

ESTATES CODE

TITLE 3. GUARDIANSHIP AND RELATED PROCEDURES

SUBTITLE D. CREATION OF GUARDIANSHIP

CHAPTER 1105. QUALIFICATION OF GUARDIANS

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 1105.001. DEFINITIONS. In this chapter:

(1) "Bond" means a bond required by this chapter to be given by a person appointed to serve as a guardian.

(1-a) "Declaration" means a declaration taken by a person appointed to serve as a guardian to qualify to serve.

(2) "Oath" means an oath taken by a person appointed to serve as a guardian to qualify to serve.

Added by Acts 2011, 82nd Leg., R.S., Ch. 823 (H.B. 2759), Sec. 1.02, eff. January 1, 2014.

Amended by:

Acts 2021, 87th Leg., R.S., Ch. 521 (S.B. 626), Sec. 24, eff. September 1, 2021.

Sec. 1105.002. MANNER OF QUALIFICATION OF GUARDIAN.

(a) Except as provided by Subsection (b), a guardian is considered to have qualified when the guardian has:

(1) taken and filed the oath, or made and filed the declaration, required under Section 1105.051;

(2) given the required bond;

(3) obtained the judge's approval of the bond; and

(4) filed the bond with the clerk.

(b) A guardian who is not required to give a bond is considered to have qualified when the guardian has taken and filed the oath, or made and filed the declaration, as required under Section 1105.051.

Added by Acts 2011, 82nd Leg., R.S., Ch. 823 (H.B. 2759), Sec. 1.02, eff. January 1, 2014.

Amended by:

Acts 2021, 87th Leg., R.S., Ch. 521 (S.B. 626), Sec. 25, eff. September 1, 2021.

Acts 2023, 88th Leg., R.S., Ch. 207 (S.B. 1457), Sec. 11, eff. September 1, 2023.

Sec. 1105.003. PERIOD FOR TAKING OATH OR MAKING DECLARATION AND GIVING BOND. (a) Except as provided by Section 1103.003, an oath may be taken and subscribed or a declaration may be made, and a bond may be given and approved, at any time before:

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

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

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

Added by Acts 2011, 82nd Leg., R.S., Ch. 823 (H.B. 2759), Sec. 1.02, eff. January 1, 2014.

Amended by:

Acts 2021, 87th Leg., R.S., Ch. 521 (S.B. 626), Sec. 26, eff. September 1, 2021.

SUBCHAPTER B. OATHS AND DECLARATIONS

Sec. 1105.051. OATH OR DECLARATION OF GUARDIAN. (a) A guardian shall:

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

(2) make a declaration as prescribed by Subsection (d).

(b) If the Health and Human Services Commission is appointed guardian, a commission representative shall take the oath or make the declaration required by Subsection (a).

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

I, _____ (insert person's name), do solemnly swear that I will discharge faithfully the duties of guardian of _____ (insert "the person," "the estate," or "the person and estate") of _____ (insert ward's name), an incapacitated person,

according to law.

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

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

Added by Acts 2011, 82nd Leg., R.S., Ch. 823 (H.B. 2759), Sec. 1.02, eff. January 1, 2014.

Amended by:

Acts 2021, 87th Leg., R.S., Ch. 521 (S.B. 626), Sec. 28, eff. September 1, 2021.

Sec. 1105.052. ADMINISTRATION OF OATH OR MAKING OF DECLARATION. The oath prescribed by Section 1105.051 may be taken before any person authorized to administer oaths under the laws of this state. The declaration prescribed by Section 1105.051 must be signed by the declarant.

Added by Acts 2011, 82nd Leg., R.S., Ch. 823 (H.B. 2759), Sec. 1.02, eff. January 1, 2014.

Amended by:

Acts 2021, 87th Leg., R.S., Ch. 521 (S.B. 626), Sec. 29, eff. September 1, 2021.

SUBCHAPTER C. GENERAL PROVISIONS RELATING TO BONDS

Sec. 1105.101. BOND GENERALLY REQUIRED; EXCEPTIONS.

