

AN ACT CONCERNING THE GUARDIANSHIP OF INCOMPETENT VETERANS, OTHER INCOMPETENTS AND MINOR BENEFICIARIES OF THE VETERANS ADMINISTRATION.

REPUBLIC ACT NO. 390, June 18, 1949

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Be it enacted by the Senate and House of Representatives of the Philippines in Congress assembled:

SECTION 1. Short title.—This Act may be cited as the "Uniform Veterans Guardianship Act."

SEC. 2. Definitions.—As used in this Act:

"Person" means an individual, a partnership, a corporation or an association.

"Veterans Administration" means that agency of the United States Government authorized to administer laws relating to compensation, pension and insurance matters pertaining to veterans and dependents of the Military and Naval Forces of the United States, its predecessors or successors.

"Responsible office of the Veterans Administration" means the United States Veterans Administration at Manila, its branch or agency in the Philippines, or its successors.

"Income" means moneys or any token of value received from the Veterans Administration and revenue or profit from any property wholly or partly acquired therewith.

"Estate" means income on hand and assets acquired partially or wholly with "income."

"Benefits" means all moneys paid or payable by the United States through the Veterans Administration.

"Administrator" means the Administrator of Veterans Affairs of the United States, his duly authorized representative or his successor.

"Chief Attorney" means the legal representative of the Administrator of Veterans Affairs, in Manila.

"Ward" means a beneficiary of the Veterans Administration.

"Guardian" means any fiduciary for the person or estate of a ward.

SEC. 3. Administrator as party in interest.—The Administrator shall be a party in interest in any proceeding for the appointment or removal of a guardian or for the removal of the disability of minority or mental incapacity of a ward, and in any suit or other proceeding affecting in any manner the administration by the guardian of the estate of present or former ward whose estate includes assets derived in whole or in part from benefits heretofore or hereafter paid by the Veterans Administration. Not less than twenty days prior to the hearing in such matter, notice in writing of the time and place thereof shall be given by mail (unless waived in writing) to the Chief Attorney of the Veterans Administration at Manila as shall, in the usual course of mail and travel, enable the said Office to send its representative at the hearing of such objections as may be proper.

SEC. 4. Application.—Whenever pursuant to any law of the United States or regulation of the Veterans Administration, it is necessary, prior to payment of benefits, that a guardian be appointed, the appointment shall be made in the manner hereinafter provided.

SEC. 5. Limitation on number of wards.—No person other than a bank, trust company, or a charitable institution or association approved by the Veterans Administration shall be guardian of more than five wards at one time, unless all the wards are members of one family. Upon presentation of a petition by an attorney of the Veterans

Administration or other interested person alleging that a guardian is acting in a fiduciary capacity for more than five wards as herein provided and requesting his discharge for that reason, the Court, upon proof substantiating the petition, shall require a final accounting forthwith from such guardian and shall discharge him from guardianships in excess of five and forthwith appoint a successor.

SEC. 6. Who may petition for appointment of guardians.—A petition for the appointment of a guardian for the person or estate, or both, of such minor or incompetent, may be filed by any relative, friend, or other person who is authorized by law to file such a petition, or by the minor himself if fourteen years of age or over. When the whole or part of the estate of such minor or incompetent is derived from the Veterans Administration, the Chief Attorney of the Veterans Administration may petition the Court of First Instance that such an appointment be made and upon request made by the Chief Attorney of the Veterans Administration he is hereby authorized to be represented by the Bureau of Justice in all court proceedings, including proceedings for the appointment or removal of guardians, in any guardianship case embraced by this Act.

SEC 7. Contents of petition.—The petition for appointment shall set forth, as far as known to the petitioner:

- (a) The name, age, place of residence of the ward, the names, ages and places of residence of the nearest relatives, if known, and the fact that the ward is entitled to receive benefits payable by or through the Veterans Administration and shall set forth the amount of moneys then due and the amount of probable future payments.
- (b) The name and address of the person or institution, if any, having actual custody of the ward and the name, age, relationship, if any, occupation and address of the proposed guardian and if the nominee is a natural person, the number of wards for whom the nominee is presently acting as guardian. Notwithstanding any law as to priority of persons entitled to appointment or the nomination in the petition, the court may appoint some other individual or a bank or trust company as guardian, if the court determines it is for the best interest of the ward.
- (c) In the case of a mentally incompetent ward, the petition shall show that such ward has been rated incompetent by the Veterans Administration on examination in accordance with the laws and regulations governing the Veterans Administration.

