

(755 ILCS 5/Art. XIII heading)

## ARTICLE XIII

### PUBLIC ADMINISTRATORS, GUARDIANS AND CONSERVATORS

(755 ILCS 5/13-1) (from Ch. 110 1/2, par. 13-1)

Sec. 13-1. Appointment and term of public administrator and public guardian.) Except as provided in Section 13-1.1, before the first Monday of December, 1977 and every 4 years thereafter, and as often as vacancies occur, the Governor, by and with the advice and consent of the Senate, shall appoint in each county a suitable person to serve as public administrator and a suitable person to serve as public guardian of the county. The Governor may appoint the same person to serve as public guardian and public administrator in **one or more counties**. In considering the number of counties of service for any prospective public guardian or public administrator the Governor may consider the population of the county and the ability of the prospective public guardian or public administrator to travel to multiple counties and manage estates in multiple counties. Each person so appointed holds his office for 4 years from the first Monday of December, 1977 and every 4 years thereafter or until his successor is appointed and qualified.

(Source: P.A. 96-752, eff. 1-1-10.)

(755 ILCS 5/13-1.1) (from Ch. 110 1/2, par. 13-1.1)

Sec. 13-1.1. Appointment and term of public guardian in counties having a population in excess of 1,000,000.) As soon as practicable after the effective date of this amendatory Act, the chief judge of the Circuit Court in each circuit shall appoint for each county in the circuit having a population in excess of 1,000,000 to the office of public guardian a duly licensed attorney who shall hold office, death or resignation not intervening, at the pleasure of the chief judge; and whenever a vacancy occurs in the office it shall be filled in a like manner.

(Source: P.A. 81-1052.)

(755 ILCS 5/13-1.2)

Sec. 13-1.2. Certification requirement. **Each person appointed as a public guardian by the Governor shall be certified as a National Certified Guardian by the Center for Guardianship Certification** within 6 months after his or her appointment. The Guardianship and Advocacy Commission shall provide public guardians with professional training opportunities and facilitate testing and certification opportunities at locations in Springfield and Chicago with the Center for Guardianship Certification. The cost of

certification shall be considered an expense connected with the operation of the public guardian's office within the meaning of subsection (b) of Section 13-3.1 of this Article.

(Source: P.A. 96-752, eff. 1-1-10.)

(755 ILCS 5/13-2) (from Ch. 110 1/2, par. 13-2)

Sec. 13-2. Bond and oath.) Before entering upon the performance of his duties, every public administrator and every public guardian shall take and file in the court an oath or affirmation that he will support the Constitution of the United States and the Constitution of the State of Illinois and will faithfully discharge the duties of his office and shall enter into a bond payable to the people of the State of Illinois in a sum of not less than \$5,000 with security as provided by this Act and approved by the court of the county in which he is appointed, conditioned that he will faithfully discharge the duties of his office. The court may from time to time require additional security of the public administrator or guardian and may require him to give the usual bond required of representatives of estates of decedents, or persons with disabilities in other cases. In default of his giving bond within 60 days after receiving his commission or of his giving additional security within 60 days after being ordered by the court to do so, his office is deemed vacant and upon certificate of a judge of the court of that fact the Governor or the Circuit Court shall fill the vacancy.

(Source: P.A. 99-143, eff. 7-27-15.)

(755 ILCS 5/13-3) (from Ch. 110 1/2, par. 13-3)

Sec. 13-3. Compensation of public administrator.

(a) In counties having a population in excess of 1,000,000 the public administrator shall pay all the fees collected by the office into the county treasury. Each year, the county board shall appropriate an amount to be paid to the public administrator as compensation for the public administrator's performance of his or her duties and such compensation shall be paid at a minimum level of \$20,000 annually. That amount shall be paid from the fees collected by the office of the public administrator. The county board in such counties shall fix the amount for the public administrator's compensation and necessary clerk hire, assistants, and office expense in the annual county budget and appropriation ordinances, which shall be paid from the county treasury. In such counties all fees of the office of public administrator are subject to audit the same as are fees of other county officers.

(b) In counties having a population of 1,000,000 or less the public administrator may receive all the fees of his office and shall bear the expenses connected with the operation of such office.

(Source: P.A. 89-135, eff. 7-14-95.)

(755 ILCS 5/13-3.1) (from Ch. 110 1/2, par. 13-3.1)

Sec. 13-3.1. Compensation of public guardian.

(a) In counties having a population in excess of 1,000,000 the public guardian shall be paid an annual salary, to be set by the County Board at a figure not to exceed the salary of the public defender for the county. All expenses connected with the operation of the office shall be subject to the approval of the County Board and shall be paid from the county treasury. All fees collected shall be paid into the county treasury.

(b) In counties having a population of 1,000,000 or less the public guardian shall receive all the fees of his office and bear the expenses connected with the operation of the office. A public guardian shall be entitled to reasonable and appropriate compensation for services related to guardianship duties but all fees must be reviewed and approved by the court. A public guardian may petition the court for the payment of reasonable and appropriate fees. In counties having a population of 1,000,000 or less, the public guardian shall do so on not less than a yearly basis, or sooner as approved by the court. Any fees or expenses charged by a public guardian shall be documented through billings and maintained by the guardian and supplied to the court for review. In considering the reasonableness of any fee petition brought by a public guardian under this Section, the court shall consider the following:

- (1) the powers and duties assigned to the public guardian by the court;
- (2) the necessity of any services provided;
- (3) the time required, the degree of difficulty, and the experience needed to complete the task;
- (4) the needs of the ward and the costs of alternatives; and
- (5) other facts and circumstances material to the best interests of the ward or his or her estate.

