian or conservator shall cease, and he shall proceed forthwith to a final accounting. When a special guardian or conservator has been appointed to protect the ward's or conservatee's interest in any matter wherein the interest of the general guardian or conservator appears to conflict with that of the ward or conservatee, or to protect the ward's or conservatee's interest upon suspension of an order of removal of a general guardian or conservator by appeal, the power of such special guardian or conservator shall not cease until terminated by the court.

Sec. 17. Minnesota Statutes 1971, Section 525.60, is amended to read:

525.60 TERMINATION; CONVEYANCES. Subdivision 1. A guardianship or conservatorship of a minor shall terminate upon his death or upon his attainment of legal age. The marriage of a female ward or conservatee under guardianship or conservatorship as a minor only and not under a juvenile court guardianship or conservatorship shall terminate the guardianship or conservatorship of her person but not of her estate. The guardianship or conserva-

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torship of a ward or conservatee other than a minor shall terminate upon his death or upon his restoration to capacity. When there is no further need for any guardianship or conservatorship, the court may terminate the same upon such notice as it may direct.

Subd. 2. The guardianship or conservatorship of a married ward or conservatee as a minor only shall not affect the capacity of such ward or conservatee to join in conveyances affecting any real estate owned by his or her spouse.

Sec. 18. Minnesota Statutes 1971, Section 525.61, is amended to read:

525.61 RESTORATION TO CAPACITY. Any person who ~~has been adjudicated insane or inebriate, or any person who is under guardianship or conservatorship (except as a minor, or as a feeble-minded or epileptic person, or a person under guardianship or conservatorship in the juvenile court), or his guardian or conservator, or any other person interested in him or his estate may petition the court in which he was so adjudicated to be restored to capacity. Upon the filing of such petition, the court shall fix the time and place for the hearing thereof, notice of which shall be given to the commissioner of public welfare if he was under the control of the commissioner and has not been discharged by the commissioner, and to such other persons and in such manner as the court may direct.~~

Any person may oppose such restoration. Upon proof that such person is of sound mind and capable of managing his person and estate, and that he is not likely to expose himself or his family to want or suffering, the court shall adjudge him restored to capacity. In any proceedings for restoration, the court may appoint two duly licensed doctors of medicine to assist in the determination of the mental capacity of the patient. The court shall allow and order paid to each doctor a reasonable sum for his services. Upon such order, the county auditor shall issue a warrant on the county treasurer for the payment thereof.

~~In proceedings for the restoration of an insane or inebriate person, the court may appoint two duly licensed doctors of medicine to assist in the determination of the mental capacity of the patient. The court shall allow and order paid to each doctor so appointed the sum of \$5 per day for his services and 15 cents for each mile traveled. Upon such order the county auditor shall issue a warrant on the county treasurer for the payment thereof. If the court notifies the county attorney he shall attend the hearing and if he deems it for the best interest of the public he shall oppose the restoration in the probate court and appellate courts.~~

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~~If such person has been adjudged insane or inebriate by a court of a county wherein he had no settlement, the petition for restoration may be filed in the court of the county of his settlement in which shall be filed certified copies of such instruments of the file of the court of commitment as the court may direct. The court wherein restoration is granted or denied shall transmit to the court of commitment a certified copy of the order granting or denying restoration. The expenses of such certified copies and of such transmittal shall be paid by the county of such person's settlement. If the venue has been transferred, no proceedings need be had in the court from which the venue was transferred.~~

Sec. 19. Minnesota Statutes 1971, Section 525.611, is amended to read:

525.611 DISCHARGE OF COMMISSIONER OF PUBLIC WELFARE AS GUARDIAN OR CONSERVATOR. When it appears to the commissioner of public welfare that a person committed to his guardianship or conservatorship as a mentally deficient or epileptic person is no longer in need of guardianship or conservatorship or supervision for his own or the public welfare, or when the commissioner can no longer exercise his guardianship or conservatorship and supervision because the mentally deficient or epileptic person no longer lives in the state, or his whereabouts are unknown and cannot be ascertained, the commissioner may petition the court of commitment, or the court to which the venue has been transferred, for his discharge as such guardian or conservator, stating facts in support of his petition.

Sec. 20. Minnesota Statutes 1971, Section 525.612, is amended to read:

525.612 PETITION; HEARING. Upon the filing of such petition, the court shall fix the time and place for the hearing thereof, notice of which shall be given as the court may direct. Upon proof of the petition the court shall make an order discharging the commissioner of public welfare as the guardian or conservator of such person.

Sec. 21. Minnesota Statutes 1971, Chapter 525, is amended by adding a section to read:

[525.613] EFFECT OF APPOINTMENT OF CONSERVATOR. Those adjudged in need of a conservator shall have powers or capacity as the court will grant in the letters of conservatorship. If no powers or capacity is delimited in the letters of conservatorship, the conservatee shall have no capacity to do any of the following acts:

(a) To contract for any goods or services except necessities;

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(b) To sell, mortgage, or encumber any real estate or personal property except that he may pay for necessities as provided for in clause (a) above out of personalty.

The appointment of a conservator shall not deprive the conservatee of the right to vote or to marry if otherwise competent.

Any sale, transfer, or encumbrance of personal or real property by the conservatee contrary to this chapter or any order of the probate court, after appointment of a conservator, shall be invalid unless the same is subsequently affirmed by the court as being in the best interests of the conservatee.

Sec. 22. Minnesota Statutes 1971, Chapter 525, is amended by adding a section to read:

[525.614] TERMINOLOGY. Wherever in this chapter the term "guardian" is used, it shall include "conservator", and the term "ward" shall include "conservatee" unless another intention clearly appears from the context.

Approved May 23, 1973.

CHAPTER 619—H.F.No.1333

[Coded]

An act relating to the affairs of decedents; providing for the validity and effect of certain nontestamentary and testamentary transfers, contracts and deposits which relate to death and appear to have testamentary effect, and powers of attorney over accounts.

Be it enacted by the Legislature of the State of Minnesota:

Section 1. [528.01] **MULTI-PARTY ACCOUNTS ACT; CITATION.** This act may be cited as the Minnesota multi-party accounts act.

Sec. 2. [528.02] **DEFINITIONS.** Subdivision 1. As used in sections 1 to 16, the terms defined in this section have the meanings given them.

Subd. 2. "Account" means a contract of deposit of funds between a depositor and a financial institution, and includes a checking account, savings account, certificate of deposit, share account and other like arrangement.

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