

House Bill 2671

Sponsored by Representative DOHERTY

SUMMARY

The following summary is not prepared by the sponsors of the measure and is not a part of the body thereof subject to consideration by the Legislative Assembly. It is an editor's brief statement of the essential features of the measure **as introduced**.

Creates State Office of the Public Guardian and Conservator to provide public guardian and conservator services for persons without relatives or friends willing or able to serve as guardians or conservators. Directs Governor to appoint Public Guardian and Conservator as administrative head of office. Prescribes duties and responsibilities of Public Guardian and Conservator and office. Requires office to certify and train deputy public guardians and conservators. Requires office to develop volunteer program to assist office. Imposes certain limitations on court orders in proceedings brought by office.

Establishes Public Guardian and Conservator Advisory Committee.

Renames existing offices of public guardian and conservator as county offices of public guardian and conservator.

Creates State Office of the Public Guardian and Conservator Fund and continuously appropriates moneys in fund to State Office of the Public Guardian and Conservator.

A BILL FOR AN ACT

1
2 Relating to fiduciary services in probate courts for persons with inadequate resources; creating new
3 provisions; amending ORS 125.240, 125.410, 125.700, 125.705, 125.710, 125.715, 125.720, 125.725 and
4 125.730; and appropriating money.

5 **Be It Enacted by the People of the State of Oregon:**

STATE OFFICE OF THE PUBLIC GUARDIAN AND CONSERVATOR

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9 **SECTION 1.** Sections 2 to 10 of this 2013 Act are added to and made a part of ORS
10 chapter 125.

11 **SECTION 2.** For purposes of sections 2 to 10 of this 2013 Act:

12 (1) "Client" means a person who receives public guardian and conservator services from
13 the State Office of the Public Guardian and Conservator.

14 (2) "Deputy public guardian and conservator" means a person who is employed by or
15 under contract with the office, who is certified by the office and who provides services as a
16 fiduciary appointed by the court to clients under sections 2 to 10 of this 2013 Act.

17 (3) "Public guardian and conservator services" means services, including but not limited
18 to information, assistance, legal representation and services as a court-appointed fiduciary
19 in guardianship or conservatorship proceedings that are provided by deputy public guardians
20 and conservators, volunteers and staff in the office.

21 **SECTION 3.** (1) The State Office of the Public Guardian and Conservator is established,
22 to function separately and independently from any other state agency.

23 (2) The Governor shall appoint the Public Guardian and Conservator, subject to Senate
24 confirmation under ORS 171.562 and 171.565, for a four-year term from a list of three nomi-
25 nees nominated by the Public Guardian and Conservator Advisory Committee established

NOTE: Matter in **boldfaced** type in an amended section is new; matter [*italic and bracketed*] is existing law to be omitted. New sections are in **boldfaced** type.

1 under section 9 of this 2013 Act. The Public Guardian and Conservator must meet the qual-
2 ifications required by the office for certification to provide fiduciary services. The Public
3 Guardian and Conservator serves at the pleasure of the Governor and may be removed by
4 the Governor for good cause or upon the recommendation of the Public Guardian and
5 Conservator Advisory Committee. Vacancies must be filled within 60 days in the same man-
6 ner as appointments are made. The Public Guardian and Conservator shall receive a salary
7 as is fixed by the Governor, and be reimbursed for all reasonable travel and other expenses
8 incurred in the performance of official duties.

9 (3) The Public Guardian and Conservator shall be the administrative head of the State
10 Office of the Public Guardian and Conservator.

11 (4) The Public Guardian and Conservator may hire staff, and may hire or contract with
12 attorneys, professional fiduciaries described in ORS 125.240 and deputy public guardians and
13 conservators, as necessary to carry out the powers, duties and functions of the office. The
14 Public Guardian and Conservator may prescribe the duties and assignments and fix the
15 compensation of persons hired by or under contract with the Public Guardian and
16 Conservator, subject to the State Personnel Relations Law. Subject to any other applicable
17 laws regulating expenses, the persons hired by or under contract with the Public Guardian
18 and Conservator shall be allowed reasonable travel and other expenses incurred in the per-
19 formance of official duties.