SEC. 8. Evidence of necessity for guardian of minor.— Where a petition is filed for the appointment of a guardian for a minor, a certificate of the administrator or his authorized representative, setting forth the age of such minor as shown by the records of the Veterans Administration and the fact that the appointment of a guardian is a condition precedent to the payment of any moneys due the minor by the Veterans Administration shall be prima facie evidence of the necessity for such appointment.

SEC. 9. Evidence of necessity for guardian of an incompetent.—Where a petition is filed for the appointment of a guardian for a mentally incompetent ward, a certificate of the administrator or his duly authorized representative such person has been rated incompetent by the Veterans Administration or examination in accordance with laws and regulations governing such Veterans Administration and that the appointment of a guardian is a condition precedent to the payment of any money due such ward by the Veterans Administration, shall be prima facie evidence of the necessity for such appointment.

SEC. 10. Notice.—Upon the filing of a petition for the appointment of a guardian under this Act, the Court shall fix a time and place for hearing the same, and shall cause reasonable notice thereof to be given to the persons mentioned in the petition residing in the province, including the minor if above fourteen years of age and the incompetent himself, as well as to the Chief Attorney of the Veterans Administration, and may direct other general or special notice thereof to be given.

SEC. 11. Opposition to petition.—Any interested person may, by filing a written opposition, contest the petition on the ground of majority of the alleged minor, competency of the alleged incompetent, or the incompetency of the

person for whom letters are prayed, and may pray that the petition be dismissed, or that letters of guardianship issue to himself, or to any competent person named in the opposition.

SEC. 12. Bond.— (a) Before the appointment of a guardian takes effect, the judge must require of such guardian a bond to the ward in an amount not less than the estimated value of the estate and anticipated income of the ward during the ensuing year. Such bond shall be in due form and be conditioned as required of general guardians appointed under the Rules of Court. Whenever it is deemed necessary, the Court may require a new or additional bond to be given by the guardian, and may discharge the sureties on the old bond from further liability, after due notice interested persons, when no injury can result therefrom those interested in the estate.

(b) Where a bond is tendered by a guardian with personal sureties, there shall be at least two such sureties and they shall file with the Court a certificate under oath indicating that each is worth the sum named in the bond the penalty thereof over and above all his debts and liabilities and the aggregate of other bonds on which

He is principal or surety and exclusive of property exempt from execution. The Court may require additional security or may require a corporate surety bond, the premium thereon [to be paid from the ward's estate.

SEC. 13. Petition and accounts, notices and hearings.— (a) Every guardian who has received or shall receive on account of his ward any money or other thing of value from the Veterans Administration shall file with the Court annually on the anniversary date of the appointment, in addition to such other accounts as may be required by the Court, a full, true and accurate account under oath of such moneys or other things of value so received by him, all earnings, interest or profits derived therefrom and all property acquired therewith and of all the disbursements therefrom and showing the balance thereof in his hands at the date of the account and how invested. Any account filed by the Veterans Administration and approved by the Chief Attorney thereof may be filed with the Court and be approved by the Court, unless a hearing thereon be requested by some party in interest.

(b) The guardian, at the time of filing any account, shall exhibit all securities or investments held by him to an officer of the bank or other depository wherein said securities or investments are held for safekeeping or to an authorized representative of the corporation which is surety on his bond, or to the judge or clerk of a court of record, or, upon request of the guardian or other interested party, to any other reputable person designated by the Court, who shall certify in writing that he has examined the securities or investments and identified them with those described in the account, and shall note any omissions or discrepancies. If the depository is the guardian, the certifying officer shall not be the officer verifying the account. The guardian may exhibit the securities or investments to the judge or clerk of court who shall enclose on the account a copy of a certificate that the securities or investments shown therein as held by the guardian were each in fact exhibited to him and that those exhibited to him were the same as those shown in the account, and noting any omission or discrepancy. That certificate and the certificate of an official of the bank in which are deposited any funds for which the guardian is accountable, showing the amount of deposit, shall be prepared and signed in duplicate and one of each shall be filed by the guardian with his account.

