

CHAPTER 370

AN ACT concerning guardianship for elderly or other incapacitated adults, supplementing Titles 9, 52 and 53 of the Revised Statutes, amending N.J.S.3B:12-25 and N.J.S.22A:2-30 and making an appropriation therefor.

BE IT ENACTED by the Senate and General Assembly of the State of New Jersey:

C.52:27G-32 Findings, declarations relative to elderly, incapacitated adults.

1. The Legislature finds and declares that:

a. As the elderly and other incapacitated adult populations in the State continue to grow, the need for an increasing number of qualified individuals to be available to serve as court-appointed guardians for this population increases;

b. New Jersey has established the Office of the Public Guardian for Elderly Adults to perform guardian services for adults age 60 years or older who do not have family or friends willing or able to furnish guardian services. The registration of professional guardians, to be available when family, friends or the Office of the Public Guardian for Elderly Adults are unable to act, will enhance the quality of care given to vulnerable adults;

c. To the extent that many elderly and other incapacitated adults in the State do not have family or friends available to serve as guardians, it is prudent, after giving first consideration for guardianship of elderly adults to the Office of the Public Guardian for Elderly Adults, or when that office is not available, to develop other qualified individuals who can serve as professional guardians; and

d. The establishment of standards for professional guardians will help protect adults who are adjudicated mentally incapacitated and need guardianship services.

C.52:27G-33 Requirements for service as guardian.

2. a. A person shall not serve as a professional guardian of five or more wards who are incapacitated adults unless that person has been granted letters of guardianship under N.J.S.3B:12-25 and is:

(1) a spouse, domestic partner as defined in section 3 of P.L.2003, c.246 (C.26:8A-3), heir or friend of the incapacitated adult;

(2) the public guardian appointed pursuant to section 5 of P.L.1985, c.298 (C.52:27G-24); or

(3) a registered professional guardian.

b. A person shall not serve as a registered professional guardian for any incapacitated adult who is a resident or confined to any facility or institution where the registered professional guardian is employed by, or has any duties or responsibilities in connection with, the facility or institution, with the exception of an employee who has duties and responsibilities at the facility or institution and is a relative of the ward.

c. Nothing herein shall affect the authority of the court to appoint a financial institution qualified pursuant to section 28 of P.L. 1948, c.67 (C.17:9A-28) as a fiduciary, or a person designated as a testamentary guardian.

d. A person may serve as a professional guardian of an incapacitated adult if that person has been registered by the Office of the Public Guardian for Elderly Adults as a professional guardian pursuant to this act. The Office of the Public Guardian for Elderly Adults shall not register a person as a professional guardian unless that person:

(1) is a full-time New Jersey resident or maintains an office in New Jersey;

(2) has, prior to the effective date of this act, had a minimum of five years of work experience as a court-appointed guardian of five or more persons not related to the guardian; or, on or after the effective date of this act, has received a bachelor's degree and has two years of work experience in the field of care management, case management or other relevant work experience involving the management and care of elderly adults;

(3) has supplied proof of current professional liability insurance coverage to the Office of the Public Guardian for Elderly Adults;

(4) has submitted a credit check to the Office of the Public Guardian for Elderly Adults from one national credit reporting agency, which has been issued within one month of the date of the application for registration as a professional guardian;

(5) has satisfied the criminal history record background, child abuse registry and

domestic violence central registry check requirements of this act;

(6) is not subject to any outstanding warrants for arrest;

(7) has completed approved initial training and biennial continuing education courses, as provided for in section 5 of this act, relating to guardianship law, procedures and ethics; and

(8) is not otherwise ineligible as set forth in section 3 of this act.

e. Except for legal services authorized by a court, a person serving as a registered professional guardian: (1) shall only provide guardianship services to a ward and shall not bill the ward for other professional or licensed services while serving as guardian; and (2) shall not contract for professional or licensed services with a person, organization or agency with which the guardian has a vested interest.

C.52:27G-34 Ineligibility for registration as professional guardian.