20 (5) The Public Guardian and Conservator may delegate the exercise or discharge of any
21 power, duty or function that is vested in or imposed by law upon the Public Guardian and
22 Conservator to any deputy public guardian and conservator or staff person for the purpose
23 of conducting an official act in the name of the Public Guardian and Conservator. The official
24 act of any person acting in the name of the Public Guardian and Conservator by the au-
25 thority of the Public Guardian and Conservator is an official act of the Public Guardian and
26 Conservator.

27 (6) The Public Guardian and Conservator may solicit and accept gifts, grants and do-
28 nations from public and private sources for the purpose of carrying out the provisions of
29 sections 2 to 10 of this 2013 Act, which moneys shall be deposited in the State Office of the
30 Public Guardian and Conservator Fund created under section 8 of this 2013 Act.

31 (7) In accordance with applicable provisions of ORS chapter 183, the Public Guardian and
32 Conservator, in consultation with the Public Guardian and Conservator Advisory Committee,
33 may adopt rules for the administration of the office and to carry out the provisions of
34 sections 2 to 10 of this 2013 Act.

35 **SECTION 4.** The State Office of the Public Guardian and Conservator shall:

36 (1) Educate the public about the role and function of the office and about public guardian
37 and conservator services.

38 (2) Provide public guardian and conservator services for persons who do not have rela-
39 tives or friends willing or able to assume the duties of guardianship or conservatorship and
40 for persons who lack the financial resources to obtain a private guardian or conservator.

41 (3) Certify persons as deputy public guardians and conservators.

42 (4) Develop model standards of eligibility and professional conduct for deputy public
43 guardians and conservators and of practice and procedure in public guardianship and con-
44 servatorship proceedings.

45 (5) Develop and implement training and educational materials for deputy public guardians

1 and conservators.

2 (6) Establish and operate a program to recruit, train and supervise volunteers to provide
3 assistance to the office, deputy public guardians and conservators and clients.

4 (7) Establish a process, including criteria and standards, to determine the eligibility of
5 persons to receive public guardian and conservator services and for the needs assessment
6 required under section 5 of this 2013 Act.

7 (8) Cooperate with county offices of public guardian and conservator operating under
8 ORS 125.700.

9 (9) Work with existing local and county programs and with other organizations and en-
10 tities to develop and expand public guardian and conservator services in this state.

11 (10) Make recommendations to the Legislative Assembly for policy and legislation re-
12 garding implementation, improvement and expansion of public guardian and conservator
13 services in this state.

14 **SECTION 5.** (1) Prior to filing a petition for the appointment of a fiduciary under ORS
15 125.055 or any other pleading under this chapter, the State Office of the Public Guardian and
16 Conservator shall conduct a needs assessment with the person who would be the respondent
17 or protected person under the petition or pleading. The needs assessment must be done by
18 a deputy public guardian and conservator. The purpose of the needs assessment is to deter-
19 mine the person's eligibility to receive public guardian and conservator services and to de-
20 termine the appropriateness of filing a petition for the appointment of a fiduciary or other
21 pleading on behalf of the person in a court having probate jurisdiction. The assessment shall,
22 at a minimum:

23 (a) Assess the person's capacity to:

24 (A) Care for the person's own safety;

25 (B) Manage the person's own financial affairs; and

26 (C) Attend to and provide for necessities such as food, shelter, clothing and medical care;

27 (b) Assess the person's financial resources, based on information available or supplied to
28 the office at the time of the assessment;

29 (c) Determine whether the available information about the person is sufficient to support
30 a finding that the person is incapacitated or financially incapable, and the entry of a court
31 order for the appointment of a fiduciary under ORS 125.010;

32 (d) Inquire whether any other person may be willing and able to serve as the person's
33 guardian or conservator and, if appropriate, locate and contact that other person;

34 (e) Determine the type of fiduciary, if any, to request in a petition filed under ORS
35 125.055, giving preference to the least intrusive form of fiduciary relationship consistent with
36 the best interests of the person; and

37 (f) Determine how best to provide public guardian and conservator services to a client
38 that are least restrictive to the client's liberty, that are least intrusive to the client and that
39 provide for the greatest degree of independence that the client is capable of exercising.

