

Fla. Stat. § 744.365 - Verified inventory

Current through the 2019 Legislative Session

- (1) **FILING.**--A guardian of the property shall file a verified inventory of the ward's property.
- (2) **CONTENTS.**--The verified inventory must include the following:
 - (a) All property of the ward, real and personal, that has come into the guardian's possession or knowledge, including a statement of all encumbrances, liens, and other secured claims on any item, any claims against the property, any cause of action accruing to the ward, and any trusts of which the ward is a beneficiary.
 - (b) The location of the real and personal property in sufficient detail so that it may be clearly identified or located.
 - (c) A description of all sources of income, including, without limitation, social security benefits and pensions.
- (3) **CASH ASSETS.**--Along with the verified inventory, the guardian must file a copy of the most current statement of all of the ward's cash assets from all institutions where the cash is on deposit.
- (4) **SAFE-DEPOSIT BOX.**--
 - (a) The initial opening of any safe-deposit box of the ward must be conducted in the presence of an employee of the institution where the box is located. The inventory of the contents of the box also must be conducted in the presence of the employee, who must verify the contents of the box by signing a copy of the inventory. This safe-deposit box inventory shall be filed with the court within 10 days after the box is opened.
 - (b) The guardian shall provide the ward with a copy of each signed safe-deposit box inventory unless the ward is a minor or has been adjudicated totally incapacitated or unless the order appointing the guardian states otherwise.
 - (c) Nothing may be removed from the ward's safe-deposit box without specific court approval.
- (5) **RECORDS RETENTION.**--
 - (a) The guardian shall maintain substantiating papers and records sufficient to demonstrate the accuracy of the initial inventory for a period of 3 years after her or his discharge. The substantiating papers need not be filed with the court but must be made available for inspection and review at such time and place and before such persons as the court may order.
 - (b) As part of the substantiating papers, the guardian must identify by name, address, and occupation, the witness or witnesses, if any, who were present during the initial inventory of the ward's personal property.
- (6) **AUDIT FEE.**--

(a) Where the value of the ward's property exceeds \$25,000, a guardian shall pay from the ward's property to the clerk of the circuit court a fee of up to \$85 from which the clerk shall remit \$10 to the Department of Revenue for deposit into the General Revenue Fund, upon the filing of the verified inventory, for the auditing of the inventory. Upon petition by the guardian, the court may waive the auditing fee upon a showing of insufficient funds in the ward's estate. Any guardian unable to pay the auditing fee may petition the court for waiver of the fee. The court may waive the fee after it has reviewed the documentation filed by the guardian in support of the waiver.

(b) An audit fee may not be charged to any ward whose property has a value of less than \$25,000.

Fla. Stat. § 744.365

Amended by 2019 Fla. Laws, ch. 58, s. 26, eff. 5/24/2019 and retroactive to 7/1/2008.

s. 49, ch. 89-96; s. 32, ch. 90-271; s. 1087, ch. 97-102; s. 115, ch. 2003-402; s. 77, ch. 2004-265; s. 14, ch. 2006-178; s. 40, ch. 2008-111.

Section 744.367 - Duty to file annual guardianship report

Fla. Stat. § 744.367

Current through the 2019 Legislative Session

Section 744.367 - Duty to file annual guardianship report

(1) Unless the court requires filing on a calendar-year basis, each guardian of the person shall file with the court an annual guardianship plan within 90 days after the last day of the anniversary month that the letters of guardianship were signed, and the plan must cover the coming fiscal year, ending on the last day in such anniversary month. If the court requires calendar-year filing, the guardianship plan must be filed on or before April 1 of each year. The latest annual guardianship plan approved by the court will remain in effect until the court approves a subsequent plan.

(2) Unless the court requires or authorizes filing on a fiscal-year basis, each guardian of the property shall file with the court an annual accounting on or before April 1 of each year. The annual accounting must cover the preceding calendar year. If the court authorizes or directs filing on a fiscal-year basis, the annual accounting must be filed on or before the first day of the fourth month after the end of the fiscal year.

(3) The annual guardianship report of a guardian of the property must consist of an annual accounting, and the annual report of a guardian of the person must consist of an annual guardianship plan. The annual report shall be served on the ward, unless the ward is a minor or is totally incapacitated, and on the attorney for the ward, if any. The guardian shall provide a copy to any other person as the court may direct.

(4) Unless the ward is a minor or has been determined to be totally incapacitated, the guardian shall review a copy of the annual report with the ward, to the extent possible. Within 30 days after the annual report has been filed, any interested person, including the ward, may file written objections to any element of the report, specifying the nature of the objection.

(5) If the guardian fails to timely file the annual guardianship report, the judge may impose sanctions which may include contempt, removal of the guardian, or other sanctions provided by law in s. 744.3685.

(6) Notwithstanding any other requirement of this section or unless otherwise directed by the court, the guardian of the property may file the first annual accounting on either a fiscal-year or calendar-year basis. Unless the court directs otherwise, the guardian shall notify the court as to the guardian's filing intention within 30 days from the date the guardian was issued the letter of guardianship. All subsequent annual accountings must be filed on the same accounting period as the first annual accounting unless the court authorizes or directs otherwise. The first accounting period must end within 1 year after the end of the month in which the letters of guardianship were issued to the guardian of the property.

Fla. Stat. § 744.367

Amended by 2017 Fla. Laws, ch. 16, s 2, eff. 7/1/2017.