(c) At the time of filing in the Court any account, a certified copy thereof and a signed duplicate of each certificate filed with the Court shall be sent by the guardian to the Chief Attorney of the Veterans Administration. A signed duplicate or a certified copy of any petition, motion or other pleading pertaining to an account, or to any matter other than an account, filed in the guardianship proceedings or in any proceeding for the purpose of removing the disability of minority or mental incapacity, shall be furnished by the person filing the same to the Chief Attorney of the Veterans Administration. Unless hearing be waived in writing by the Attorney of the Veterans Administration, and by all other persons, if any, entitled to notice, the Court shall fix a time and place for the hearing of the account, petition, motion or other pleading which shall not be less than twenty days nor more than

thirty days from the time same is filed, unless a different available date be stipulated in writing. Unless waived in writing, written notice of the time and place of hearing shall be given the Chief Attorney of the Veterans Administration and to the guardian and any others entitled to notice which shall not be less than twenty days prior to the date fixed for the hearing. The Court, or clerk thereof, shall mail to the Chief Attorney of the Veterans Administration a copy of each order entered in any guardianship proceeding wherein the administrator is an interested party.

(d) If the guardian is accountable for property derived from sources other than the Veterans Administration, shall be accountable as is or may be required by law pertaining to the property of minors or persons of unsound mind who are not beneficiaries of the Veterans Administration, and as to such other property shall be entitled to the compensation provided by such law. The account for other property may be combined with the account filed in accordance with this section.

SEC. 14. Penalty for failure to account.—If any guardian shall fail to file with the Court, or the Veterans Administration, any account as required by this Act, or by an order of the Court, when any account is due or shall fail to furnish to the Chief Attorney of the Veterans Administration a true copy of any account, petition or pleading as required by this Act, such failure may, in the discretion of the Court, be ground for his removal. The willful neglect or refusal on the part of such guardian to make and file proper accounting or report concerning moneys or property received by him, as required by law, within thirty days after the same is due, shall be taken to be sufficient evidence, prima facie, of embezzlement or misappropriation of such funds.

SEC. 15. Compensation of guardian—Compensation payable to guardians shall be based upon services rendered and shall not exceed five per cent of the amount of moneys received during any year. In the event of extraordinary and unusual services rendered by such guardian, the Court may, upon petition and after hearing thereon, authorize reasonable additional compensation therefor. A copy of the petition and notice of the hearing thereon shall be given the Chief Attorney of the Veterans Administration in the manner provided in the case of hearing on a guardian's account or other pleading. No commission or compensation shall be allowed, on the moneys or other assets received from a prior guardian nor upon the amount received from liquidation of loans or other investments.

SEC. 16. Investments.—Every guardian shall invest the funds of his ward's estate in such securities or property as authorized under the laws of the Philippines but only upon prior order of the Court; except that the funds may be invested without prior court authorization, in direct, unconditional, interest-bearing obligations of the Governments of the Republic of the Philippines or of the United States and in obligations the interest and principal of which are Unconditionally guaranteed by either of the said Governments. A signed duplicate or certified copy of the petition for authority to invest shall be furnished the Chief Attorney of the Veterans Administration, and notice of hearing thereon shall be given said official as provided in the case of hearing on a guardian's account.

SEC. 17. Management of estate; proceeds to be applied for maintenance of ward.—A guardian must manage the estate of his ward frugally and without waste, and shall not apply any portion of the income or the estate for the support or maintenance of any person other than the ward the spouse and the minor children of the ward, except upon petition to and prior order of the Court after a hearing. A signed duplicate or certified copy of said petition shall be furnished the Chief Attorney of the Veterans Administration and notice thereof shall be given the Chief Attorney as provided in the case of hearing on a guardian's account or other pleading.

SEC. 18. Authority of guardian to make certain expenditures without court order.—Guardians appointed under this Act, at their discretion, and with written approval of the Chief Attorney of the Veterans Administration, may

make expenditures of guardianship funds for the benefit of their wards, without court approval: Provided, however, That no single expenditure shall exceed the sum of twenty pesos, and the aggregate of all such expenditures in any twelve months period shall not exceed four hundred pesos for any ward.

SEC. 19. Authority of Courts to make ex-parte orders without formal appearance of parties or their attorneys.—The parties at interest in any case under this Act, including the Administrator, through his attorney, may, by written consent filed with the Court waive formal hearing and appearance in any matter affecting such case; whereupon the Court shall determine the matters involved solely upon the pleadings and shall render judgment thereon with requiring the parties or their attorneys to be present shall cause a certified copy of any judgment so rendered or order issued to be mailed to the guardian and to Chief Attorney of the Veterans Administration.