40 (2) For each person determined to be eligible for public guardian and conservator services
41 under this section, the office shall develop a written plan setting forth the type and duration
42 of services to be provided by the office. The plan shall be included in any nonemergency pe-
43 tition or pleading filed with the court.

44 **SECTION 6.** (1) A deputy public guardian and conservator providing public guardian and
45 conservator services under sections 2 to 10 of this 2013 Act:

1 (a) Must be certified as a deputy public guardian and conservator by the State Office of
2 the Public Guardian and Conservator; and

3 (b) If appointed by the court as public guardian and conservator for a client, shall serve
4 as provided in this chapter and ORS 127.005 and 127.015, except as expressly stated otherwise
5 in sections 2 to 10 of this 2013 Act.

6 (2) A volunteer of the office who, in the course of providing authorized public guardian
7 and conservator services, has personal contact with a client must provide the office, in
8 writing, with the volunteer's criminal history and must submit or consent to a criminal re-
9 cords check, including fingerprint identification.

10 (3) Volunteers of the office:

11 (a) May not conduct the needs assessments required under section 5 of this 2013 Act;

12 (b) May not engage in conduct that constitutes the unlicensed practice of law;

13 (c) Shall be under the supervision and control of the Public Guardian and Conservator,
14 of the Public Guardian and Conservator's designee or of a deputy public guardian and
15 conservator;

16 (d) Shall be instructed in confidentiality and shall maintain the confidentiality of clients
17 and of written information and materials relating to clients;

18 (e) May not receive compensation or any other benefit but may be reimbursed by the
19 office for reasonable travel and other expenses incurred in the performance of their duties
20 on behalf of the office; and

21 (f) Are immune from civil liability for any acts or omissions occurring, or errors in
22 judgment made in good faith, in the course of providing authorized public guardian and
23 conservator services.

24 SECTION 7. (1) A court may not appoint the State Office of the Public Guardian and
25 Conservator, the Public Guardian and Conservator or a deputy public guardian and
26 conservator as a fiduciary for a person unless the office, the Public Guardian and
27 Conservator or a deputy public guardian and conservator has petitioned for or consented to
28 the appointment.

29 (2) The Public Guardian and Conservator shall file an official bond in such amount as
30 may be fixed from time to time by the Public Guardian and Conservator Advisory Committee
31 or the court having probate jurisdiction. The bond shall inure to the joint benefit of the se-
32 veral public guardianship and conservatorship estates in which the office, the Public Guard-
33 ian and Conservator and the deputy public guardians and conservators are providing
34 fiduciary services but a bond is not required to be filed in individual estates.

35 (3) The court may not charge a fee for the filing of a petition or any other pleading under
36 this chapter by the office, the Public Guardian and Conservator or a deputy public guardian
37 and conservator when the filing is made in connection with the provision of public guardian
38 and conservator services under sections 2 to 10 of this 2013 Act.

39 (4)(a) The court shall order the client or the client's estate to pay for reasonable ex-
40 penses incurred, including compensation for services rendered, in the provision of public
41 guardian and conservator services to the client, including but not limited to court costs and
42 attorney fees.

43 (b) If a client is indigent, the office shall have a claim against the client or the client's
44 estate for the portion of any payment ordered under paragraph (a) of this subsection that
45 remains unpaid.

1 (5) The court may not order the office, the Public Guardian and Conservator or a deputy
2 public guardian and conservator to pay court costs or attorney fees in a proceeding brought
3 on behalf of a client under sections 2 to 10 of this 2013 Act.

4 **SECTION 8.** (1) There is created within the State Treasury, separate and distinct from
5 the General Fund, the State Office of the Public Guardian and Conservator Fund. Interest
6 earned on the State Office of the Public Guardian and Conservator Fund shall be credited to
7 the fund.

8 (2) Moneys in the State Office of the Public Guardian and Conservator Fund shall consist
9 of:

10 (a) Amounts donated to the fund;

11 (b) Amounts appropriated or otherwise transferred to the fund by the Legislative As-
12 sembly;

13 (c) Interest earned on the moneys in the fund; and

14 (d) Other amounts deposited in the fund from any source.

