

SENATE BILL 1810

By Haile

AN ACT to amend Tennessee Code Annotated, Title 34,
Chapter 1 and Title 35, Chapter 3, relative to
conservatorships.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Section 34-1-115(c), is amended by deleting the language "Except as provided in subsection (d)" and substituting instead the language "Except as provided in subsections (d) and (f)".

SECTION 2. Tennessee Code Annotated, Section 34-1-115, is further amended by adding the following language as a new subsection:

(f)

(1) A fiduciary may petition the court to waive the requirement to request court approval to change the nature of any investment described in the property management plan as required by subsection (c). The waiver shall be within the court's sole discretion, and the court may revoke the waiver at any time. In deciding upon the waiver, the court may consider the fiduciary's history as a conservator, the length of conservatorship, the number of years the fiduciary has acted as a conservator, and any other factors that the court deems proper. The court may require the conservator to obtain professional advice or assistance regarding the investment of excess funds.

(2) The court may approve the waiver request at a hearing for which all of the respondent's heirs at law or beneficiaries had notice and an opportunity to be heard regarding the proposed waiver and change of the nature of the fiduciary's investments.

(3) If a waiver is approved by the court, the fiduciary shall at all times maintain a minimum balance of funds sufficient to cover anticipated costs of care of the respondent for a minimum of three (3) years.

(4) If a waiver is approved by the court, the fiduciary shall provide, in the accounting report required by § 34-1-111(b), a detailed outline of the investments made on behalf of the respondent and the current status of those investments.

The purpose of the report is to assure the court that:

(A) The fiduciary maintains the minimum balance prescribed by the court;

(B) The fiduciary is responsibly investing the respondent's assets within the categories of investments approved in § 35-3-102;

(C) The investment strategy demonstrates reasonable diversification to limit the risk of loss in vested funds;

(D) There are no investments that would expose the respondent to any additional liability other than the possible depletion or loss of funds invested; and

(E) The fiduciary keeps the court informed as to any changes in investments.

SECTION 3. Tennessee Code Annotated, Section 35-3-102, is amended by deleting the period at the end of the section and adding the following language:

, and may also invest funds in income-producing commercial or residential property.

SECTION 4. This act shall take effect upon becoming a law, the public welfare requiring it.