

Conservator Responsibilities Financial Duties for Conservators and Guardians

Development Team of

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Conservators and Guardians are responsible for the everyday oversight of a Ward's finances and have specific financial responsibilities under the law. This is one of seven NebGuides in this series.

A Conservator manages the daily financial and business affairs of a protected person. The rules discussed in this NebGuide apply whether you are a Conservator only or are appointed as Guardian and no separate Conservator has been appointed.

A Conservator is appointed by the court to take charge of the Protected Person's property. A legal description of a Conservator is that of a fiduciary, or one who holds something in trust for another person. There are certain standards of care in dealing with the Protected Person's assets which govern the Conservator's action at all times. Conservators should only make investments that are safe and insured.

As a Conservator, you may not

- mingle the Protected Person's assets with your own;

- make loans to yourself or to a third person;
- make any questionable or risky investments, and
- pay yourself or an attorney without court approval.

Conservator Financial Responsibilities to the Protected Person

When the court appoints a Conservator of an estate, the responsibilities to the Protected Person include

- managing his/her finances;
- protecting his/her income and property;
- maintaining a list of assets in the estate;
- developing a plan to make sure his/her needs are met;
- paying any bills;
- wisely investing his/her money;

- making sure the Protected Person receives all governmental benefits to which he/she may be entitled;
- filing and paying taxes on time;
- keeping exact financial records;
- making required reports of the financial accounts to the court and other interested persons; and
- recovering assets due to the protected person and paying all reasonable and necessary expenses from his/her assets.

Best Practices

You are not required to pay the expenses of the protected person from personal assets; however, you must disclose to those with whom you are dealing that you are acting in the capacity of the Conservator. The best way to do this is, upon any of the drafts in the account, be sure that your name is listed as Conservator. This can be set up as soon as you receive your letter of appointment.

Keep estate assets separate. You must keep the estate's money and property separate from anyone else's, especially your own. When you open a bank account for the estate, the name on the account has to say that it is a conservatorship account and not your personal account.

- **Never** deposit estate money in your personal account.
- **Never** mix estate money with your's or anyone else's, even for a little while.
- Stocks and bonds **must** be held in a name that shows they belong to the estate and not to you.

Make smart investments. Manage the estate's property carefully. Remember that you are responsible to care for someone else's property. **Do not** make risky investments.

Use interest-bearing accounts and other investments. You can set up checking accounts for everyday expenses, but the rest of the estate's money must be in accounts that earn interest. You can deposit estate money in insured accounts, but don't put more than the maximum insured by the

FDIC in any one bank. It may be advisable to seek legal counsel before you make any investments or change any investments the Protected Person made before you were appointed.

Adhere to restrictions on how you can handle the estate's property. Unless you have a court order, you can't:

- pay yourself or your lawyer with the estate's money;
- pay yourself room and board;
- give away any part of the estate; or
- borrow money from the estate.

There are other actions which require Court approval before you may proceed. If you don't get permission from the court prior to acting, you may have to pay back the estate from your own money and you may be removed as Conservator. Seek legal or professional advice about what the law says about sales, leases, mortgages, and investments.

Inventory estate property. If you are appointed Conservator of an estate, you must make and keep a list of what the estate owns. To do this, you need to:

- **Find the estate's property.** You must find, secure, and protect all the money and property the Protected Person owns. Put the personal property into your name as Conservator of the Estate. For real estate, file a copy of your *Letters of Conservatorship* with the county clerk in every county where the Protected Person owns real estate.
- **File an inventory and appraisal.** You must file an inventory and appraisal describing the Protected Person's property and showing its value when you became Conservator. This is due to the court no more than 30 days after you become conservator.
- **Maintain insurance.** Make sure there is enough insurance to cover the property of the estate. Also, make sure it's the right kind of insurance. Keep the insurance in effect for each property for the whole time that you manage property as conservator.

The statutes require that you must provide a copy of the inventory to the protected person and to all other interested parties.

Responsibilities to the Court

You must keep complete, exact records of every financial transaction of the estate. Use the checkbook for the conservatorship checking account to keep records of the money that comes in and the expenses you pay.

You will have to prepare an annual accounting report of:

- all income, money, and property you get,
- money you spent,
- the date of every transaction,
- the purpose of every transaction, and
- what's left after you pay the estate's expenses.

Check the rules to determine the format expected by the Court.

A Court hearing will be held annually to approve the accounting. During the annual accounting, you must provide a Certificate of Proof of Possession. These forms will be furnished by the Court. When the Conservatorship is ended, there must be a final accounting to the Court showing all personal property received and dispersed in what you are presently holding. When the final accounting has been approved by the Court, it will enter an Order directing that the property be distributed either via Will or other Court Order and providing you with a discharge of service.

Resources

Nebraska Revised Statutes, Section 30-2601, the Nebraska law regarding guardianships.

UNL Guardianship website at <http://www.extension.unl.edu/guardianship/> includes information, helpful links, and a calendar of educational workshops and programs.



This publication has been peer reviewed.

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Index: Family Life Relationships

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