3. a. In addition to the disqualification from registration as a professional guardian pursuant to section 6 of this act, a person is ineligible for registration as a professional guardian or, if registered, may have his registration suspended or revoked pursuant to section 12 of this act, if the person:

(1) is an attorney who has been disbarred or suspended from the practice of law;

(2) was engaged in a profession or occupation for which the person was licensed, certified or registered by a board or other authorized entity in the State and his license, certification or registration was suspended or revoked by the applicable board or other authorized entity of the profession or occupation;

(3) has a criminal conviction or has been found to be civilly liable for any matter involving moral turpitude, abuse, neglect, fraud, misappropriation, misrepresentation, theft or conversion;

(4) lacks financial responsibility to serve as a registered professional guardian, as determined by the Office of the Public Guardian for Elderly Adults;

(5) is found to have committed abuse, neglect or exploitation of another person;

(6) is the subject of any other disciplinary decision or civil adjudication that would prohibit the person by law from providing services to children or vulnerable adults;

(7) fails to fulfill the initial training or biennial continuing education courses pursuant to this act;

(8) misrepresents, conceals or falsifies information on the registered guardian application form or annual renewal form;

(9) is found to have committed any act which results in a substantial change in the registered guardian's qualifications to serve as a guardian;

(10) engages in conduct which demonstrates unfitness to work as a registered professional guardian, including, but not limited to, persistent or repeated violations of a court order or engaging in any impropriety involving dishonesty, fraud, deceit or misrepresentation;

(11) fails to cooperate during the course of an investigation by the Office of the Public Guardian for Elderly Adults or any law enforcement agency;

(12) repeatedly fails to accept pro bono cases when assigned by the court; or

(13) is the subject of a court order, finding of fact or conclusion of law that indicates:

(a) a finding that the professional guardian has violated the guardian's duties to an incapacitated person or his estate;

(b) a failure to comply with an order of the court;

(c) knowingly or negligently engaging in misconduct which: benefits the professional guardian or another; operates to deceive the court; causes serious or potentially serious injury to a party, the public or the legal system; or causes serious or potentially serious interference with a legal proceeding;

(d) endangering an incapacitated person;

(e) conduct outside the powers or role of a guardian;

(f) a repeated or significant failure to perform guardian responsibilities or a dereliction of fiduciary duties;

(g) a failure to file required reports and forms;

(h) having engaged in inappropriate billing or fee payment; or

(i) malfeasance, nonfeasance or misfeasance.

b. A registered professional guardian shall maintain records of all transactions and reports associated with an incapacitated adult in his care and shall be subject to audit or spot-check inspection at any reasonable time, at the discretion of the public guardian and his authorized agents, to enable the public guardian to verify satisfactory operational, fiscal and care management compliance by professional guardians.

C.52:27G-35 Existing agreements, void exceptions.

4. a. An inter vivos gift, contract, conveyance, disposition, transfer, trust, change in beneficiary designation, appointment, or re-titling of an account or property, or a testamentary instrument affecting an incapacitated adult's money or property in favor of a registered professional guardian or a family member or business associate of the registered professional guardian, made or executed, as appropriate, during the two-year period before the establishment of a guardianship in which the registered professional guardian is appointed as guardian shall be void, unless the court determines that:

(1) the registered professional guardian or a family member or business associate of the registered professional guardian who benefits from the inter vivos transaction or testamentary instrument described in this subsection is a spouse, domestic partner as defined in section 3 of P.L. 2003, c.246 (C.26:8A-3) or heir at law of the incapacitated adult; or

(2) the registered professional guardian has proved by a preponderance of the evidence that the inter vivos transaction or testamentary instrument described in this subsection:

(a) was not made or executed, as appropriate, when the incapacitated adult was under the disability that caused the incapacitated adult to be subsequently declared incapacitated;

(b) was authorized and not the result of undue influence, fraud, coercion, duress, deception or misrepresentation; and

(c) was reviewed by an independent attorney, who is not associated with the registered professional guardian or a family member or business associate of the registered professional guardian, donee, contracting party, transferee, beneficiary, title holder or devisee, and that:

(i) the independent attorney counseled the incapacitated adult about the nature and consequences of the intended inter vivos transaction or testamentary instrument described in this subsection; and

(ii) the independent attorney certified that the intended inter vivos transaction or testamentary instrument described in this subsection was not the result of undue influence, fraud, coercion, duress or misrepresentation.

The provisions of this subsection shall not be construed to affect any other right or remedy that may be available to the incapacitated adult or the estate of the incapacitated adult with respect to an inter vivos transaction or testamentary instrument described in this subsection that benefits a registered professional guardian or a family member or business associate of the registered professional guardian.

