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SENATE BILL NO. 19

Offered January 14, 2004

Prefiled December 9, 2003

A *BILL to amend and reenact § 37.1-137.4 of the Code of Virginia, relating to powers of a conservator.*

Patron—Puller

Referred to Committee for Courts of Justice

Be it enacted by the General Assembly of Virginia:

1. That § 37.1-137.4 of the Code of Virginia is amended and reenacted as follows:

§ 37.1-137.4. Management powers and duties of conservator.

A. A conservator, in managing the estate, shall have the following powers and the powers set forth in § 64.1-57 as of the date the conservator acts, which may be exercised without prior court authorization except as otherwise specifically provided in the court's order of appointment:

1. To ratify or reject a contract entered into by an incapacitated person;

2. To pay any sum distributable for the benefit of the incapacitated person or for the benefit of a legal dependent by paying the sum directly to the distributee, to the provider of goods and services, to any individual or facility that is responsible for or has assumed responsibility for care and custody, to a distributee's custodian under a Uniform Gifts or Transfers to Minors Act of any applicable jurisdiction, or by paying the sum to the guardian of the incapacitated person or, in the case of a dependent, to the dependent's guardian or conservator;

3. To maintain life, health, casualty and liability insurance for the benefit of the incapacitated person, or legal dependents;

4. To manage the estate following the termination of the conservatorship until its delivery to the incapacitated person, or successors in interest;

5. To execute and deliver all instruments, and to take all other actions that will serve in the best interests of the incapacitated person;

6. To initiate a proceeding (i) to revoke a power of attorney under the provisions of § 11-9.1; ~~(ii) to seek a divorce~~, or ~~(iii)~~ (ii) to make an augmented estate election under § 64.1-13; and

7. To borrow money for such periods of time and upon such terms and conditions as to rates, maturities, renewals and security as to such conservator shall seem advisable, including the power to borrow from the conservator, if the conservator is a bank, for any purpose; to mortgage or pledge such portion of the incapacitated person's estate as may be required to secure such loan or loans; and, as maker or endorser, to renew existing loans.

B. The court may impose requirements to be satisfied by the conservator prior to the conveyance of any interest in real estate, including but not limited to (i) increasing the amount of the conservator's bond, (ii) securing an appraisal of the real estate or interest, (iii) giving notice to interested parties as the court deems proper and (iv) consulting by the conservator with the commissioner of accounts and, if one has been appointed, with the guardian. If the court imposes any such requirements, the conservator shall make a report of his compliance with each requirement, to be filed with the commissioner of accounts. Promptly following receipt of the conservator's report, the commissioner shall file a report with the court indicating whether the requirements imposed have been met and whether the sale is otherwise consistent with the conservator's duties. The conveyance shall not be closed until a report by the commissioner of accounts is filed with the court and confirmed as provided in §§ 26-33, 26-34 and 26-35.

INTRODUCED

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