(a) Except as provided by this section, a guardian of the person or the estate of a ward shall give a bond.

(b) A bond is not required if the guardian is:

- (1) a corporate fiduciary; or
- (2) a guardianship program operated by a county.

(c) The court shall issue letters of guardianship of the person to a person without the requirement of a bond if:

(1) the person is named to be appointed guardian in a will made by a surviving parent that is probated by a court in this state, or in a written declaration made by a surviving parent, and the will or declaration directs that the guardian serve without a bond; and

(2) the court finds that the guardian is qualified.

(d) The court may not waive the requirement of bond for the guardian of the estate of a ward, regardless of whether a surviving parent's will or written declaration directs the court to waive the bond.

Added by Acts 2011, 82nd Leg., R.S., Ch. 823 (H.B. [2759](#)), Sec. 1.02, eff. January 1, 2014.

Sec. 1105.102. BOND FOR CERTAIN GUARDIANS OF THE PERSON.

(a) This section applies only to a bond required to be posted by a guardian of the person of a ward when there is no guardian of the ward's estate.

(b) To ensure the performance of the guardian's duties, a court may accept only:

- (1) a corporate surety bond;
- (2) a personal surety bond;
- (3) a deposit of money instead of a surety bond; or
- (4) a personal bond.

(c) In determining the appropriate type and amount of bond to set for the guardian, the court shall consider:

(1) the familial relationship of the guardian to the ward;

(2) the guardian's ties to the community;

(3) the guardian's financial condition;

(4) the guardian's past history of compliance with the court; and

(5) the reason the guardian may have previously been denied a corporate surety bond.

Added by Acts 2011, 82nd Leg., R.S., Ch. 823 (H.B. 2759), Sec. 1.02, eff. January 1, 2014.

Sec. 1105.103. BOND REQUIRED FROM GUARDIAN OTHERWISE EXEMPT. (a) This section applies only to an individual guardian of the estate from whom a bond was not required.

(b) A person who has a debt, claim, or demand against the guardianship, with respect to the justice of which an oath has been made by the person, the person's agent or attorney, or another person interested in the guardianship, in person or as the representative of another person, may file a written complaint under oath in the court in which the guardian was appointed.

(c) After a complaint is filed under Subsection (b), the court shall cite the guardian to appear and show cause why the guardian should not be required to give a bond.

(d) On hearing a complaint filed under Subsection (b), if it appears to the court that the guardian is wasting, mismanaging, or misapplying the guardianship estate and that a creditor may probably lose the creditor's debt, or that a person's interest in the guardianship may be diminished or lost, the court shall enter an order requiring the guardian to give a bond not later than the 10th day after the date of the order.

(e) A bond required under Subsection (d) must be:

(1) in an amount sufficient to protect the guardianship and the guardianship's creditors;

(2) approved by and payable to the judge; and

(3) conditioned that the guardian:

(A) will well and truly administer the guardianship; and

(B) will not waste, mismanage, or misapply the guardianship estate.

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

(1) administer the guardianship according to the provisions of a will or law;

(2) take the oath or make the declaration required of a guardian under Section [1105.051](#) before the person enters on the administration of the guardianship; and

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

Added by Acts 2011, 82nd Leg., R.S., Ch. 823 (H.B. [2759](#)), Sec. 1.02, eff. January 1, 2014.

Amended by:

Acts 2021, 87th Leg., R.S., Ch. 521 (S.B. [626](#)), Sec. 30, eff. September 1, 2021.

Sec. 1105.104. BONDS OF JOINT GUARDIANS. If two or more persons are appointed as guardians and are required to give a bond by the court or under this title, the court may require:

(1) a separate bond from each person; or

(2) a joint bond from all of the persons.

Added by Acts 2011, 82nd Leg., R.S., Ch. 823 (H.B. [2759](#)), Sec. 1.02, eff. January 1, 2014.