15 (3) Moneys in the fund are continuously appropriated to the State Office of the Public
16 Guardian and Conservator for the purpose of implementing sections 2 to 10 of this 2013 Act.

17 **SECTION 9.** (1) There is established the Public Guardian and Conservator Advisory
18 Committee consisting of seven members to be appointed in the following manner:

19 (a) One person appointed by the Speaker of the House of Representatives;

20 (b) One person appointed by the President of the Senate;

21 (c) One person appointed by the House Minority Leader;

22 (d) One person appointed by the Senate Minority Leader;

23 (e) Two persons, to be appointed by the Governor, from a list of four names submitted
24 by individuals and organizations that provide guardianship and conservatorship services in
25 this state; and

26 (f) One person appointed by the Governor.

27 (2) Members described in subsection (1)(e) and (f) of this section are subject to confir-
28 mation by the Senate under ORS 171.562 and 171.565.

29 (3) The term of office of each member is four years. Before the expiration of the term
30 of a member, the appointing authority shall appoint a successor whose term begins on July
31 1 next following. A member is eligible for reappointment. If there is a vacancy for any cause,
32 the appointing authority shall make an appointment to become immediately effective for the
33 unexpired term.

34 (4) The members of the committee must be residents of this state who are broadly rep-
35 resentative, to the extent possible, of persons who provide guardianship and conservatorship
36 and other fiduciary services to persons in this state, who have knowledge and interest in the
37 problems of persons who have inadequate resources to obtain their own fiduciary services
38 and who are representative of all areas of this state.

39 (5) The committee shall select one of its members as chairperson and another as vice
40 chairperson, for such terms and with duties and powers necessary for the performance of
41 the functions and duties of these offices as the committee determines.

42 (6) A majority of the members of the committee constitutes a quorum for the transaction
43 of business. Decisions may be made by a majority of the quorum.

44 (7) The committee shall meet at least once each month at a place, day and hour deter-
45 mined by the committee. The committee also shall meet at other times and places specified

1 by the call of the chairperson or of a majority of the members of the committee. The com-
2 mittee shall confer each month with the Public Guardian and Conservator.

3 (8) A member of the committee is entitled to compensation and expenses as provided in
4 ORS 292.495.

5 (9) The State Office of the Public Guardian and Conservator shall provide staff support
6 to the committee.

7 **SECTION 10.** The Public Guardian and Conservator Advisory Committee shall:

8 (1) Monitor the State Office of the Public Guardian and Conservator.

9 (2) Advise the Governor and the Legislative Assembly on the State Office of the Public
10 Guardian and Conservator.

11 (3) Nominate, after interviews and according to prescribed criteria, three persons to fill
12 the office of Public Guardian and Conservator.

13 (4) Make recommendations to the Governor for removal of the Public Guardian and
14 Conservator when appropriate.

15 (5) Consult with the Public Guardian and Conservator in the adoption of rules to imple-
16 ment the provisions of sections 2 to 10 of this 2013 Act.

17
18 **COUNTY OFFICES OF PUBLIC GUARDIAN AND CONSERVATOR**

19
20 **SECTION 11.** ORS 125.700 is amended to read:

21 125.700. The county court or board of county commissioners of any county:

22 (1) After making a determination that there exists a need within the county for a guardian or
23 conservator for persons who do not have relatives or friends willing to serve as a guardian or
24 conservator and capable of assuming the duties of guardianship or conservatorship, may create
25 [*within the county*] the **county** office of public guardian and conservator and such subordinate posi-
26 tions as may be necessary to operate effectively the **county** office of public guardian and
27 conservator [*within the county*].

28 (2) May expend county funds for the purpose of operating the **county** office of public guardian
29 and conservator.

30 (3) After establishment of the **county** office of public guardian and conservator [*within a*
31 *county*], upon the finding that the county does not need the service of a public guardian and
32 conservator, may terminate the office.

33 **SECTION 12.** ORS 125.705 is amended to read:

34 125.705. (1) The person appointed to the office of **county** public guardian and conservator shall
35 serve in the office at the pleasure of the appointing authority. If the person holding the office of
36 **county** public guardian and conservator [*in a county*] is removed from office, dies, becomes inca-
37 pacitated or resigns, the removal, death, incapacity or resignation shall operate to remove [*such*]
38 **the county** public guardian and conservator as guardian and conservator of all estates then under
39 the guardianship and conservatorship of the person.

