

RESOLUTION

Define Private Professional Guardianship to Include Corporate Fiduciary and Attorney

A RESOLUTION TO: protect the interests of all Texas citizens who are incapacitated. The certification/recertification of guardians should be inclusive of all persons who provide guardianship services, including attorneys and corporate fiduciaries.

WHEREAS: Chapter 111 of the Texas Government Code establishes the Guardianship Certification Board, charged with the executive function to implement a program for certifying private professional guardians and persons who provide guardianship services to wards of state, local county and regional guardianship programs; and also in Chapter 111, the Definitions refer to § 601(11) of the Texas Probate Code which defines "Guardian" as a person who is appointed guardian under Section 693 of this code, or a temporary or successor guardian. Except as expressly provided otherwise, "guardian" includes the guardian of the estate and the guardian of the person of an incapacitated person; and,

WHEREAS: In § 601(21) of the Texas Probate Code a "Person" includes natural persons, Corporations, and guardianship programs. In Chapter 111.011, the definitions refer to § 601 of the Texas Probate Code which defines "Corporate fiduciary" as a financial institution as defined by Section 201.101, Finance Code, having trust powers, which is authorized by law to act under the order or appointment of any court of record, without giving bond, as receiver, trustee, executor, administrator, or, although without general depository powers, depository for any moneys paid into court, or to become sole guarantor or surety in or upon any bond required to be given under the laws of this state; and, also in Chapter 111.011 (9) "Private professional guardian" means a person, **other than an attorney or a corporate fiduciary**, who is engaged in the business of providing guardianship services; and,

WHEREAS: to protect the interests of all Texas citizens who are incapacitated, the certification/recertification of guardians outlined in Chapter 111 of the Texas Government Code should be inclusive of all persons who are engaged in the business of providing guardianship services, including attorneys and corporate fiduciaries; now, therefore, be it

RESOLVED: That the 11th Texas Silver-Haired Legislature requests the 80th Texas Legislature to amend 110.011(9) of the Texas Government Code by deleting "other than an attorney or a corporate fiduciary."

PASSED AND APPROVED this 12th day of September, 2006, by the Human Services Committee.

Adalaide C. Balaban, Chair

PASSED AND APPROVED this 13th day of September, 2006, by the Texas Silver-Haired Legislature.

Charlotte Parks, Speaker

ATTEST:

Carlos Higgins, Secretary