The provisions of this subsection shall not be construed to invalidate a subsequent transfer for value to a bona fide transferee from a registered professional guardian or a family member or business associate of the registered professional guardian.

b. A registered professional guardian, unless authorized by a court order after notice to all interested persons, shall not:

(1) loan an incapacitated adult's property or funds to himself or an affiliate;

(2) make, revoke or change an incapacitated adult's beneficiary designation to himself or an affiliate;

(3) purchase or participate in the purchase of property from an incapacitated adult's estate for the professional guardian's own or an affiliate's account or benefit;

(4) transfer an incapacitated adult's property or funds by inter vivos transaction to himself or an affiliate, or receive by operation of survivorship rights any of an incapacitated adult's property or funds for himself or an affiliate;

(5) engage in any transaction involving self-dealing or a conflict of interest concerning an incapacitated adult's property or funds; or (6) make any renovation to the ward's real property in an amount greater than \$10,000, except that in extraordinary circumstances involving

a catastrophic situation, the guardian may apply ex parte to the Superior Court for an order permitting the renovation.

C.52:27G-36 Application, annual registration fees.

5. a. The Office of the Public Guardian for Elderly Adults shall charge each professional guardian an initial application fee and an annual registration fee. The initial application fee shall be in addition to the cost of a credit history report and child abuse registry and criminal history record background checks. Annual registration shall be made on forms furnished by the office and accompanied by the applicable fee, as established by the office. The initial application and annual registration fees shall not exceed \$300. Such fees shall be retained by the office for the implementation of this act.

b. The Office of the Public Guardian for Elderly Adults shall approve a vendor to provide initial training and continuing education courses biennially in accordance with procedures to be established by the office. In order to administer this program efficiently, the office may limit the number of vendors providing this service.

C.52:27G-37 Criminal background checks for professional guardians.

6. a. Upon receipt of an application for registration as a professional guardian, the Office of the Public Guardian for Elderly Adults is authorized to determine whether criminal history record information exists on file in the Federal Bureau of Investigation, Identification Division or in the State Bureau of Identification in the Division of State Police that would disqualify the person from being registered as a professional guardian.

The Office of the Public Guardian for Elderly Adults is authorized to access the child abuse registry in the Department of Human Services and the domestic violence central registry in the Administrative Office of the Courts.

A person shall be disqualified from registration if the person's criminal history record background check reveals a record of conviction of any of the following crimes and offenses:

(1) In New Jersey, any crime or disorderly persons offense:

(a) involving danger to the person, meaning those crimes and disorderly persons offenses set forth in N.J.S.2C:11-1 et seq., N.J.S.2C:12-1 et seq., N.J.S.2C:13-1 et seq., N.J.S.2C:14-1 et seq. or N.J.S.2C:15-1 et seq.;

(b) against the family, children or incompetents, meaning those crimes and disorderly persons offenses set forth in N.J.S.2C:24-1 et seq.;

(c) involving theft as set forth in chapter 20 of Title 2C of the New Jersey Statutes, or fraud relating to any health care plan or program as set forth in section 15 of P.L.1989, c.300 (C.2C:21-4.1), sections 2 and 3 of P.L.1997, c.353 (C.2C:21-4.2 and 2C:21-4.3), P.L.1999, c.162 (C.2C:21-22.1) or section 17 of P.L.1968, c.413 (C.30:4D-17); or

(d) involving any controlled dangerous substance or controlled substance analog as set forth in chapter 35 of Title 2C of the New Jersey Statutes except paragraph (4) of subsection a. of N.J.S.2C:35-10.

(2) In any other state or jurisdiction, of conduct which, if committed in New Jersey, would constitute any of the crimes or disorderly persons offenses described in paragraph (1) of this subsection.

A person shall also be disqualified from registration if a check of the child abuse registry reveals that the person has a history of child abuse.

