

1 STATE OF OKLAHOMA

2 1st Session of the 56th Legislature (2017)

3 HOUSE BILL 1243

By: Lepak

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5  
6 AS INTRODUCED

7 An Act relating to guardian and ward; amending 30  
8 O.S. 2011, Section 4-709, which relates to investment  
9 of monies belonging to estates; providing exemption  
10 from investment requirements for certain guardians  
11 under certain conditions; and providing an effective  
12 date.

12 BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

13 SECTION 1. AMENDATORY 30 O.S. 2011, Section 4-709, is  
14 amended to read as follows:

15 Section 4-709. A. Except as ~~may be otherwise provided by law~~  
16 provided in subsection B of this section, the money belonging to  
17 estates of minors and incapacitated or partially incapacitated  
18 persons, subject to the jurisdiction of the court, can only be  
19 invested in one or more of the following:

20 1. Real estate and first mortgages upon real property which do  
21 not exceed fifty percent (50%) of the actual value of the property;

22 2. United States bonds, or any other type of security  
23 certificate, or evidence of indebtedness which is guaranteed by the  
24 United States government, or any authorized agency thereof;

1 3. State bonds;

2 4. Bonds of municipal corporations;

3 5. Annuities covered by the Oklahoma Life and Health Insurance  
4 Guaranty Association, which do not exceed Three Hundred Thousand  
5 Dollars (\$300,000.00), individually; or

6 6. Accounts in savings and loan associations and credit unions  
7 located in this state, and all types of interest-bearing time  
8 deposits and certificates of banks, savings and loan associations,  
9 and credit unions located in this state, not to exceed the amount  
10 insured by the United States government.

11 B. When an individual guardian is investing the money belonging  
12 to estates of minors or incapacitated or partially incapacitated  
13 persons, subsection A of this section shall not apply, provided that  
14 the guardian has contracted with a person who is a registered  
15 investment advisor representative pursuant to the Oklahoma Uniform  
16 Securities Act of 2004 and a certified Financial Planner  
17 credentialed by the Certified Financial Planner Board of Standards;  
18 provided further that the court authorizes such investments.

19 C. Upon application to the court by the guardian of the estate  
20 of the incapacitated or partially incapacitated person, showing to  
21 the satisfaction of the court:

22 1. That the incapacitated or partially incapacitated person is  
23 vitally in need of a home;

1           2. That the incapacitated or partially incapacitated person  
2 owns no suitable homestead;

3           3. That the incapacitated or partially incapacitated person has  
4 sufficient monthly, semi-annual, or annual fixed income to retire an  
5 incurred indebtedness for the remaining unpaid cost of a homestead;  
6 and

7           4. That it would be in the best interest of the incapacitated  
8 or partially incapacitated person that a suitable homestead be  
9 purchased on that basis.

10 The court may enter an order authorizing the guardian to execute and  
11 deliver a note and mortgage, under such tenor and terms as the court  
12 will approve, for the purpose of securing payment of any remaining  
13 cost of such a homestead. Any note and mortgage given by a guardian  
14 under the provisions of this section shall, if authorized by the  
15 court as provided for in this section, be endorsed "approved" by the  
16 judge. When so authorized and endorsed, the note and mortgage shall  
17 be a binding obligation against the ward and the estate of the ward  
18 until fully paid. The ward, if subsequently restored to competency  
19 to transact business, shall be held firmly bound by the note and  
20 mortgage in the same manner and to the same extent as though the  
21 ward had given the homestead purchase-money note and mortgage.

22           ~~C.~~ D. When an individual guardian enters into an agreement with  
23 a bank or trust company, or when the guardian is a bank or trust  
24 company qualified and acting under the supervision of the Banking

1 Board, or of the Comptroller of the Currency of the United States of  
2 America, the guardian may, upon application to the court, invest  
3 funds coming into its hands as guardian in any property, real,  
4 personal or mixed, in which an individual may invest the  
5 individual's own funds pursuant to the provisions of the Oklahoma  
6 Uniform Prudent Investor Act, unless otherwise provided by law.

7 SECTION 2. This act shall become effective November 1, 2017.

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