

## **GUIDELINES FOR PREPARING FINANCIAL PLAN OF CONSERVATOR**

The Financial Plan will help you protect and manage the Protected Person's estate. It is similar to a budget and must be tailored for the Protected Person. The Conservator must revise the Financial Plan as the Protected Person's needs change. The Conservator must provide a copy of the Plan to the Protected Person's guardian, if any, or to the Protected Person. See S.C. Code Ann. §62-5-423 and the Reporter's Comments for further guidance.

### **The Financial Plan is *NOT* the same as an Inventory and Appraisal or a Conservator Report.**

- The Inventory and Appraisal, Form#550GC is a separate form that must be filed within 30 days of appointment. It must be updated if any of the Protected Person's assets change.
- The Conservator Report (*Form #567GC-LF or #567GC-SF*) for an adult protected person OR the Minor Conservator Report (*Form #568GC*) must be filed annually or at other times as the Court may direct.

**Why Complete and File a Conservator's Financial Plan?** A Financial Plan is *not* required unless otherwise ordered. However, if you file one and the court approves it, you may expend or distribute sums from the estate without further court authorization for the health, education, maintenance, and support of the Protected Person and his dependents. The expenditures must, however, be consistent with the prior Court-approved Financial Plan. In creating a Financial Plan, the Conservator should follow S.C. Code Ann. §62-5-423 and the Reporter's Comments.

### **Requirements:**

The plan must be based on the actual needs of the Protected Person and should include steps to develop or restore the person's ability to manage his/her property. It should estimate the duration of the conservatorship and include projected expenses and resources. The Plan should create a plan for the future that is meaningful, easily understood, and presented in a simple but complete way.

### **Standard of Care expected of Conservator: The Conservator must:**

- act as a fiduciary. You are subject to certain standards of care, e.g., the "prudent investor rule." See S.C. Code Ann. § 62-5-417 and §62-7-933 for further guidance.
- consider the purposes, terms, distribution requirements and other circumstances when investing or managing the Protected Person's assets.
- exercise reasonable care, skill and caution.
- consider any estate plan that the Protected Person has.

## **INSTRUCTIONS**

Gather all of the Protected Person's financial information and documents. When more space is needed attach additional sheets. Keep and maintain supporting documents for all receipts, statements, and disbursements. The Court or others may request copies at any time, which should be promptly provided.

1. Give a short explanation of the steps you will take to help the Protected Person learn or regain the ability to manage his/her property or finances. This may include moving accounts to accessible financial institutions, arranging for direct deposit of pension income, providing checks designed for the visually impaired, providing a small account for spending money, arranging for periodic occupational therapeutic activities.

2. Check the box that best describes who is being cared for with the Protected Person's assets.

3. Give the number of dependents for whom care is given. Provide each dependent's name and other requested information (relationship/address).

4. Estimate the likely length of the conservatorship. Keep in mind the steps to restore the Protected Person's ability to manage his or her assets or affairs and whether the assets will provide for the present and future care of the Protected Person. Review this after completing Questions 9-13, which should guide you through the adequacy of assets and what steps should be taken. Attach additional sheets if needed. If you want the Court to take a specific action, you must file an appropriate pleading. This can include, but is not limited to a Petition to Sell Real Property or a petition for some type of protective arrangement or any other appropriate relief.

5. – 8. Describe details about the Protected Person's mental capacity and ability to make decisions. Allow the Protected Person to make reasonable decisions if possible.

6. Does the Protected Person already have an estate plan in place? The conservator shall take into account any estate plan of the Protected Person known to the conservator. See S.C. Code Ann. §62-5-414 for further guidance.

7-8. The conservator is required to allow a Protected Person to be as involved as possible in financial decision-making, and is expected to keep the Guardian, if any, and the Protected Person informed.

**PART I. Projected Resources and Expenses:** The Conservator is REQUIRED TO LIST AND DESCRIBE the projected EXPENSES and RESOURCES of the Protected Person and should be as detailed as possible. The lists include the most common entries; however, if the Protected Person has different types of income or expenses, mark through and replace where appropriate or attach separate sheets when needed.

**A. Monthly Resources:** List all expected sources of receipts or income in this section on a monthly basis. If a specific category is not applicable, indicate N/A in the amount column. Use the total from Schedule B from the Inventory and Appraisal (Form #550GC) if this is your first (initial) financial plan. If you are amending a financial plan that is already in place, use the current totals. See S.C. Code Ann. § 62-5-414 and the Reporter's Comments for additional guidance.

- If you complete the financial plan on a computer, the form should automatically calculate the subtotals and totals for you. Check your math.

**B. Expenses:** List all expected sources of expenses or disbursements in this section. Consider only expenses related to the Protected Person or his/her dependents. Indicate the disbursements/expenses amount on a monthly average basis. If an expense (such as property taxes) is to be paid on an annual basis, divide the amount by 12 to determine the projected monthly amount. If an expense (such as insurance) is paid on a quarterly basis, divide the amount by 3 to determine the projected monthly amount.

- The Conservator's fiduciary duties require the Protected Person's assets are properly insured and the Protected Person maintains the same standard of living enjoyed before the conservatorship.

## **PART II. Projected Sufficiency of Conservatorship Assets**

9. After calculating the total monthly net income or deficit, check the appropriate box. If you checked "Yes" you have determined the Protected Person's income will provide for his/her present and future needs, so you should skip to the Proof of Delivery. If you checked "No" you determined the Protected Person's income will not be enough to provide for his/her present and future needs, so you will need to continue to the following questions that will guide you on making a plan to help provide for the health, education, maintenance and support of the Protected Person through other ways.

10. Determine whether the Protected Person's current investments are sufficient to supplement any monthly shortfall or loss. If the Protected Person's investments are enough to supplement the monthly shortcoming, check the box "Yes" and continue to Question 11.

11. If you determined the Protected Person's current investments are sufficient to make up for a monthly shortfall, you should determine how many years the current investments will continue to make up for the shortfall. Enter the number of years you anticipate the investments making up the difference.

12. Explain to the court what steps should be taken when the Protected Person's assets are no longer enough to provide for his/her current and future needs. Attach additional sheets if needed. Describe whether steps must be taken to apply for public benefits or sell assets. Explain what your plan is to continue to provide for the Protected Person's needs.

- If you want the Court to take a specific action, you must file an appropriate pleading. This can include, but is not limited to a Petition for Sale of Real Property, a petition for some type of protective arrangement, or other appropriate relief.

13. If the Financial Plan does not follow or changes the Protected Person's estate plan, explain how and why. If you believe altering the estate plan is necessary, explain why change is needed.

Sign below to affirm that you have read and followed these instructions and guidelines to the best of your information, knowledge, and ability.

Executed this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

Signature: \_\_\_\_\_

Print Name: \_\_\_\_\_

Address: \_\_\_\_\_

Telephone: \_\_\_\_\_

Email: \_\_\_\_\_

Relationship to the Protected Person: \_\_\_\_\_