Sec. 1105.105. BOND OF MARRIED PERSON. (a) A married person appointed as guardian may jointly execute, with or without, the person's spouse, a bond required by law.

(b) A bond executed by a married person:

(1) binds the person's separate estate; and

(2) may bind the person's spouse only if the spouse signs the bond.

Added by Acts 2011, 82nd Leg., R.S., Ch. 823 (H.B. [2759](#)), Sec. 1.02, eff. January 1, 2014.

Sec. 1105.106. BOND OF MARRIED PERSON YOUNGER THAN 18 YEARS OF AGE. A bond required to be executed by a person who is younger than 18 years of age, is or has been married, and accepts and qualifies as guardian is as valid and binding for all purposes as if the person were of legal age.

Added by Acts 2011, 82nd Leg., R.S., Ch. 823 (H.B. [2759](#)), Sec. 1.02, eff. January 1, 2014.

Sec. 1105.107. BOND OF GUARDIANSHIP PROGRAM. The judge may require a guardianship program appointed guardian under this title to file one bond that:

(1) meets all the conditions required under this title; and

(2) is in an amount sufficient to protect all of the guardianships and the creditors of the guardianships of the wards receiving services from the guardianship program.

Added by Acts 2011, 82nd Leg., R.S., Ch. 823 (H.B. 2759), Sec. 1.02, eff. January 1, 2014.

Sec. 1105.108. SUBSCRIPTION OF BOND BY PRINCIPALS AND SURETIES. A bond required under this title shall be subscribed by the principals and sureties.

Added by Acts 2011, 82nd Leg., R.S., Ch. 823 (H.B. 2759), Sec. 1.02, eff. January 1, 2014.

Sec. 1105.109. FORM OF BOND. The following form, or a form with the same substance, may be used for the bond of a guardian:

"The State of Texas

"County of _____

"Know all persons by these presents that we, _____ (insert name of each principal), as principal, and _____ (insert name of each surety), as sureties, are held and firmly bound to the judge of _____ (insert reference to appropriate judge), and that judge's successors in office, in the sum of \$_____; conditioned that the above bound principal or principals, appointed by the judge as guardian or temporary guardian of the person or of the estate, or both, of _____ (insert name of ward, stating in each case whether the person is a minor or an incapacitated person other than a minor), shall well and truly perform all of the duties required of the guardian or temporary guardian by law under appointment."

Added by Acts 2011, 82nd Leg., R.S., Ch. 823 (H.B. 2759), Sec. 1.02, eff. January 1, 2014.

Sec. 1105.110. FILING OF BOND. A bond required under this

title shall be filed with the clerk after the court approves the bond.

Added by Acts 2011, 82nd Leg., R.S., Ch. 823 (H.B. 2759), Sec. 1.02, eff. January 1, 2014.

Sec. 1105.111. FAILURE TO GIVE BOND. Another person may be appointed as guardian to replace a guardian who fails to give the bond required by the court within the period required under this title.

Added by Acts 2011, 82nd Leg., R.S., Ch. 823 (H.B. 2759), Sec. 1.02, eff. January 1, 2014.

Sec. 1105.112. BOND NOT VOID ON FIRST RECOVERY. A guardian's bond is not void on the first recovery, but the bond may be sued on and prosecuted from time to time until the entire amount of the bond is recovered.

Added by Acts 2011, 82nd Leg., R.S., Ch. 823 (H.B. 2759), Sec. 1.02, eff. January 1, 2014.

SUBCHAPTER D. OTHER PROVISIONS RELATING TO BONDS OF GUARDIANS OF THE ESTATE

Sec. 1105.151. GENERAL FORMALITIES. A bond given by a guardian of the estate must:

- (1) be conditioned as required by law;
- (2) be payable to the judge or that judge's successors in office;
- (3) have the written approval of the judge in the judge's official capacity; and
- (4) be executed and approved in accordance with this subchapter.