Amended by 2015 Fla. Laws, ch. 83, s 16, eff. 7/1/2015, and applicable to all proceedings pending on 7/1/2015.

s. 1, ch. 74-106; ss. 6, 26, ch. 75-222; s. 50, ch. 89-96; s. 33, ch. 90-271; s. 25, ch. 92-200; s. 68, ch. 95-211; s. 24, ch. 95-401; s. 10, ch. 96-354; s.15, ch. 2006-178.

Created from former s. 744.482.

Fla. Stat. § 744.3678

Current through the 2019 Legislative Session

Section 744.3678 - Annual accounting

(1) Each guardian of the property must file an annual accounting with the court.

(2) The annual accounting must include:

(a) A full and correct account of the receipts and disbursements of all of the ward's property over which the guardian has control and a statement of the ward's property on hand at the end of the accounting period. This paragraph does not apply to any property or any trust of which the ward is a beneficiary but which is not under the control or administration of the guardian.

(b) A copy of the annual or year-end statement of all of the ward's cash accounts from each of the institutions where the cash is deposited.

(3) The guardian must obtain a receipt, canceled check, or other proof of payment for all expenditures and disbursements made on behalf of the ward. The guardian must preserve all evidence of payment, along with other substantiating papers, for a period of 3 years after his or her discharge. The receipts, proofs of payment, and substantiating papers need not be filed with the court but shall be made available

for inspection and review at the time and place and before the persons as the court may order.

(4) The guardian shall pay from the ward's estate to the clerk of the circuit court a fee based upon the following graduated fee schedule, upon the filing of the annual financial return, for the auditing of the return:

(a) For estates with a value of \$25,000 or less the clerk of the court may charge a fee of up to \$20 from which the clerk shall remit \$5 to the Department of Revenue for deposit into the General Revenue Fund.

(b) For estates with a value of more than \$25,000 up to and including \$100,000 the clerk of the court may charge a fee of up to \$85 from which the clerk shall remit \$10 to the Department of Revenue for deposit into the General Revenue Fund.

(c) For estates with a value of more than \$100,000 up to and including \$500,000 the clerk of the court may charge a fee of up to \$170 from which the clerk shall remit \$20 to the Department of Revenue for deposit into the General Revenue Fund.

(d) For estates with a value in excess of \$500,000 the clerk of the court may charge a fee of up to \$250 from which the clerk shall remit \$25 to the Department of Revenue for deposit into the General Revenue Fund.

Upon petition by the guardian, the court may waive the auditing fee upon a showing of insufficient funds in the ward's estate. Any guardian unable to pay the auditing fee may petition the court for a waiver of the fee. The court may waive the fee after it has reviewed the documentation filed by the guardian in support of the waiver.

(5) This section does not apply if the court determines that the ward receives income only from social security benefits and the guardian is the ward's representative payee for the benefits.

Fla. Stat. § 744.3678

Amended by 2019 Fla. Laws, ch. 58, s 27, eff. 5/24/2019 and retroactive to 7/1/2008.

s. 52, ch. 89-96; ss. 35, 72, ch. 90-271; s.1088, ch. 97-102; s.116, ch. 2003-402; s.13, ch. 2004-260; s.78, ch. 2004-265; s.139, ch. 2005-2; s.17, ch. 2006-178; s.41, ch. 2008-111.

Fla. Stat. § 744.3679 Simplified accounting procedures

Current through the 2019 Legislative Session

Section 744.3679 - Simplified accounting procedures in certain cases

(1) In a guardianship of property, when all assets of the estate are in designated depositories under s. 69.031 and the only transactions that occur in that account are interest accrual, deposits from a settlement, or financial institution service charges, the guardian may elect to file an accounting consisting of:

(a) The original or a certified copy of the year-end statement of the ward's account from the financial institution; and

(b) A statement by the guardian under penalty of perjury that the guardian has custody and control of the ward's property as shown in the year-end statement.

(2) The accounting allowed by subsection

(1) is in lieu of the accounting and auditing procedures under s. 744.3678(2). However, any interested party may seek judicial review as provided in s. 744.3685.

(3) The guardian need not be represented by an attorney in order to file the annual accounting allowed by subsection (1).

*Fla. Stat. § 744.3679
s. 1, ch. 93-102; s.18, ch. 2006-178.*

Fla. Stat. § 744.3685
Current through the 2019 Legislative Session

Section 744.3685 - Order requiring guardianship report; contempt

(1) If a guardian fails to file the guardianship report, the court shall order the guardian to file the report within 15 days after the service of the order upon her or him or show cause why she or he may not be compelled to do so.

(2) If a guardian fails to comply with the submission of records and documents requested by the clerk during the audit, upon a showing of good cause by affidavit of the clerk which shows the reasons the records must be produced, the court may order the guardian to produce the records and documents within a period specified by the court unless the guardian shows good cause as to why the guardian may not be compelled to do so before the deadline specified by the court. The affidavit of the clerk shall be served with the order.

(3) A copy of an order entered pursuant to subsection (1) or subsection (2) shall be served on the guardian or on the guardian's resident agent. If the guardian fails to comply with the order within the time specified by the order without good cause, the court may cite the guardian for contempt of court and may fine her or him. The fine may not be paid out of the ward's property.

*Fla. Stat. § 744.3685
Amended by 2014 Fla. Laws, ch. 124,s 4, eff. 7/1/2014.
s. 1, ch. 74-106; ss. 17, 26, ch. 75-222; s. 70, ch. 89-96; s. 37, ch. 90-271; s.1090, ch. 97-102.
Created from former s. 745.29; former s. 744.431.*