In a case in which a check of the domestic violence central registry reveals that the person has a history of domestic violence, the public guardian shall review the record with respect to the type and date of the criminal offense or the provisions and date of the final domestic violence restraining order and make a determination as to the suitability of the person to be a registered professional guardian.

b. Notwithstanding the provisions of subsection a. of this section to the contrary, no person shall be disqualified from registration on the basis of any conviction disclosed by a criminal history record background check performed pursuant to this act if the person has affirmatively demonstrated to the public guardian clear and convincing evidence of the applicant's rehabilitation. In determining whether a person has affirmatively demonstrated rehabilitation,

the following factors shall be considered:

- (1) the nature and responsibility of the position which the person would hold, has held or currently holds, as the case may be;
- (2) the nature and seriousness of the offense;
- (3) the circumstances under which the offense occurred;
- (4) the date of the offense;
- (5) the age of the person when the offense was committed;
- (6) whether the offense was an isolated or repeated incident;
- (7) any social conditions which may have contributed to the offense; and
- (8) any evidence of rehabilitation, including good conduct in prison or in the community, counseling or psychiatric treatment received, acquisition of additional academic or vocational schooling, work history, or the recommendation of those who have had the person under their supervision.

c. If a person refuses to consent to, or cooperate in, the securing of a criminal history record background check, the public guardian shall not register that person as a professional guardian and shall notify the person of that denial.

C.52:27G-38 Information provided for background checks.

7. a. A person who is required to undergo a criminal history record background, child abuse registry and domestic violence central registry check pursuant to section 6 of this act shall submit to the public guardian his name, address and fingerprints, in accordance with the applicable State and federal laws, rules and regulations. The Office of the Public Guardian is authorized to exchange fingerprint data with and receive criminal history record information from the Federal Bureau of Investigation and the Division of State Police for use in making the determinations required pursuant to this act.

b. Upon receipt of the criminal history record information for a person from the Federal Bureau of Investigation or the Division of State Police, the public guardian shall, within a reasonable time, notify the person in writing of his qualification or disqualification for registration under this act. If the person is disqualified, the conviction or convictions which constitute the basis for the disqualification shall be identified in the notice to the person.

c. Upon receipt of the information for a person from the child abuse registry in the Department of Human Services or the domestic violence central registry in the Administrative Office of the Courts, the public guardian shall, within a reasonable time, notify the person in writing of his qualification or disqualification for registration under this act. If the person is disqualified, the incident or incidents which constitute the basis for the disqualification shall be identified in the notice to the person.

d. The person has a right to be heard by the Office of the Public Guardian for Elderly Adults, within 30 days from the date of the written notice of disqualification, on the accuracy of his criminal history record, child abuse registry or domestic violence central registry information or to establish his rehabilitation under subsection b. of section 6 of this act. Upon the issuance of a final decision by the public guardian, pursuant to this subsection, the Office of the Public Guardian for Elderly Adults shall notify the person as to whether he remains disqualified. A person disputing an adverse determination by the Office of the Public Guardian for Elderly Adults may file with the Office of Administrative Law for an administrative hearing.

C.53:1-20.9e Conducting of criminal history record background check for guardians.

8. a. In accordance with the provisions of sections 6 and 7 of P.L.2005, c.370 (C.52:27G-37 and C.52:27G-38), the Division of State Police in the Department of Law and Public Safety shall conduct a criminal history record background check, including a name and fingerprint identification check, of each person seeking registration as a professional guardian who is required to undergo a criminal history record background check pursuant to P.L.2005, c.370 (C.52:27G-32 et al.).

b. For the purpose of conducting a criminal history record background check pursuant to subsection a. of this section, the Division of State Police shall examine its own files and arrange for a similar examination by federal authorities. The division shall immediately forward the

information obtained as a result of conducting the check to the public guardian.

c. The Division of State Police shall promptly notify the Office of the Public Guardian for Elderly Adults in the event a person who is required to undergo a criminal history record background check pursuant to section 6 of P.L.2005, c.370 (C.52:27G-37) is convicted of a crime or offense in this State after the date the background check was performed. Upon receipt of such notification, the public guardian shall make a determination regarding the continuation of the registration of the person as a professional guardian.

C.9:6-8.10e Check of child abuse registry for guardian.

