

CHAPTER 91—H.F.No. 2156

An act relating to civil law; providing for certain conservator's transactions; amending Minnesota Statutes 2004, sections 524.5-417; 524.5-423.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

Section 1. Minnesota Statutes 2004, section 524.5-417, is amended to read:

524.5-417 GENERAL POWERS AND DUTIES OF CONSERVATOR.

(a) A conservator shall be subject to the control and direction of the court at all times and in all things.

(b) The court shall grant to a conservator only those powers necessary to provide for the demonstrated needs of the protected person.

(c) The court may appoint a conservator if it determines that all the powers and duties listed in this section are needed to provide for the needs of the protected person. The court may also appoint a conservator if it determines that a conservator is necessary to provide for the needs of the protected person through the exercise of some, but not all, of the powers and duties listed in this section. The duties and powers of a conservator include, but are not limited to:

(1) the duty to pay the reasonable charges for the support, maintenance, and education of the protected person in a manner suitable to the protected person's station in life and the value of the estate. Nothing herein contained shall release parents from obligations imposed by law for the support, maintenance, and education of their children. The conservator has no duty to pay for these requirements out of personal funds. Wherever possible and appropriate, the conservator should meet these requirements through governmental benefits or services to which the protected person is entitled, rather than from the protected person's estate. Failure to satisfy the needs and requirements of this section shall be grounds for removal, but the conservator shall have no personal or monetary liability;

(2) the duty to pay out of the protected person's estate all lawful debts of the protected person and the reasonable charges incurred for the support, maintenance, and education of the protected person's spouse and dependent 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 legally entitled to support from the protected person;

(3) the duty to possess and manage the estate, collect all debts and claims in favor of the protected person, or, with the approval of the court, compromise them, institute suit on behalf of the protected person and represent the protected person 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 48A.07, subdivision 6, and 501B.151, 524.5-423, or as otherwise ordered by the court. The standard of a fiduciary shall be applicable to all investments by a conservator. A conservator shall also have the power to purchase certain contracts of insurance as provided in section 50.14, subdivision 14, clause (b);

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(4) where a protected person has inherited an undivided interest in real estate, the court, on a showing that it is for the best interest of the protected person, may authorize an exchange or sale of the protected person's interest or a purchase by the protected person of any interest other heirs may have in the real estate, subject to the procedures and notice requirements of section 524.5-418;

(5) the power to approve or withhold approval of any contract, except for necessities, which the protected person may make or wish to make; and

(6) the power to apply on behalf of the protected person for any assistance, services, or benefits available to the protected person through any unit of government.

(d) The conservator shall have the power to revoke, suspend, or terminate all or any part of a durable power of attorney of which the protected person is the principal with the same power the principal would have if the principal were not incapacitated. If a durable power of attorney is in effect, a decision of the conservator takes precedence over that of an attorney-in-fact.

(e) Transaction set aside. If a protected person has made a financial transaction or gift or entered into a contract during the two-year period before establishment of the conservatorship, the conservator may petition for court review of the transaction, gift, or contract. If the court finds that the protected person was incapacitated or subject to duress, coercion, or undue influence when the transaction, gift, or contract was made, the court may declare the transaction, gift, or contract void except as against a bona fide transferee for value and order reimbursement or other appropriate relief. This paragraph does not affect any other right or remedy that may be available to the protected person with respect to the transaction, gift, or contract.

(f) After the filing of the petition, a certificate of the district court certified to that fact may be filed for record with the Minnesota secretary of state in the same manner as provided in section 336.9-501. The certificate shall state that a petition is pending and the name and address of the person for whom a conservator is sought. If a conservator is appointed on the petition, and if the conservatorship order removes or restricts the right of the protected person to transfer property or to contract, then all contracts except for necessities, and all transfers of personal property, tangible or intangible, including, but not limited to, cash or securities transfers at banks, brokerage houses, or other financial institutions, or transfers of cash or securities, made by the protected person after the filing and before the termination of the conservatorship shall be voidable.

Sec. 2. Minnesota Statutes 2004, section 524.5-423, is amended to read:

524.5-423 SALE, ENCUMBRANCE, OR OTHER TRANSACTION INVOLVING CONFLICT OF INTEREST.

Any transaction involving the conservatorship estate which is affected by a conflict between the conservator's fiduciary and personal interests is voidable unless the transaction is expressly authorized by the court after notice to interested persons. A transaction affected by a conflict between personal and fiduciary interests includes any sale, encumbrance, or other transaction involving the conservatorship estate

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entered into by the conservator, the spouse, descendant, agent, or lawyer of a conservator, or corporation or other enterprise in which the conservator has a beneficial interest. Notwithstanding a conflict between the conservator's fiduciary and personal interests, if the protected person is a parent, child, or sibling of the conservator, the court has discretion to allow a transaction of beneficial interest to the conservator, as long as the conservator can prove that this transaction is primarily in the best interest of the protected person.

EFFECTIVE DATE. This section is effective July 1, 2005, and shall include all proceedings open or pending on that date.

Presented to the governor May 21, 2005

Signed by the governor May 25, 2005, 4:05 p.m.

CHAPTER 92—H.F.No. 466

An act relating to agriculture; changing certain warehouse laws; amending Minnesota Statutes 2004, sections 231.08, by adding subdivisions; 231.09; 231.11; 231.18, subdivisions 3, 5; proposing coding for new law in Minnesota Statutes, chapter 231; repealing Minnesota Rules, parts 1560.7700; 1560.7750; 1560.7800; 1560.7850; 1560.7900; 1560.8000; 1560.8100; 1560.8200; 1560.8300; 1560.8400; 1560.8500; 1560.8600; 1560.8700; 1560.8800.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

Section 1. Minnesota Statutes 2004, section 231.08, is amended by adding a subdivision to read:

Subd. 3. TENDER FOR STORAGE. At the time of or prior to tender of goods for storage by a depositor, a storage order must be signed in writing by the depositor or the depositor's duly authorized representative and must show the name and address of the warehouse operator in whose custody the goods are to be deposited.

Sec. 2. Minnesota Statutes 2004, section 231.08, is amended by adding a subdivision to read:

Subd. 4. GOODS; LABELING. A warehouse operator who receives a lot of goods must identify each article or lot by tag or lot number, as recorded on the operator's books and on the warehouse receipt or contract.

Sec. 3. Minnesota Statutes 2004, section 231.08, is amended by adding a subdivision to read:

Subd. 5. FIRE PROTECTION. All warehouses must be protected against fire by an automatic device or fire extinguishers.

Sec. 4. Minnesota Statutes 2004, section 231.08, is amended by adding a subdivision to read:

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