Added by Acts 2011, 82nd Leg., R.S., Ch. 823 (H.B. 2759), Sec. 1.02, eff. January 1, 2014.

Sec. 1105.152. GENERAL STANDARD REGARDING AMOUNT OF BOND.
(a) The judge shall set the amount of a bond for a guardian of an estate in an amount sufficient to protect the guardianship and the

guardianship's creditors, as provided by this title.

(b) In determining the amount of the bond, the court may not consider estate assets placed in a management trust under Chapter 1301.

Added by Acts 2011, 82nd Leg., R.S., Ch. 823 (H.B. 2759), Sec. 1.02, eff. January 1, 2014.

Sec. 1105.153. EVIDENTIARY HEARING ON AMOUNT OF BOND. Before setting the amount of a bond required of a guardian of an estate, the court shall hear evidence and determine:

(1) the amount of cash on hand and where that cash is deposited;

(2) the amount of cash estimated to be needed for administrative purposes, including the operation of a business, factory, farm, or ranch owned by the guardianship estate, and administrative expenses for one year;

(3) the revenue anticipated to be received in the succeeding 12 months from dividends, interest, rentals, or use of property belonging to the guardianship estate and the aggregate amount of any installments or periodic payments to be collected;

(4) the estimated value of certificates of stock, bonds, notes, or other securities of the ward, and the name of the depository in which the stocks, bonds, notes, or other securities are deposited;

(5) the face value of life insurance or other policies payable to the ward or the ward's estate;

(6) the estimated value of other personal property that is owned by the guardianship, or by a person with a disability; and

(7) the estimated amount of debts due and owing by the ward.

Added by Acts 2011, 82nd Leg., R.S., Ch. 823 (H.B. 2759), Sec. 1.02, eff. January 1, 2014.

Sec. 1105.154. SPECIFIC BOND AMOUNT. (a) Except as otherwise provided by this section, the judge shall set the amount of a bond of a guardian of an estate in an amount equal to the sum

of:

(1) the estimated value of all personal property belonging to the ward; and

(2) an additional amount to cover revenue anticipated to be derived during the succeeding 12 months from:

(A) interest and dividends;

(B) collectible claims;

(C) the aggregate amount of any installments or periodic payments, excluding income derived or to be derived from federal social security payments; and

(D) rentals for the use of property.

(b) The judge shall reduce the amount of the original bond under Subsection (a) in proportion to the amount of cash or the value of securities or other assets:

(1) authorized or required to be deposited by court order; or

(2) voluntarily deposited by the guardian or the sureties on the guardian's bond as provided in Sections [1105.156](#) and [1105.157\(a\)](#).

(c) The judge shall set the amount of the bond for a temporary guardian.

Added by Acts 2011, 82nd Leg., R.S., Ch. 823 (H.B. [2759](#)), Sec. 1.02, eff. January 1, 2014.

Sec. 1105.155. AGREEMENT REGARDING DEPOSIT OF ESTATE ASSETS. (a) If the court considers it to be in the best interests of the ward, the court may require the guardian of the estate and the corporate or personal sureties on the guardian's bond to agree to deposit cash and other assets of the guardianship estate in a depository described by Subsection (b). If the depository is otherwise proper, the court may require the deposit to be made in a manner so as to prevent the withdrawal of the money or other assets in the guardianship estate without the written consent of the surety or on court order made after notice to the surety.

(b) Cash and assets must be deposited under this section in a financial institution as defined by Section [201.101](#), Finance Code, that:

(1) has its main office or a branch office in this state; and

(2) is qualified to act as a depository in this state under the laws of this state or the United States.

(c) An agreement made by a guardian and the sureties on the guardian's bond under this section does not release the principal or sureties from liability, or change the liability of the principal or sureties, as established by the terms of the bond.
Added by Acts 2011, 82nd Leg., R.S., Ch. 823 (H.B. 2759), Sec. 1.02, eff. January 1, 2014.