9. a. In accordance with the provisions of sections 6 and 7 of P.L.2005, c.370 (C.52:27G-37 and C.52:27G-38), the Department of Human Services shall conduct a check of its child abuse registry for each person seeking registration as a professional guardian who is required to undergo such a check pursuant to P.L.2005, c.370 (C.52:27G-32 et al.). The department shall immediately forward the information obtained as a result of the check to the Office of the Public Guardian for Elderly Adults.

b. The department shall promptly notify the Office of the Public Guardian for Elderly Adults in the event a person who is required to undergo a check of the child abuse registry pursuant to section 6 of P.L.2005, c.370 (C.52:27G-37) is listed in the registry after the date the child abuse registry check was performed. Upon receipt of such notification, the public guardian shall make a determination regarding the continuation of the registration of the person as a professional guardian.

C.52:27G-39 Applicant to assume cost of background checks.

10. A person seeking registration as a professional guardian shall assume the cost of the criminal history record background and child abuse registry checks conducted pursuant to this act, in accordance with regulations as may be adopted by the public guardian.

C.52:27G-40 Statewide registry of registered professional guardians; information included.

11. a. The Office of the Public Guardian for Elderly Adults shall maintain a Statewide registry of registered professional guardians and make all information in the registry available to the Administrative Director of the Courts for the use of the Superior Court, or to other interested parties upon request. The registry shall include the following information for each registered guardian:

- (1) full name used within the past 10 years;
- (2) date of birth;
- (3) business address;
- (4) business telephone number;
- (5) educational background and professional experience, including work in any related field germane to furnishing of guardianship services; and
- (6) the insurance company issuing the registered guardian's professional liability insurance coverage;

b. In addition to the information listed in subsection a. of this section, if known to the public guardian, the registry shall include the following information for each registered guardian:

- (1) whether that person has ever been removed for cause or resigned as guardian in a specific case, the circumstances of the removal or resignation, and the case names, court locations and case numbers;
- (2) any judgment entered against the person as a result of the performance of services as a guardian;
- (3) any finding by a court that the person is accountable for malfeasance, nonfeasance or misfeasance;
- (4) any finding by a court that the person has violated the guardian's duties to the incapacitated adult, his estate or his insurance policy; and
- (5) any known pending or final licensing or disciplinary actions.

C.52:27G-41 Suspension, revocation of registration as professional guardian.

12. The public guardian may suspend or revoke a person's registration as a professional guardian and remove the person from the Statewide registry established pursuant to section 11 of this act if: the public guardian has reasonable cause to suspect the trustworthiness or capability of that person to perform the duties of a professional guardian; or the person is no longer in compliance with the requirements of section 2 of this act or becomes ineligible for registration as a professional guardian as provided for in subsection a. of section 3 of this act. Notice of the suspension or revocation of the registration and removal from the registry shall be sent, within 30 days, to the Administrative Office of the Courts and the known local Surrogates on behalf of the Superior Court, Chancery Division, Probate Part having jurisdiction over the professional guardian's wards.

13. N.J.S.3B:12-25 is amended to read as follows:

Appointment of guardian.

3B:12-25. Appointment of guardian.

The Superior Court may determine the incapacity of an alleged incapacitated person and appoint a guardian for the person, guardian for the estate or a guardian for the person and estate. Letters of guardianship shall be granted to the spouse or domestic partner as defined in section 3 of P.L.2003, c.246 (C.26:8A-3), if the spouse is living with the incapacitated person as man and wife or as a domestic partner as defined in section 3 of P.L.2003, c.246 (C.26:8A-3) at the time the incapacitation arose, or to the incapacitated person's heirs, or friends, or thereafter first consideration shall be given to the Office of the Public Guardian for Elderly Adults in the case of adults within the statutory mandate of the office, or if none of them will accept the letters or it is proven to the court that no appointment from among them will be to the best interest of the incapacitated person or the estate, then to any other proper person as will accept the same, and if applicable, in accordance with the professional guardianship requirements of P.L.2005, c.370 (C.52:27G-32 et al.). Consideration may be given to surrogate decision-makers, if any, chosen by the incapacitated person before the person became incapacitated by way of a durable power of attorney pursuant to section 4 of P.L.2000, c.109 (C.46:2B-8.4), health care proxy or advance directive.

The Office of the Public Guardian for Elderly Adults shall have the authority to not accept guardianship in cases determined by the public guardian to be inappropriate or in conflict with the office.

14. N.J.S.22A:2-30 is amended to read as follows:

Fees of surrogate and deputy clerk of the Superior Court.

22A:2-30. Fees of surrogate and deputy clerk of the Superior Court.