40 (2) As used in ORS 125.700 to 125.730, “**county public guardian and conservator**” means
41 **the person appointed to the county office of public guardian and conservator created under**
42 **ORS 125.700.**

43 **SECTION 13.** ORS 125.710 is amended to read:

44 125.710. (1) The **county** public guardian and conservator may serve as the guardian or
45 conservator, or both, of any person of whom the court having probate jurisdiction in the county may

1 have jurisdiction. The **county** public guardian and conservator may serve as guardian or
 2 conservator upon the petition of any person or upon the [own] petition of the **county** public guard-
 3 ian and conservator.

4 (2) When appointed as guardian or conservator by the court having probate jurisdiction, the
 5 **county** public guardian and conservator shall serve as provided in ORS chapter 125, ORS 127.005
 6 and 127.015, except as specifically stated to the contrary in ORS 125.700 to 125.730.

7 (3) The **county** public guardian and conservator in the discretion of the **county** public guardian
 8 and conservator may employ private attorneys if the fees for the attorneys can be defrayed out of
 9 funds of the guardianship or conservatorship estate.

10 **SECTION 14.** ORS 125.715 is amended to read:

11 125.715. (1) Before entering into office as **county** public guardian and conservator, the person
 12 appointed to the office shall file an official bond in such amount as may be fixed from time to time
 13 by the board of county commissioners or the court having probate jurisdiction, which bond shall
 14 inure to the joint benefit of the several guardianship [or] **and** conservatorship estates in which the
 15 person is acting as guardian or conservator and the county. The **county** public guardian and
 16 conservator shall not be required to file bonds in individual estates.

17 (2) Upon removal of the **county** public guardian and conservator in accordance with the pro-
 18 visions of ORS 125.705, the surety on the **county** public guardian and conservator bond shall be
 19 exonerated upon order to that effect of the court having probate jurisdiction in the county.

20 **SECTION 15.** ORS 125.720 is amended to read:

21 125.720. All funds coming into the custody of the **county** public guardian and conservator shall
 22 be deposited in the county treasury and disbursed by proper warrant, or shall be deposited in one
 23 or more banks or invested in one or more insured savings and loan associations authorized to do
 24 business within the county, or as provided by ORS 125.445 (5).

25 **SECTION 16.** ORS 125.725 is amended to read:

26 125.725. The **county** public guardian and conservator shall have a claim against the ward's or
 27 protected person's estate for reasonable expenses incurred in the execution of the guardianship or
 28 conservatorship and such compensation for services and those of the attorney of the **county** public
 29 guardian and conservator as the court having probate jurisdiction in the county deems just and
 30 reasonable. If the **county** public guardian and conservator is compensated by the county for ser-
 31 vices, any reimbursement of expenses or compensation shall be paid to the county.

32 **SECTION 17.** ORS 125.730 is amended to read:

33 125.730. No fee shall be charged or received by any court having probate jurisdiction for the
 34 filing of any petition asking for the appointment of the **county** public guardian and conservator **as**
 35 **the guardian or conservator** or for any official service performed by that court in the course of
 36 the guardianship or conservatorship proceedings.

37
 38 **CONFORMING AMENDMENTS**
 39

40 **SECTION 18.** ORS 125.240 is amended to read:

41 125.240. (1) If a petition seeks the appointment of a professional fiduciary as described in sub-
 42 section (5) of this section, the petition must contain the following information in addition to that
 43 information required under ORS 125.055:

44 (a) A description of the events that led to the involvement of the professional fiduciary in the
 45 case.

