

ESTATES AND PROTECTED INDIVIDUALS CODE (EXCERPT)
Act 386 of 1998

700.5429 Claims against protected individual; enforcement.

Sec. 5429. (1) A conservator may pay or secure from the estate a claim against the estate or against the protected individual arising before or during the conservatorship upon the presentation of the claim and allowance in accordance with the priorities in subsection (4). A claim may be presented by either of the following methods:

(a) The claimant may deliver or mail to the conservator a written statement of the claim indicating its basis, the name and mailing address of the claimant, and the amount claimed.

(b) The claimant may file a written statement of the claim with the court in the form prescribed by court rule and may deliver or mail a copy of the statement to the conservator.

(2) The court shall consider a claim presented when the conservator receives the written statement of claim or when the claim is filed with the court, whichever happens first. A presented claim is allowed if it is not disallowed by written statement mailed by the conservator to the claimant within 63 days after the presentation of the claim. The presentation of a claim tolls a statute of limitations relating to the claim until 28 days after the claim's disallowance.

(3) A claimant whose claim has not been paid may petition the court for determination of the claim at any time before it is barred by the applicable statute of limitations and, upon due proof, may procure an order for the claim's allowance, payment, or security from the estate. If a proceeding is pending against a protected individual at the time of the appointment of a conservator or is initiated against the protected individual after the appointment, the moving party shall give notice of the proceeding to the conservator if the proceeding could result in creating a claim against the estate.

(4) If it appears that the estate in conservatorship is likely to be exhausted before all existing claims are paid, the conservator shall distribute the estate in money or in kind in payment of claims in the following order:

(a) Costs and expenses of administration.

(b) Claims of the federal or state government having priority under law.

(c) Claims incurred by the conservator for care, maintenance, and education that were previously provided to the protected individual or the protected individual's dependents.

(d) Claims arising before the conservatorship.

(e) All other claims.

(5) A preference shall not be given in the payment of a claim over another claim of the same class, and a claim due and payable is not entitled to a preference over a claim not due. However, if it appears that the assets of the conservatorship are adequate to meet all existing claims, acting in the protected individual's best interest, the court may order the conservator to give a mortgage or other security on the conservatorship estate to secure payment at some future date of any or all claims listed in subsection (4)(e).

(6) If a protected individual dies while under conservatorship, upon petition of the conservator and with or without notice, the court may hear a claim for burial expense or another claim as the court considers advisable. Upon hearing the claim, the court may enter an order allowing or disallowing the claim or a part of it and may provide in an order of allowance that the claim or a part of it shall be paid immediately if payment can be made without injury or serious inconvenience to the protected individual's estate.

History: 1998, Act 386, Eff. Apr. 1, 2000.

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