Fees for services of the surrogate and deputy clerk of the Superior Court enumerated below shall be as follows and shall be for the use of the county in which the fees are collected:

PROBATE OF WILLS AND COPIES

Probate of a will of not more than two pages, \$100.00.

Each additional page, \$ 5.00.

The above fee is for all services in preparation and execution of complaint, filing proof of death, deposition of one witness, qualification of executor, filing power of attorney, surrogate's certificate, judgment for probate, letters testamentary, plain copy of will, binding, recording, microfilming or photostating, comparing, docketing, report to the Division of Taxation in the Department of the Treasury, report and transmission to the Clerk of the Superior Court.

Probate of will of not more than two pages without letters, \$50.00. Each additional page, \$ 5.00. This fee is for the same services as are enumerated in the preceding paragraph, except letters, surrogate's certificate and qualification of executor.

Probate of each codicil, not exceeding one page, \$25.00.

Where codicil requires an additional witness, \$5.00.

To reopen probate proceedings for qualification of executor or taking proof of extra witness, \$25.00.

One witness in the above probate proceedings, no charge.

Each additional witness, \$5.00.

Recording and comparing, microfilming or photostating, each additional page of will or codicil, \$5.00.

Filing, entering, issuing and recording, microfilming or photostating, proceedings in commission for deposition of foreign witness to a will or codicil, \$35.00. Plain extra copy of will, \$3.00 for each page.

Certified extra copy of will, \$5.00 for each page, plus \$5.00 for certificate.

Certified copy of will with proofs for New Jersey county, not exceeding two pages including will and codicil, \$50.00. For pages in excess of two, \$5.00 for each page.

Wills filed but not probated (as, where there are no assets), \$10.00 for first two pages, \$5.00 for each additional page, \$5.00 for cover letter stating no assets, \$5.00 for death certificate.

Exemplifying will for another state, not exceeding two pages including will and codicil, plus cost of certificate of Secretary of State when requisite, \$75.00 (not including \$9.00 fee for exemplified forms). For pages in excess of two, \$5.00 for each page.

Recording, microfilming or photostating, docketing, indexing, filing and reporting to the Division of Taxation in the Department of the Treasury an exemplified copy of will and probate proceedings from another state, \$5.00 for each page.

Recording, microfilming or photostating, docketing, indexing and filing a certified copy of will with proofs from New Jersey, \$5.00 for each page.

Recording, microfilming or photostating certified transcripts of wills admitted to probate and probate proceedings or letters of administration and administration proceedings granted by the Superior Court, \$5.00 for each page.

LETTERS OF TRUSTEESHIP

Acceptance of trustee and letters of trusteeship, including one certificate, \$50.00.

LETTERS OF ADMINISTRATION

General administration, including preparation and execution of complaint, bond, surety affidavits, necessary recording, microfilming or photostating, indexing, filing, report to the Division of Taxation, including power of attorney and death certificate, in the Department of the Treasury and the Clerk of the Superior Court and original letters including authorization to accept service of process and death certificate, \$125.00, and for other documents, \$5.00 per page.

Administration ad prosequendum, \$50.00, and for other documents, \$5.00 per page.

Exemplifying administration, \$75.00.

Certified copy of administration, \$50.00.

Affidavits of surviving spouse or next of kin where the value of the real and personal assets of the estate does not exceed \$20,000.00 or \$10,000.00, respectively, \$5.00 for each \$100.00 or part thereof. Total cost shall not exceed \$50.00. This fee is waived where the value of the assets of the estate does not exceed \$200.00.

LETTERS OF GUARDIANSHIP

Granting letters of guardianship, acceptance of guardianship and filing of power of attorney, \$50.00.

Affidavits of estates of minors where value of real and personal estate does not exceed \$5,000.00, \$5.00 per page.

Miscellaneous petitions and orders, \$5.00 per page.

INVENTORIES

For all services in appointment of appraisers, \$25.00.

Filing, entering and recording, microfilming or photostating, inventory and appraisal, not exceeding one page, and affidavits of appraisers and executor, \$25.00.

For each additional page, \$5.00.

ACCOUNTING

For filing complaint and one page of accounting, \$175.00.

For auditing, stating, reporting and recording, microfilming or photostating, accounts of executors, administrators, guardians, trustees and assignees, including drawing judgment, but exclusive of advertising costs:

In estates up to and including \$2,000.00, no additional fee.

