

ALABAMA CONSERVATORS

WHAT IS A CONSERVATOR?

A conservator is a person who is appointed by the Probate Court to manage and protect the property of a minor or incapacitated person.

WHO IS AN INCAPACITATED PERSON?

A person who is unable to manage property and business affairs because of

1. Mental illness
2. Mental deficiency
3. Physical illness
4. Infirmities accompanying advanced age
5. Chronic use of drugs
6. Chronic intoxication
7. Confinement
8. Detention by foreign power
9. Disappearance

WHO CAN SERVE AS A CONSERVATOR?

A family member or any interested person, with the priorities as follows:

1. Conservator appointed in another jurisdiction
2. Person selected by incapacitated person
3. Person designated by incapacitated person's power of attorney
4. Spouse
5. Adult child
6. Parent
7. Relative with whom ward has lived for the last six months
8. Nominee of person caring for incapacitated person
9. General Conservator or Sheriff

WHEN CAN A CONSERVATOR BE APPOINTED?

A conservator may be appointed when an incapacitated person

1. Is unable to manage property and business affairs; and
2. (a) Has property that will be wasted without proper management; or (b) where funds are needed to support the incapacitated person or one entitled to support from the incapacitated person

WHAT ARE THE POWERS AND DUTIES OF A CONSERVATOR?

1. Without court authorization the conservator may
 - a. invest and reinvest funds
 - b. retain assets
 - c. receive additions
 - d. acquire undivided interest in property
 - e. deposit funds in financial institutions
 - f. acquire property
 - g. dispose of personal property
 - h. make repairs to building
 - i. enter leases up to 5 years
 - j. enter mineral leases
 - k. grant options up to one year
 - l. vote securities
 - m. pay assessments

- n. sell or exercise stock options
- o. deposit stocks and bonds
- p. consent to reorganization, merger or a business
- q. insure assets
- r. borrow to protect estate
- s. settle claims
- t. pay reasonable annual compensation to conservator
- u. pay taxes and expenses
- v. allocate expenses to income
- w. pay sum for benefit of protected person or his family
- x. employ attorneys, accountants
- y. prosecute or defend legal claims
- z. execute and deliver appropriate instruments
- aa. hold securities (court may limit powers of conservator)

2. With prior court authorization the conservator may

- a. continue or participate in operating business
- b. demolish improvements
- c. dispose of real estate
- d. subdivide, dedicate land
- e. enter leases greater than 5 years
- f. grant an option for more than one year
- g. take an option to acquire property

AM I REQUIRED TO HAVE A LAWYER?

The legal complexity of guardianships and conservatorships normally necessitates having an attorney since the Judge of Probate cannot advise you of the law or provide you with forms.

WHAT IS THE DIFFERENCE BETWEEN A GUARDIAN AND A CONSERVATOR?

The guardian is a person who looks after the child or incapacitated person and their welfare while a conservator looks after the estate.

WHAT ARE THE STEPS FOLLOWED IN APPOINTING A GUARDIAN OR CONSERVATOR FOR AN ADULT?

1. Petition filed
2. Appointment of a guardian ad litem
3. Examination by physician
4. Appointment of court's representative
5. Hearing
6. Bond for conservator
7. Order granting petition
8. Inventory of property for conservator
9. Letters of guardianship and/or conservatorship

IS A BOND REQUIRED?

Yes, a bond is required for conservators unless the bond requirement was waived in a will or power of attorney.

IS AN INVENTORY REQUIRED?

Each conservator must complete an inventory of the estate immediately and file it with the Probate Court within 45 days after appointment.

ARE ACCOUNTINGS REQUIRED?

Yes, a conservator must give an accounting to the Probate Court at least every three years. The Probate Court may order an accounting more frequently. An accounting is also required upon resignation or removal of the conservator.

THIS INFORMATION PAGE, WHICH IS BASED ON ALABAMA LAW, IS TO INFORM AND NOT TO ADVISE. NO PERSON SHOULD EVER APPLY OR INTERPRET ANY LAW WITHOUT THE AID OF A LAWYER WHO ANALYZES THE FACTS, BECAUSE THE FACTS MAY CHANGE THE APPLICATION OF THE LAW.