- 1 (b) The professional fiduciary's educational background and professional experience.
- 2 (c) The fees charged by the professional fiduciary and whether the fees are on an hourly basis
3 or are based on charges for individual services rendered.
- 4 (d) The names of providers of direct services to protected persons that are repeatedly used by
5 the professional fiduciary under contract.
- 6 (e) The disclosures required under ORS 125.221 if the person nominated to act as fiduciary will
7 employ a person in which the nominated person has a pecuniary or financial interest.
- 8 (f) The number of protected persons for whom the person performs fiduciary services at the time
9 of the petition.
- 10 (g) Whether the professional fiduciary has ever had a claim against the bond of the fiduciary
11 and a description of the circumstances causing the claim.
- 12 (h) Whether the professional fiduciary or any staff with responsibility for making decisions for
13 clients or for management of client assets has ever filed for bankruptcy and the date of filing.
- 14 (i) Whether the professional fiduciary or any staff with responsibility for making decisions for
15 clients or for management of client assets has ever been denied a professional license that is directly
16 related to responsibilities of the professional fiduciary, or has ever held a professional license that
17 is directly related to responsibilities of the professional fiduciary that was revoked or canceled. If
18 such a license has been denied, revoked or canceled, the petition must reflect the date of the denial,
19 revocation or cancellation and the name of the regulatory body that denied, revoked or canceled the
20 license.
- 21 (j) A statement that the criminal records check required under subsection (2) of this section does
22 not disqualify the person from acting as a fiduciary.
- 23 (k) Whether the professional fiduciary and any staff responsible for making decisions for clients
24 or for management of client assets is or has been certified by a national or state association of
25 professional fiduciaries, the name of any such association and whether the professional fiduciary or
26 other staff person has ever been disciplined by any such association and the result of the discipli-
27 nary action.
- 28 (L) The name, address and telephone number of the individual who is to act as primary decision
29 maker for the protected person and the name of the person with whom the protected person will
30 have personal contact if that person is not the person who will act as primary decision maker for
31 the protected person.
- 32 (2)(a) If a petition seeks the appointment of a professional fiduciary as described in subsection
33 (5) of this section, the professional fiduciary and all staff with responsibility for making decisions for
34 clients or for management of client assets must undergo a criminal records check before the court
35 may appoint the professional fiduciary. The results of the criminal records check shall be provided
36 by the petitioner to the court. Results of criminal records checks submitted to the court are confi-
37 dential, shall be subject to inspection only by the parties to the proceedings and their attorneys, and
38 shall not be subject to inspection by members of the public except pursuant to a court order entered
39 after a showing of good cause. A professional fiduciary must disclose to the court any criminal
40 conviction of the professional fiduciary that occurs after the criminal records check was performed.
41 The criminal records check under this subsection shall consist of a check for a criminal record in
42 the State of Oregon and a national criminal records check if:
- 43 (A) The person has resided in another state within five years before the date that the criminal
44 records check is performed;
- 45 (B) The person has disclosed the existence of a criminal conviction; or

1 (C) A criminal records check in Oregon discloses the existence of a criminal record in another
2 jurisdiction.

3 (b) The requirements of this subsection do not apply to any person who serves as a **county**
4 public guardian [or] **and** conservator, or any staff of a **county** public guardian [or] **and** conservator,
5 [who is] operating under ORS 125.700 to 125.730 or 406.050 [and who is otherwise required to acquire
6 a criminal records check for other purposes], **or to the State Office of the Public Guardian and**
7 **Conservator, the Public Guardian and Conservator, a deputy public guardian and conservator**
8 **or the staff or volunteers of the State Office of the Public Guardian and Conservator, oper-**
9 **ating under sections 2 to 10 of this 2013 Act, unless the person is otherwise required to**
10 **submit to a criminal records check under ORS 125.700 to 125.730 or sections 2 to 10 of this**
11 **2013 Act.**

12 (3)(a) If a petition seeks the appointment of a **county** public guardian and conservator operating
13 under the provisions of ORS 125.700 to 125.730, **the appointment of the State Office of the Public**
14 **Guardian and Conservator, the Public Guardian and Conservator or a deputy public guardian**
15 **and conservator operating under the provisions of sections 2 to 10 of this 2013 Act,** or the
16 appointment of a conservator under ORS 406.050 (8), the petition need not contain the information
17 described in subsection (1)(d) or (L) of this section.

