

Effective 5/13/2014

75-5-424 Powers of conservator in administration.

- (1) A conservator has all of the powers conferred in this chapter and any additional powers conferred by law on trustees in this state. In addition, a conservator of the estate of an unmarried minor as to whom no one has parental rights, has the duties and powers of a guardian of a minor described in Section 75-5-209 until the minor attains majority or marries, but the parental rights so conferred on a conservator do not preclude appointment of a guardian as provided by Part 2, Guardians of Minors.
- (2) A conservator has the power to compel the production of the protected person's estate documents, including the protected person's will, trust, power of attorney, and any advance health care directives.
- (3) A conservator has power without court authorization or confirmation to invest and reinvest funds of the estate as would a trustee.
- (4) A conservator, acting reasonably in efforts to accomplish the purpose for which the conservator was appointed, may act without court authorization or confirmation, to:
 - (a) collect, hold, and retain assets of the estate, including land in another state, until, in his judgment, disposition of the assets should be made, and the assets may be retained even though they include an asset in which he is personally interested;
 - (b) receive additions to the estate;
 - (c) continue or participate in the operation of any business or other enterprise;
 - (d) acquire an undivided interest in an estate asset in which the conservator, in any fiduciary capacity, holds an undivided interest;
 - (e) invest and reinvest estate assets in accordance with Subsection (2);
 - (f) deposit estate funds in a bank including a bank operated by the conservator;
 - (g) acquire or dispose of an estate asset, including land in another state, for cash or on credit, at public or private sale; and to manage, develop, improve, exchange, partition, change the character of, or abandon an estate asset;
 - (h) make ordinary or extraordinary repairs or alterations in buildings or other structures, demolish any improvements, and raze existing or erect new party walls or buildings;
 - (i) subdivide, develop, or dedicate land to public use; make or obtain the vacation of plats and adjust boundaries; adjust differences in valuation on exchange or partition by giving or receiving considerations; and dedicate easements to public use without consideration;
 - (j) enter for any purpose into a lease as lessor or lessee with or without option to purchase or renew for a term within or extending beyond the term of the conservatorship;
 - (k) enter into a lease or arrangement for exploration and removal of minerals or other natural resources or enter into a pooling or unitization agreement;
 - (l) grant an option involving disposition of an estate asset or take an option for the acquisition of any asset;
 - (m) vote a security, in person or by general or limited proxy;
 - (n) pay calls, assessments, and any other sums chargeable or accruing against or on account of securities;
 - (o) sell or exercise stock subscription or conversion rights; consent, directly or through a committee or other agent, to the reorganization, consolidation, merger, dissolution, or liquidation of a corporation or other business enterprise;
 - (p) hold a security in the name of a nominee or in other form without disclosure of the conservatorship so that title to the security may pass by delivery, but the conservator is liable for any act of the nominee in connection with the stock so held;

- (q) insure the assets of the estate against damage or loss and the conservator against liability with respect to third persons;
- (r) borrow money to be repaid from estate assets or otherwise; and advance money for the protection of the estate or the protected person, and for all expenses, losses, and liabilities sustained in the administration of the estate or because of the holding or ownership of any estate assets, and the conservator has a lien on the estate as against the protected person for advances so made;
- (s) pay or contest any claim; settle a claim by or against the estate or the protected person by compromise, arbitration, or otherwise; and release, in whole or in part, any claim belonging to the estate to the extent that the claim is uncollectible;
- (t) pay taxes, assessments, compensation of the conservator, and other expenses incurred in the collection, care, administration, and protection of the estate;
- (u) allocate items of income or expense to either estate income or principal, as provided by law, including creation of reserves out of income for depreciation, obsolescence, or amortization, or for depletion in mineral or timber properties;
- (v) pay any sum distributable to a protected person or dependent without liability to the conservator, by paying the sum to the distributee or by paying the sum for the use of the distributee either to the distributee's guardian, or if none, to a relative or other person with custody of the person;
- (w) employ persons, including attorneys, auditors, investment advisors, or agents, even though they are associated with the conservator, to advise or assist in the performance of administrative duties; act upon their recommendation without independent investigation; and instead of acting personally, employ one or more agents to perform any act of administration, whether or not discretionary;
- (x) prosecute or defend actions, claims, or proceedings in any jurisdiction for the protection of estate assets and of the conservator in the performance of the conservator's duties;
- (y) act as a qualified beneficiary of any trust in which the protected person is a qualified beneficiary; and
- (z) execute and deliver all instruments which will accomplish or facilitate the exercise of the powers vested in the conservator.

Amended by Chapter 142, 2014 General Session