Sec. 1105.156. DEPOSIT OF ESTATE ASSETS ON TERMS PRESCRIBED BY COURT. (a) Cash, securities, or other personal assets of a ward to which the ward is entitled may, or if considered by the court to be in the best interests of the ward, shall, be deposited in one or more depositories described by this subchapter on terms prescribed by the court.

(b) The court in which the guardianship proceeding is pending may authorize or require additional estate assets currently on hand or that accrue during the pendency of the proceeding to be deposited as provided by Subsection (a) on:

(1) the court's own motion; or

(2) the written application of the guardian or any other person interested in the ward.

(c) The amount of the bond required to be given by the guardian of the estate shall be reduced in proportion to the amount of the cash or the value of the securities or other assets deposited under this section.

(d) Cash, securities, or other assets deposited under this section may be withdrawn wholly or partly from the depository only in accordance with a court order, and the amount of the guardian's bond shall be increased in proportion to the amount of the cash or the value of the securities or other assets authorized to be withdrawn.

Added by Acts 2011, 82nd Leg., R.S., Ch. 823 (H.B. 2759), Sec. 1.02, eff. January 1, 2014.

Sec. 1105.157. DEPOSITS OF GUARDIAN. (a) Instead of giving a surety or sureties on a bond, or to reduce the amount of a bond, the guardian of an estate may deposit the guardian's own cash or securities acceptable to the court with a financial institution as defined by Section [201.101](#), Finance Code, that has its main office or a branch office in this state.

(b) If the deposit is otherwise proper, the deposit must be in an amount or value equal to the amount of the bond required or the bond shall be reduced by the value of assets that are deposited.

(c) A depository that receives a deposit made under Subsection (a) shall issue a receipt for the deposit that:

(1) shows the amount of cash deposited or the amount and description of the securities deposited, as applicable; and

(2) states that the depository agrees to disburse or deliver the cash or securities only on receipt of a certified copy of an order of the court in which the proceeding is pending.

(d) A receipt issued by a depository under Subsection (c) must be attached to the guardian's bond and be delivered to and filed by the county clerk after the receipt is approved by the judge.

(e) The amount of cash or securities on deposit may be increased or decreased, by court order from time to time, as the interests of the guardianship require.

(f) A deposit of cash or securities made instead of a surety on the bond may be withdrawn or released only on order of a court that has jurisdiction.

(g) A creditor has the same rights against a guardian of the estate and the deposits as are provided for recovery against sureties on a bond.

Added by Acts 2011, 82nd Leg., R.S., Ch. 823 (H.B. [2759](#)), Sec. 1.02, eff. January 1, 2014.

Sec. 1105.158. BOND REQUIRED INSTEAD OF DEPOSITS. (a) The court may on its own motion or on the written application by the guardian of an estate or any other person interested in the guardianship:

(1) require the guardian to give adequate bond instead

of the deposit; or

(2) authorize withdrawal of the deposit and substitution of a bond with sureties.

(b) Before the 21st day after the date the guardian is personally served with notice of the filing of the application or the date the court enters the court's motion, the guardian shall file a sworn statement showing the condition of the guardianship.

(c) A guardian who fails to comply with Subsection (b) is subject to removal as in other cases.

(d) The deposit may not be released or withdrawn until the court:

(1) is satisfied as to the condition of the guardianship estate;

(2) determines the amount of the bond; and

(3) receives and approves the bond.

Added by Acts 2011, 82nd Leg., R.S., Ch. 823 (H.B. [2759](#)), Sec. 1.02, eff. January 1, 2014.

Sec. 1105.159. WITHDRAWAL OF DEPOSITS ON CLOSING OF GUARDIANSHIP. (a) Any deposit of assets of the guardian of an estate, the guardianship, or a surety that remains at the time a guardianship is closed shall be released by court order and paid to the person entitled to the assets.

(b) Except as provided by Subsection (c), a writ of attachment or garnishment does not lie against a deposit described by Subsection (a).