(c) When the public guardian is appointed as the temporary guardian of an adult with a disability pursuant to an emergency petition under circumstances when the court finds that the immediate establishment of a temporary guardianship is necessary to protect the health, welfare, or estate of the adult with a disability, the public guardian shall be entitled to reasonable and appropriate fees, as determined by the court, for the period of the temporary guardianship, including fees directly associated with establishing the temporary guardianship.

(Source: P.A. 99-143, eff. 7-27-15.)

(755 ILCS 5/13-4) (from Ch. 110 1/2, par. 13-4)

Sec. 13-4. Powers and duties of public administrator.) (a) When a person dies owning any real or personal estate in this State and there is no person in this State having a prior right to administer his estate, the public administrator of the county of which the decedent was a resident, or of the county in which his estate is situated, if the decedent was a nonresident of this State, may take such measures as he deems proper to protect and secure the estate from waste, loss or embezzlement until letters of

office on the estate are issued to the person entitled thereto or until a demand for the removal of the personal estate from this State is made by a nonresident representative pursuant to the authority granted by this Act. When letters of office are issued to the public administrator, he has the same powers and duties as other representatives of decedents' estates appointed under this Act until he is discharged or his authority is sooner terminated by order of court.

(b) In counties having a population in excess of 1,000,000 inhabitants, a public administrator shall retain his or her records in accordance with the Local Records Act.

(Source: P.A. 97-882, eff. 1-1-13.)

(755 ILCS 5/13-5) (from Ch. 110 1/2, par. 13-5)

Sec. 13-5. Powers and duties of public guardian.) The court may appoint the public guardian as the guardian of any adult with a disability who is in need of a public guardian and whose estate exceeds \$25,000. When an adult with a disability who has a smaller estate is in need of guardianship services, the court shall appoint the State guardian pursuant to Section 30 of the Guardianship and Advocacy Act. If the public guardian is appointed guardian of an adult with a disability and the estate of the adult with a disability is thereafter reduced to less than \$25,000, the court may, upon the petition of the public guardian and the approval by the court of a final accounting of the estate of the adult with a disability, discharge the public guardian and transfer the guardianship to the State guardian. The public guardian shall serve not less than 14 days' notice to the State guardian of the hearing date regarding the transfer. When appointed by the court, the public guardian has the same powers and duties as other guardians appointed under this Act, with the following additions and modifications:

(a) The public guardian shall monitor the ward and his care and progress on a continuous basis. Monitoring shall at minimum consist of monthly contact with the ward, and the receipt of periodic reports from all individuals and agencies, public or private, providing care or related services to the ward.

(b) Placement of a ward outside of the ward's home may be made only after the public guardian or his representative has visited the facility in which placement is proposed.

(c) The public guardian shall prepare an inventory of the ward's belongings and assets and shall maintain insurance on all of the ward's real and personal property, unless the court determines, and issues an order finding, that (1) the real or personal property lacks sufficient equity, (2) the estate lacks sufficient funds to pay for insurance, or (3) the property is otherwise uninsurable. No personal property shall be removed from the ward's possession except for storage pending final placement or for liquidation in accordance with this Act.

(d) The public guardian shall make no substantial distribution of the ward's estate without a court order.

(e) The public guardian may liquidate assets of the ward to pay for the costs of the ward's care and for storage of the ward's personal property only after notice of such pending action is given to all potential

heirs at law, unless notice is waived by the court; provided, however, that a person who has been so notified may elect to pay for care or storage or to pay fair market value of the asset or assets sought to be sold in lieu of liquidation.

(f) Real property of the ward may be sold at fair market value after an appraisal of the property has been made by a licensed appraiser; provided, however, that the ward's residence may be sold only if the court finds that the ward is not likely to be able to return home at a future date.

(g) The public guardian shall, at such intervals as the court may direct, submit to the court an affidavit setting forth in detail the services he has provided for the benefit of the ward.

(h) Upon the death of the ward, the public guardian shall turn over to the court-appointed administrator all of the ward's assets and an account of his receipt and administration of the ward's property. A guardian ad litem shall be appointed for an accounting when the estate exceeds the amount set in Section 25-1 of this Act for administration of small estates.

(i)(1) On petition of any person who appears to have an interest in the estate, the court by temporary order may restrain the public guardian from performing specified acts of administration, disbursement or distribution, or from exercise of any powers or discharge of any duties of his office, or make any other order to secure proper performance of his duty, if it appears to the court that the public guardian might otherwise take some action contrary to the best interests of the ward. Persons with whom the public guardian may transact business may be made parties.

(2) The matter shall be set for hearing within 10 days unless the parties otherwise agree or unless for good cause shown the court determines that additional time is required. Notice as the court directs shall be given to the public guardian and his attorney of record, if any, and to any other parties named defendant in the petition.

(j) On petition of the public guardian, the court in its discretion may for good cause shown transfer guardianship to the State guardian.

(k) No later than January 31 of each year, the public guardian shall file an annual report with the clerk of the Circuit Court, indicating, with respect to the period covered by the report, the number of cases which he has handled, the date on which each case was assigned, the date of termination of each case which has been closed during the period, the disposition of each terminated case, and the total amount of fees collected during the period from each ward.