

HOUSE BILL No. 5192

July 14, 2009, Introduced by Reps. DeShazor, Meadows, Byrnes, Liss, Scripps, Roberts, Haase, Womack, Kennedy, Slavens, Haugh, Kandreas, Constan, Durhal, Polidori, Terry Brown, Leland, Valentine, Segal, Spade, Miller, Geiss, Roy Schmidt, Bauer, Tlaib, Lemmons, Dean, Ebli, Gregory, Robert Jones, Donigan, Gonzales, Mayes, Sheltroun, McDowell, Neumann, Lahti, Lisa Brown, Bettie Scott and Jackson and referred to the Committee on Judiciary.

A bill to amend 1998 PA 386, entitled
"Estates and protected individuals code,"
by amending section 5410 (MCL 700.5410).

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 5410. (1) The court may require a conservator to furnish
2 a bond. IF THE COURT DETERMINES THAT THE VALUE OF CASH AND PROPERTY
3 THAT IS READILY CONVERTIBLE INTO CASH IN THE ESTATE AND IN THE
4 CONSERVATOR'S CONTROL EXCEEDS THE LIMIT FOR ADMINISTERING A
5 DECEDENT'S ESTATE UNDER SECTION 3982, ADJUSTED IN THE MANNER
6 PROVIDED UNDER SECTION 1210 FOR THE YEAR IN WHICH THE CONSERVATOR
7 IS APPOINTED, THE COURT SHALL REQUIRE THE CONSERVATOR TO FURNISH A
8 BOND, UNLESS 1 OR MORE OF THE FOLLOWING APPLY:

9 (A) THE ESTATE CONTAINS NO PROPERTY READILY CONVERTIBLE TO
10 CASH AND THE CASH IS IN A RESTRICTED ACCOUNT WITH A FINANCIAL

1 INSTITUTION.

2 (B) THE CONSERVATOR HAS BEEN GRANTED TRUST POWERS UNDER
3 SECTION 4401 OF THE BANKING CODE OF 1999, 1999 PA 276, MCL
4 487.14401.

5 (C) THE COURT DETERMINES THAT REQUIRING A BOND WOULD IMPOSE A
6 FINANCIAL HARDSHIP ON THE ESTATE.

7 (D) THE COURT STATES ON THE RECORD THE REASONS WHY A BOND IS
8 NOT NECESSARY.

9 (2) A BOND FURNISHED UNDER THIS SECTION SHALL BE conditioned
10 upon faithful discharge of all duties of the **CONSERVATOR'S** trust
11 according to law, with sureties as the court specifies. Unless
12 otherwise directed, the bond shall be in the amount of the
13 aggregate capital value of the estate property in the conservator's
14 control plus 1 year's estimated income minus the value of
15 securities deposited under arrangements requiring a court order for
16 their removal and the value of land that the fiduciary, by express
17 limitation of power, lacks power to sell or convey without court
18 authorization. Instead of sureties on a bond, the court may accept
19 other security for the performance of the bond, including a pledge
20 of securities or a mortgage of land.

21 Enacting section 1. This amendatory act does not take effect
22 unless all of the following bills of the 95th Legislature are
23 enacted into law:

24 (a) House Bill No. 4619.

25 (b) Senate Bill No. ____ or House Bill No. 5194 (request no.
26 02730'09).