(c) A writ of attachment or garnishment may lie against a deposit described by Subsection (a) as to a claim of a creditor of the guardianship or a person interested in the guardianship, including a distributee or ward, only to the extent the court has ordered distribution.

Added by Acts 2011, 82nd Leg., R.S., Ch. 823 (H.B. [2759](#)), Sec. 1.02, eff. January 1, 2014.

Sec. 1105.160. AUTHORIZED CORPORATE OR PERSONAL SURETIES.

(a) The surety on a bond of a guardian of an estate may be an authorized corporate or personal surety.

(b) A bond of a guardian of an estate with sureties who are individuals must have at least two sureties, each of whom must:

(1) execute an affidavit in the manner provided by Subchapter E; and

(2) own property in this state, excluding property exempt by law, that the judge is satisfied is sufficient to qualify the person as a surety as required by law.

(c) A bond with an authorized corporate surety is only required to have one surety, except as otherwise provided by law.

Added by Acts 2011, 82nd Leg., R.S., Ch. 823 (H.B. 2759), Sec. 1.02, eff. January 1, 2014.

Sec. 1105.161. SURETIES FOR CERTAIN BONDS. (a) If the amount of the bond of a guardian of an estate exceeds \$50,000, the court may require that the bond be signed by:

(1) at least two authorized corporate sureties; or

(2) one corporate surety and at least two good and sufficient personal sureties.

(b) The guardianship shall pay the cost of a bond with corporate sureties.

Added by Acts 2011, 82nd Leg., R.S., Ch. 823 (H.B. 2759), Sec. 1.02, eff. January 1, 2014.

Sec. 1105.162. DEPOSITS BY PERSONAL SURETY. Instead of executing an affidavit under Section 1105.201 or creating a lien under Section 1105.202 when required, a personal surety may deposit the surety's own cash or securities in the same manner as a guardian instead of pledging real property as security, subject to the provisions governing the deposits if made by a guardian.

Added by Acts 2011, 82nd Leg., R.S., Ch. 823 (H.B. 2759), Sec. 1.02, eff. January 1, 2014.

Sec. 1105.163. APPLICABILITY OF SUBCHAPTER TO CERTAIN COURT ORDERS. To the extent applicable, the provisions of this subchapter relating to the deposit of cash and securities cover the orders entered by the court when:

(1) property of a guardianship has been authorized to

be sold or rented;

(2) money is borrowed from the guardianship;

(3) real property, or an interest in real property, has been authorized to be leased for mineral development or made subject to unitization;

(4) the general bond has been found insufficient; or

(5) money is borrowed or invested on behalf of a ward.

Added by Acts 2011, 82nd Leg., R.S., Ch. 823 (H.B. [2759](#)), Sec. 1.02, eff. January 1, 2014.

SUBCHAPTER E. PROVISIONS RELATING TO PERSONAL SURETIES

Sec. 1105.201. AFFIDAVIT OF PERSONAL SURETY. (a) Before a judge considers a bond with a personal surety, each personal surety must execute an affidavit stating the amount by which the surety's assets that are reachable by creditors exceeds the surety's liabilities. The total of the surety's worth must equal at least twice the amount of the bond.

(b) Each affidavit must be presented to the judge for consideration and, if approved, shall be attached to and form part of the bond.

Added by Acts 2011, 82nd Leg., R.S., Ch. 823 (H.B. [2759](#)), Sec. 1.02, eff. January 1, 2014.

Sec. 1105.202. LIEN ON REAL PROPERTY OWNED BY PERSONAL SURETY. (a) If a judge finds that the estimated value of personal property of the guardianship that cannot be deposited, as provided by Subchapter D, is such that personal sureties cannot be accepted without the creation of a specific lien on the real property owned by the sureties, the judge shall enter an order requiring each surety to designate real property that is owned by the surety, located in this state, and subject to execution. The designated property must have a value that exceeds all liens and unpaid taxes by an amount at least equal to the amount of the bond and must have an adequate legal description, all of which the surety shall incorporate in an affidavit. Following approval by the judge, the affidavit shall be attached to and form part of the bond.