In estates from \$2,001.00 to and including \$10,000.00, \$100.00.

In estates from \$10,001.00 to and including \$30,000.00, \$125.00.

In estates from \$30,001.00 to and including \$65,000.00, \$150.00.

In estates from \$65,001.00 to and including \$200,000.00, 3/10 of 1% but not less than \$300.00.

In estates exceeding \$200,000.00--4/10 of 1%, but not less than \$400.00.

For each page of accounting in excess of one, \$5.00.

In computing the amount of an estate for the purpose of fixing the fees of a surrogate for auditing and reporting the account, the balance from the prior account shall be excluded.

For preparing notice of settlement of accounts and copies of the same, forwarding notice to newspaper, with directions as to publication, obtaining proofs of publication, keeping a record of notices and newspapers to which they are sent and of the moneys received to defray the cost of advertising and transmitting advertising charges to newspaper, \$50.00.

No fees herein allowed shall be charged against the recipient of any pension, bounty or allowance, for services of the surrogate and the Probate Part of the Chancery Division of the Superior Court in respect thereof, pursuant to N.J.S.3B:13-9 to 3B:13-14.

MISCELLANEOUS PROCEEDINGS

Proceedings relative to presumption of death, filing, entering and recording, microfilming or photostating (exclusive of letters), with additional fee for advertising, \$175.00.

Sale of land to pay debts (exclusive of advertising), \$175.00.

Sale of land in fulfillment of contract made by decedent, \$175.00.

Sale of lands within one year, \$175.00.

Sale of minor's land, \$175.00.

Distribution, filing and entering complaint, recording, microfilming or photostating, and filing judgment, \$175.00.

Filing of first paper in action in the Superior Court, Chancery Division, Probate Part, \$175.00.

Filing of answering pleadings or other answering papers in Superior Court, Chancery Division, Probate Part (First paper filed by anyone other than Plaintiff), \$110.00.

Adoption of adults, filing and entering proceedings (all papers) including one judgment, \$175.00.

Adoption of minors, filing and entering proceedings (all papers) including one judgment, \$175.00.

Application for relief subsequent to final judgment in the Superior Court, Chancery Division, Probate Part, \$25.00.

Proceedings for the appointment of a conservator, with or without jury trial, \$175.00.

Proceeding for the determination of incapacity and for the appointment of a guardian for an

alleged incapacitated person, with or without jury trial, \$200.00.

Proceedings in connection with payment into court of proceeds of a judgment in favor of a minor, in lieu of bond, pursuant to N.J.S. 3B:15-16 and N.J.S. 3B:15-17 (in addition to fees payable under Letters of Guardianship), the following fees are payable upon withdrawal of funds on deposit:

For each withdrawal including petitions and orders provided and prepared by the surrogate for withdrawal of funds for court approval:

Up to and including \$500.00, \$20.00.

From \$501.00 to and including \$1,000.00, \$25.00.

From \$1,001.00 to and including \$5,000.00, \$30.00.

From \$5,001.00 to and including \$10,000.00, \$35.00.

From \$10,001.00 to and including \$25,000, \$40.00.

From \$25,001.00 to and including \$50,000.00, \$60.00.

In excess of \$50,000.00, \$100.00.

MISCELLANEOUS CHARGES

Short certificates, \$5.00.

Validating short certificate within one year of issue of date, \$3.00.

Subpoenas, each, \$25.00.

Marking true copies, subpoenas, each, \$3.00.

Marking true copies, orders to show cause, each, \$3.00.

Marking true copies of other papers, each, \$3.00.

Authorization of process, \$5.00.

Swearing each witness, \$2.00.

Adjournment or continuance, \$15.00.

Miscellaneous orders of court, first page, \$5.00.

For each additional page, \$5.00.

Recording, microfilming or photostating all papers not herein provided for, \$5.00 for each page.

For making copies not otherwise provided for, \$3.00 for each page.

Filing transcript of death certificate, \$5.00.

Power of attorney, per page \$5.00 plus \$5.00 for certified mail.

Search fee, per estate \$10.00.

Proceedings relative to appointment of a guardian ad litem, \$25.00.

Renunciation by one person, filing, entering and recording, or photostating, \$5.00. Each additional person, \$3.00.