18 (b) If a **county** public guardian and conservator operating under the provisions of ORS 125.700
19 to 125.730, **or the State Office of the Public Guardian and Conservator, the Public Guardian**
20 **and Conservator or a deputy public guardian and conservator operating under the provisions**
21 **of sections 2 to 10 of this 2013 Act,** is appointed to act as a fiduciary, or a conservator operating
22 under the authority of ORS 406.050 (8) is appointed, the **county** public guardian [or] **and**
23 conservator, **the office, the Public Guardian and Conservator, the deputy public guardian and**
24 **conservator or the conservator** must file with the court within three days after receipt of written
25 notice of the appointment a statement containing the name, address and telephone number of the
26 individual who will act as primary decision maker for the protected person and the name of the
27 person with whom the protected person will have personal contact if the person named as primary
28 decision maker will not have personal contact with the protected person.

29 (4) If the court appoints a professional fiduciary as described in subsection (5) of this section,
30 the professional fiduciary must update all information required to be disclosed by subsection (1) of
31 this section and provide a copy of the updated statement upon the request of the protected person
32 or upon the request of any person entitled to notice under ORS 125.060 (3). The professional
33 fiduciary must provide an updated statement without demand to the court, the protected person and
34 persons entitled to notice under ORS 125.060 (3) at any time that there is a change in the informa-
35 tion provided under subsection (1)(L) or (3)(b) of this section.

36 (5) The provisions of this section apply to any person nominated as a fiduciary or serving as a
37 fiduciary who is acting at the same time as a fiduciary for three or more protected persons who are
38 not related to the fiduciary.

39 **SECTION 19.** ORS 125.410 is amended to read:

40 125.410. (1) Except as provided in subsection (2) of this section, the court shall require a
41 conservator to furnish a bond conditioned upon faithful discharge of all duties of the conservator
42 according to law, with sureties as specified by the court. Unless otherwise directed, the bond must
43 be in the amount of the aggregate capital value of the property of the estate in the control of the
44 conservator plus one year's estimated income minus the value of securities and money deposited
45 under arrangements requiring an order of the court for their removal and the value of any real

1 property that the conservator, by express limitation of power, lacks power to sell or convey without
2 court authorization.

3 (2)(a) The court may waive a bond for good cause shown.

4 (b) Subsection (1) of this section does not affect the provisions of ORS 709.240, relating to a trust
5 company acting as fiduciary, ORS 125.715, relating to a **county public guardian and conservator**
6 **acting as fiduciary, section 7 of this 2013 Act, relating to the State Office of the Public**
7 **Guardian and Conservator, the Public Guardian and Conservator or a deputy public guardian**
8 **and conservator acting as fiduciary under sections 2 to 10 of this 2013 Act,** or ORS 406.050 (8),
9 relating to the Department of Veterans' Affairs acting as fiduciary.

10 (3) Sureties for a bond required under this section are jointly and severally liable with the
11 conservator and with each other.

12 (4) Letters of conservatorship may not be issued until the bond required by this section is ap-
13 proved by the court.

14 (5) The bond of the conservator continues in effect until the sureties on the bond are released
15 by order of the court.

16 (6) The court may at any time increase or reduce the amount of the bond required of a
17 conservator for the protection of the protected person and the estate of the protected person.

18 (7) If a surety on a bond required by this section gives notice of intent to cancel the bond, the
19 conservator shall execute and file in the protective proceeding a new bond before the cancellation
20 date specified by the surety. The new bond shall be in the amount and subject to those conditions
21 that may be required by the court. If the conservator fails to file a new bond, the authority of the
22 conservator ends on the date specified by the surety for cancellation of the bond. The letters of
23 conservatorship issued to the conservator are void from that date, and the conservator must make
24 and file the final accounting of the conservator.

25
26 **UNIT CAPTIONS**

27
28 **SECTION 20. The unit captions used in this 2013 Act are provided only for the conven-**
29 **ience of the reader and do not become part of the statutory law of this state or express any**
30 **legislative intent in the enactment of this 2013 Act.**

31
32 **APPLICABILITY**

33
34 **SECTION 21. Sections 2 to 10 of this 2013 Act and the amendments to ORS 125.240,**
35 **125.410, 125.700, 125.705, 125.710, 125.715, 125.720, 125.725 and 125.730 by sections 11 to 19 of this**
36 **2013 Act apply to protective proceedings commenced on or after the effective date of this**
37 **2013 Act.**

38 _____