(b) A lien arises as security for the performance of the obligation of the bond only on the real property designated in the affidavit.

(c) Before letters of guardianship are issued to the guardian whose bond includes an affidavit under this section, the court clerk shall mail a statement to the office of the county clerk of each county in which any real property designated in the affidavit is located. The statement must be signed by the court clerk and include:

- (1) a sufficient description of the real property;
- (2) the names of the principal and sureties on the bond;
- (3) the amount of the bond;
- (4) the name of the guardianship; and
- (5) the name of the court in which the bond is given.

(d) Each county clerk who receives a statement required by Subsection (c) shall record the statement in the county deed records. Each recorded statement shall be indexed in a manner that permits the convenient determination of the existence and character of the lien described in the statement.

(e) The recording and indexing required by Subsection (d) is constructive notice to a person regarding the existence of the lien on the real property located in the county, effective as of the date of the indexing.

(f) If each personal surety subject to a court order under this section does not comply with the order, the judge may require that the bond be signed by:

- (1) an authorized corporate surety; or
- (2) an authorized corporate surety and at least two personal sureties.

Added by Acts 2011, 82nd Leg., R.S., Ch. 823 (H.B. [2759](#)), Sec. 1.02, eff. January 1, 2014.

Sec. 1105.203. SUBORDINATION OF LIEN ON REAL PROPERTY OWNED BY PERSONAL SURETY. (a) A personal surety required to create a lien on specific real property under Section [1105.202](#) who wishes to lease the real property for mineral development may file a written

application in the court in which the proceeding is pending requesting subordination of the lien to the proposed lease.

(b) The judge may enter an order granting the application.

(c) A certified copy of an order entered under this section that is filed and recorded in the deed records of the proper county is sufficient to subordinate the lien to the rights of a lessee under the proposed lease.

Added by Acts 2011, 82nd Leg., R.S., Ch. 823 (H.B. 2759), Sec. 1.02, eff. January 1, 2014.

Sec. 1105.204. RELEASE OF LIEN ON REAL PROPERTY OWNED BY PERSONAL SURETIES. (a) A personal surety who has given a lien under Section 1105.202 may apply to the court to have the lien released.

(b) The court shall order the lien released if:

(1) the court is satisfied that the bond is sufficient without the lien; or

(2) sufficient other real or personal property of the surety is substituted on the same terms required for the lien that is to be released.

(c) If the personal surety does not offer a lien on other substituted property under Subsection (b)(2) and the court is not satisfied that the bond is sufficient without the substitution of other property, the court shall order the guardian to appear and give a new bond.

(d) A certified copy of the court's order releasing the lien and describing the property that was subject to the lien has the effect of canceling the lien if the order is filed with the county clerk and recorded in the deed records of the county in which the property is located.

Added by Acts 2011, 82nd Leg., R.S., Ch. 823 (H.B. 2759), Sec. 1.02, eff. January 1, 2014.

SUBCHAPTER F. NEW BONDS

Sec. 1105.251. GROUNDS FOR REQUIRING NEW BOND. (a) A guardian may be required to give a new bond if:

(1) a surety on a bond dies, removes beyond the limits of this state, or becomes insolvent;

(2) in the court's opinion:

(A) the sureties on a bond are insufficient; or

(B) a bond is defective;

(3) the amount of a bond is insufficient;

(4) a surety on a bond petitions the court to be discharged from future liability on the bond; or

(5) a bond and the record of the bond have been lost or destroyed.

(b) A person interested in the guardianship may have the guardian cited to appear and show cause why the guardian should not be required to give a new bond by filing a written application with the county clerk of the county in which the guardianship proceeding is pending. The application must allege that:

(1) the bond is insufficient or defective; or

(2) the bond and the record of the bond have been lost or destroyed.

Added by Acts 2011, 82nd Leg., R.S., Ch. 823 (H.B. [2759](#)), Sec. 1.02, eff. January 1, 2014.