Caveat, filing or withdrawing, \$25.00.

Combined refunding bond and release of not more than two pages, filing, entering, microfilming and recording, or photostating, \$10.00. \$5.00 for each additional page. Additional charge for county clerk's certificate, \$5.00.

Release of not more than two pages of refunding bond and release, \$10.00. \$5.00 for each additional page. Additional charge for county clerk's certificate, \$5.00.

Assignments of legacy or interest, \$10.00 per page, plus \$5.00 where county clerk's certificate is necessary.

Filing all papers not herein provided for, \$5.00, if microfilming process is used, \$5.00 per page.

Plain copy of two-page will, \$6.00.

Each additional page, \$3.00.

Filing of motions in the Superior Court, Chancery Division, Probate Part, \$15.00.

Notice of appeal (trial court), \$10.00.

Minimum charge for all other papers or services in proceedings in the Superior Court, Chancery Division, Probate Part, \$5.00.

3B:14-48 Service of Process by Surrogate, \$25.00.

Duplicating or copying of microfiche, digital tape, high density disks, optically scanned and recorded materials or for any other media used to record or preserve records, \$150.00 per medium recorded.

Processing fee for returned check, \$20.00 plus bank fee.

C.52:27G-42 Registered Professional Guardian Fund; use, fees.

15. a. There is established in the Department of Health and Senior Services a special non-lapsing fund to be known as the Registered Professional Guardian Fund, which shall be a dedicated fund to serve as a depository for monies collected from the estate of an incapacitated adult pursuant to this section. The fund shall be administered by the Office of the Public Guardian for Elderly Adults, and all interest on monies in the fund shall be credited to the fund. The monies in the fund shall be made available to the Office of the Public Guardian for Elderly Adults to be used exclusively for the implementation of this act.

b. Sixty days after receiving plenary letters of guardianship or letters of guardianship of property, a guardian appointed by the Superior Court of New Jersey, with the exception of the appointment of the public guardian pursuant to P.L.1985, c.298 (C.52:27G-20 et seq.), a guardian for a veteran pursuant to N.J.S.3B:13-1 et seq. and guardianship services provided by the Bureau of Guardianship Services in the Division of Developmental Disabilities in the Department of Human Services pursuant to P.L.1965, c.59 (C.30:4-165.1 et seq.), shall pay out of the estate of the incapacitated adult a fee of \$150 to the Office of the Public Guardian for Elderly Adults for deposit into the fund, except that no such charge shall be made to an incapacitated adult's estate for an incapacitated adult whose income is less than 150% of the federal poverty level and whose assets are less than \$50,000.

c. If the guardian seeks an exemption from the fee based on the ward's income or assets, as set forth in subsection b. of this section, the guardian shall make an application to the Office of the Public Guardian for Elderly Adults on forms adopted by that office.

d. If a guardian who is obligated to pay an assessment imposed pursuant to subsection b. of this section fails to pay the assessment, upon application by the Office of the Public Guardian for Elderly Adults, the court shall afford the guardian notice and an opportunity to be heard on the issue of default. Failure to make the assessed payment when due shall be considered a default. The standard of proof shall be by a preponderance of the evidence, and the burden of establishing good cause for a default shall be on the guardian who has defaulted. If the court finds that the guardian has defaulted without good cause, the court may:

- (1) compel the guardian of the estate to account and ascertain the financial condition of the incapacitated adult's estate;
- (2) remove the guardian;
- (3) enter judgment against the guardian of the estate for the amount of the assessment; or
- (4) take such other action as may be permitted by law.

C.52:27G-43 Rules, regulations; Rules of Court.

16. a. The Commissioner of Health and Senior Services, pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), may adopt rules and regulations necessary for the implementation of this act.

b. The Supreme Court may adopt Rules of Court for the implementation of this act.

17. There is appropriated \$95,000 from the General Fund to the Office of the Public Guardian for Elderly Adults in the Department of Health and Senior Services to implement the provisions of this act.

18. This act shall take effect on the 180th day after enactment, but the Commissioner of Health and Senior Services may take such anticipatory administrative action, in advance, as shall be necessary for the implementation of this act, and the Supreme Court of New Jersey may adopt Rules of Court, in advance, for the implementation of the provisions of this act.

Approved January 12, 2006.