

By: Zaffirini

S.B. No. 41

A BILL TO BE ENTITLED

AN ACT

relating to the demand for an accounting from an attorney in fact or agent of a principal by a guardian of the principal.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Section 751.104, Estates Code, is amended to read as follows:

Sec. 751.104. ACCOUNTING. (a) The principal or a guardian of the principal may demand an accounting by the attorney in fact or agent.

(b) Unless otherwise directed by the principal or a guardian of the principal, an accounting under Subsection (a) must include:

(1) the property belonging to the principal that has come to the attorney in fact's or agent's knowledge or into the attorney in fact's or agent's possession;

(2) each action taken or decision made by the attorney in fact or agent;

(3) a complete account of receipts, disbursements, and other actions of the attorney in fact or agent that includes the source and nature of each receipt, disbursement, or action, with receipts of principal and income shown separately;

(4) a listing of all property over which the attorney in fact or agent has exercised control that includes:

(A) an adequate description of each asset; and

(B) the asset's current value, if the value is

1 known to the attorney in fact or agent;

2 (5) the cash balance on hand and the name and location
3 of the depository at which the cash balance is kept;

4 (6) each known liability; and

5 (7) any other information and facts known to the
6 attorney in fact or agent as necessary for a full and definite
7 understanding of the exact condition of the property belonging to
8 the principal.

9 (c) Unless directed otherwise by the principal or a guardian
10 of the principal, the attorney in fact or agent shall also provide
11 to the principal or guardian, as appropriate, all documentation
12 regarding the principal's property.

13 SECTION 2. Section 751.105, Estates Code, is amended to
14 read as follows:

15 Sec. 751.105. EFFECT OF FAILURE TO COMPLY; SUIT. If the
16 attorney in fact or agent fails or refuses to inform the principal,
17 provide documentation, or deliver an accounting under Section
18 751.104 within 60 days of a demand under that section, or a longer
19 or shorter period as demanded by the principal or a guardian of the
20 principal or ordered by a court, the principal or guardian may file
21 suit to:

22 (1) compel the attorney in fact or agent to deliver the
23 accounting or the assets; or

24 (2) terminate the power of attorney.

25 SECTION 3. The changes in law made by this Act to Sections
26 751.104 and 751.105, Estates Code, apply to a guardianship created
27 before, on, or after the effective date of this Act.

1 SECTION 4. This Act takes effect immediately if it receives
2 a vote of two-thirds of all the members elected to each house, as
3 provided by Section 39, Article III, Texas Constitution. If this
4 Act does not receive the vote necessary for immediate effect, this
5 Act takes effect September 1, 2017.