Sec. 1105.252. COURT ORDER OR CITATION ON NEW BOND.

(a) When a judge is made aware that a bond is insufficient or that a bond and the record of the bond have been lost or destroyed, the judge shall:

(1) without delay and without notice enter an order requiring the guardian to give a new bond; or

(2) without delay have the guardian cited to show cause why the guardian should not be required to give a new bond.

(b) An order entered under Subsection (a)(1) must state:

(1) the reasons for requiring a new bond;

(2) the amount of the new bond; and

(3) the period within which the new bond must be given, which may not expire earlier than the 10th day after the date of the order.

(c) A guardian who opposes an order entered under Subsection (a)(1) may demand a hearing on the order. The hearing must be held

before the expiration of the period within which the new bond must be given.

Added by Acts 2011, 82nd Leg., R.S., Ch. 823 (H.B. 2759), Sec. 1.02, eff. January 1, 2014.

Sec. 1105.253. SHOW CAUSE HEARING ON NEW BOND REQUIREMENT.

(a) On the return of a citation ordering a guardian to show cause why the guardian should not be required to give a new bond, the judge shall, on the date specified in the return of citation for the hearing of the matter, inquire into the sufficiency of the reasons for requiring a new bond.

(b) If the judge is satisfied that a new bond should be required, the judge shall enter an order requiring a new bond. The order must state:

(1) the amount of the new bond; and

(2) the period within which the new bond must be given, which may not expire later than the 20th day after the date of the order.

Added by Acts 2011, 82nd Leg., R.S., Ch. 823 (H.B. 2759), Sec. 1.02, eff. January 1, 2014.

Sec. 1105.254. EFFECT OF ORDER REQUIRING NEW BOND. (a) An order requiring a guardian to give a new bond has the effect of suspending the guardian's powers.

(b) After the order is entered, the guardian may not pay out any of the guardianship's money or take any other official action, except to preserve the guardianship's property, until the new bond is given and approved.

Added by Acts 2011, 82nd Leg., R.S., Ch. 823 (H.B. 2759), Sec. 1.02, eff. January 1, 2014.

Sec. 1105.255. NEW BOND IN DECREASED AMOUNT. (a) A guardian required to give a bond may at any time file with the clerk a written application requesting that the court reduce the amount of the bond.

(b) After the guardian files an application under Subsection (a), the clerk shall issue and have posted notice to all

persons interested in the estate and to a surety on the bond. The notice must inform the interested persons and surety of:

- (1) the fact that the application has been filed;
- (2) the nature of the application; and
- (3) the time the judge will hear the application.

(c) The judge may permit the filing of a new bond in a reduced amount if:

(1) proof is submitted that a bond in an amount less than the bond in effect will be adequate to meet the requirements of law and protect the guardianship; and

(2) the judge approves an accounting filed at the time of the application.

Added by Acts 2011, 82nd Leg., R.S., Ch. 823 (H.B. [2759](#)), Sec. 1.02, eff. January 1, 2014.

Sec. 1105.256. REQUEST BY SURETY FOR NEW BOND. (a) A surety on a guardian's bond may at any time file with the clerk a petition requesting that the court in which the proceeding is pending:

- (1) require the guardian to give a new bond; and
- (2) discharge the petitioner from all liability for the future acts of the guardian.

(b) If a petition is filed under Subsection (a), the guardian shall be cited to appear and give a new bond.

Added by Acts 2011, 82nd Leg., R.S., Ch. 823 (H.B. [2759](#)), Sec. 1.02, eff. January 1, 2014.

Sec. 1105.257. DISCHARGE OF FORMER SURETIES ON APPROVAL OF NEW BOND. When a new bond has been given and approved, the judge shall enter an order discharging the sureties on the former bond from all liability for the future acts of the principal on the bond.

Added by Acts 2011, 82nd Leg., R.S., Ch. 823 (H.B. [2759](#)), Sec. 1.02, eff. January 1, 2014.