

ESTATES CODE

TITLE 3. GUARDIANSHIP AND RELATED PROCEDURES

SUBTITLE I. OTHER SPECIAL PROCEEDINGS AND SUBSTITUTES FOR
GUARDIANSHIP

CHAPTER 1354. RECEIVERSHIP FOR ESTATES OF
CERTAIN INCAPACITATED PERSONS

Sec. 1354.001. APPOINTMENT OF RECEIVER. (a) A judge of a probate court in the county in which an incapacitated person resides or in which the incapacitated person's endangered estate is located shall, with or without application, enter an order appointing a suitable person as receiver to take charge of the estate if:

(1) it appears that all or part of the estate of the incapacitated person is in danger of injury, loss, or waste and in need of a guardianship or other representative;

(2) there is no guardian of the estate who is qualified in this state; and

(3) a guardian is not needed.

(b) The court order must specify the duties and powers of the receiver the judge considers necessary for the protection, conservation, and preservation of the estate.

(c) The clerk shall enter an order issued under this section in the judge's guardianship docket.

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

Sec. 1354.002. BOND. (a) A court order issued under Section 1354.001 shall require a receiver appointed under that section to give a bond, as in ordinary receiverships, in an amount the judge considers necessary to protect the estate.

(b) The person appointed as receiver shall:

(1) make and submit a bond for the judge's approval; and

(2) file the bond, when approved, with the clerk.

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

Sec. 1354.003. POWERS AND DUTIES OF RECEIVER. The person appointed as receiver shall take charge of the endangered estate as provided by the powers and duties vested in the person by the order of appointment and subsequent orders of the judge.

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

Sec. 1354.004. EXPENDITURES BY RECEIVER. (a) If, while the receivership is pending, the needs of the incapacitated person require the use of the income or corpus of the estate for the education, clothing, or subsistence of the person, the judge shall, with or without application, enter an order in the judge's guardianship docket that appropriates an amount of income or corpus sufficient for that purpose.

(b) The receiver shall use the amount appropriated by the court to pay a claim for the education, clothing, or subsistence of the incapacitated person that is presented to the judge for approval and ordered by the judge to be paid.

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

Sec. 1354.005. USE OF EXCESS ESTATE ASSETS. (a) A receiver who, while the receivership is pending, has possession of an amount of money belonging to the incapacitated person in excess of the amount needed for current necessities and expenses may, under direction of the judge, invest, lend, or contribute all or part of the excess money in the manner, for the security, and on the terms provided by this title for investments, loans, or contributions by guardians.

(b) The receiver shall report to the judge all transactions made under this section in the same manner that a report is required of a guardian under this title.

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

Sec. 1354.006. RECEIVER'S EXPENSES, ACCOUNT, AND

COMPENSATION. (a) All necessary expenses incurred by a receiver in administering the estate may be reported monthly to the judge in the form of a sworn statement of account that includes a report of:

- (1) the receiver's acts;
- (2) the condition of the estate;
- (3) the status of the threatened danger to the estate;

and

- (4) the progress made toward abatement of the danger.

(b) If the judge is satisfied that the statement is correct and reasonable in all respects, the judge shall promptly enter an order approving the expenses and authorizing reimbursement of the receiver from the estate funds in the receiver's possession.

(c) A receiver shall be compensated for services provided in the receiver's official capacity in the same manner and amount provided by this title for similar services provided by a guardian of an estate.

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

Sec. 1354.007. CLOSING RECEIVERSHIP; NOTICE. (a) When the threatened danger has abated and the estate is no longer liable to injury, loss, or waste because there is no guardian or other representative of the estate, the receiver shall:

- (1) report to the judge; and
- (2) file with the clerk a full and final sworn account

of:

(A) all property of the estate received by the receiver;

(B) all property of the estate in the receiver's possession while the receivership was pending;

(C) all sums paid out;

(D) all acts performed by the receiver with respect to the estate; and

(E) all property of the estate remaining in the receiver's possession on the date of the report.

(b) On the filing of the report, the clerk shall:

- (1) issue and cause to be posted a notice to all

persons interested in the welfare of the incapacitated person; and

(2) give personal notice to the person who has custody of the incapacitated person to appear before the judge at a time and place specified in the notice and contest the report and account if the person desires.

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

Sec. 1354.008. DISCHARGE OF RECEIVER. (a) If, on hearing the receiver's report and account, the judge is satisfied that the danger of injury, loss, or waste to the estate has abated and that the report and account are correct, the judge shall:

(1) enter an order finding that the danger of injury, loss, or waste to the estate has abated; and

(2) direct the receiver to deliver the estate to:

(A) the person from whom the receiver took possession as receiver;

(B) the person who has custody of the incapacitated person; or

(C) another person the judge finds is entitled to possession of the estate.

(b) A person who receives the estate under Subsection (a) shall execute and file with the clerk an appropriate receipt for the estate that is delivered to the person.

(c) The judge's order shall discharge the receivership and the sureties on the receiver's bond.

(d) If the judge is not satisfied that the danger has abated, or is not satisfied with the receiver's report and account, the judge shall enter an order continuing the receivership in effect until the judge is satisfied that the danger has abated or is satisfied with the report and account.

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

Sec. 1354.009. RECORD. An order, bond, report, account, or notice in a receivership proceeding must be recorded in the judge's guardianship docket.

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