SEC. 20. Accounts waived.—Upon petition of the guardian and after due notice to the Chief Attorney of the Veterans Administration, the Court, may, in its discretion, waive the filing of annual accounting in any case, for good cause shown, for a period of not to exceed five years, however, such waiver shall not relieve the guardian from filing an accounting with the Veterans Administration annually, satisfactory to the Chief Attorney.

SEC. 21. Purchase of home for ward.— (a) The Court may authorize the purchase of real estate in the Philippines in which the guardian has no interest, but only as a home for the ward, or to protect his interest, or (if he is not a minor) as a home for his dependent family. Such purchase of real estate shall not be made except upon the entry of an order of the Court after hearing upon a verified petition. A copy of the petition shall be furnished the Chief Attorney of the Veterans Administration and notice of hearing thereon shall be given said office as provided in the case of hearing on a guardian's account.

(b) Before authorizing such investment the Court shall require written evidence of value and of title and of the advisability of acquiring such real estate. Title shall be taken in the ward's name. This section does not limit the right of the guardian on behalf of his ward to bid and to become the purchaser of real estate at a sale thereof pursuant to decree of foreclosure of lien held by or for the ward, or at a trustee's sale, to protect the ward's right in the property so foreclosed or sold; nor does it limit the right of the guardian, if such be necessary to protect the ward's interest and upon prior order of the Court in which the guardianship is pending, to agree with co-tenants of the ward for a partition in kind or to purchase from co-tenants the entire undivided interests held by them, or to bid and purchase the same at a sale under a partition decree, or to compromise adverse claims of title to the ward's realty.

SEC. 22. Copies of public records to be furnished.—When a copy of any public record is required by the Veterans Administration to be used in determining the eligibility of any person to participate in benefits made available by the Veterans Administration, the official custodian of such public record shall without charge provide the applicant for such benefits or any person acting on his behalf or the authorized representative of the Veterans Administration with a certified copy of such record.

SEC. 23. Discharge of guardian and release of sureties.— Notwithstanding any other provisions of law relating to judicial restoration and discharge of guardian, a certificate by the Chief Attorney of the Veterans Administration showing that a minor ward has attained majority, or that an incompetent ward has been rated competent by the Veterans Administration upon examination in accordance with law, shall be prima facie evidence that the ward has attained majority, or has recovered his competency. Upon hearing, after notice as provided by this Act, and determination by the Court that the ward has attained majority or has recovered his competency, an order shall be entered to that effect, and the guardian shall file a final account. Upon hearing, after notice to the former ward and to the Chief Attorney of the Veterans Administration as in case of other accounts, and approval of the final account, and upon delivery to the ward of the assets due him from the guardian, he shall be discharged and his

sureties released.

SEC. 24. Court costs.—The provisions of section five, Rule one hundred thirty of the Rules of Court notwithstanding, no legal or court fees shall be assessed in guardianship proceedings filed by, in behalf of, or at the instance of the Veterans Administration or in any of the cases embraced by this Act.

SEC. 25. Severability.—If any provision of this Act or application thereof to any person or circumstances is held invalid, such invalidity shall not affect other provision; or applications of the Act which can be given effect without the invalid provision or application, and to this end the provisions of this Act are declared to be severable.

SEC. 26. Repeal of prior laws.—Act Numbered Thirty-eight hundred fifty-four and Republic Act One hundred forty-six are hereby repealed, but the pending cases under said Acts shall be governed by the provisions of this Act.

SEC. 27. Modification of prior laws.—All the provisions embodied in Rules ninety-three to ninety-eight inclusive, of the Rules of Court, dealing with general guardians and guardianships, so far as they are not in conflict with the provisions hereof, shall apply to proceedings under this Act.

SEC. 28. Application of Act.—The provisions of this Act relating to surety bonds and the Administration of Estates of wards shall apply to all "income" and "estate" as defined in section two of this Act whether the guardian shall have been appointed under this Act or under any other law of the Philippines, special or general, prior or subsequent to the enactment hereof.

SEC. 29. This Act shall take effect upon its approval.

Approved, June 18, 1949.

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