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CALIFORNIA ASSMEBLY PASSES SB 156

Bill Limiting Fiduciary “Fees on Fees” Clears Legislative Hurdle

SACRAMENTO, Calif., June 28 - Yesterday, the California State Assembly, in a vote of 78 to 0, passed [SB 156](#), timely legislation that will establish new guidelines for resolving fee disputes between professional fiduciaries and the estates they manage.

Professional fiduciaries are often appointed by the court to serve as conservators or guardians for those whom the court deems unable to manage their own affairs. In rare instances, disputes arise between the two parties over the fees billed to these estates by fiduciaries. Current law allows fiduciaries to collect so-called “fees on fees,” or fees charged to the fiduciary by their attorneys to represent them in such disputes.

SB 156, authored by [State Senator Jim Beall](#) (D-San Jose), seeks to limit the collection of “fees on fees.” The original key provision of SB 156 was to remove the assumption that the estate in question will cover a fiduciary’s attorney fees. Due in part to the intense advocacy efforts of the Professional Fiduciary Association of California (PFAC) and its members, further revisions of SB 156 now ensure that the court has greater leeway in determining when a fiduciary may be reimbursed for their fees, pending the outcome of a dispute.

The amended bill now states, in summary, that in approving compensation from the estate for any costs or fees, including attorney’s fees, the guardian or conservator incurred in defending their compensation, the guardian or conservator will now need to prove to the court all of the following:

- (i) The guardian or conservator made a reasonable and good faith attempt at an informal resolution of each issue presented by the objection to the compensation in the petition;
- (ii) The guardian or conservator acted in good faith and with substantial justification in defending the petition, taking into consideration the objections if any; and
- (iii) It is in the best interest of the minor or conservatee to make an award of costs or fees.

“Due to the amendments by Senator Beall and the hard work of PFAC in presenting opposition to the original bill, PFAC has moved from a position of opposition to neutral on SB 156,” said Norine Boehmer, professional fiduciary and chair of PFAC’s Legislative Committee. “The original bill contained a troubling clause in regard to ‘loser pays’ in the event of a dispute, but PFAC has helped ensure that the bill is now more fair with respect to the needs of our clients and the best interest of our profession.”



SB 156 previously passed the Senate and will now proceed back to the Senate for concurrence in the amendments.

ABOUT PFAC

The [Professional Fiduciary Association of California \(PFAC\)](#) is a statewide association with a mission to advance the best fiduciary standards and practices. The organization's goals include ensuring the highest standards of ethics and practices, maintaining high qualifications for membership, providing continuing education and supporting effective regulation, legislation and licensing. PFAC's membership includes 500+ licensed professional fiduciaries across California who collectively manage more than 8 billion dollars in assets.

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