

House Engrossed

**FILED**

**KEN BENNETT**

**SECRETARY OF STATE**

State of Arizona  
House of Representatives  
Fiftieth Legislature  
First Regular Session  
2011

CHAPTER 112

# **HOUSE BILL 2372**

AN ACT

AMENDING SECTIONS 14-3722, 14-5314, 14-5414 AND 14-5414.01, ARIZONA REVISED  
STATUTES; RELATING TO TRUSTS, ESTATES AND PROTECTIVE PROCEEDINGS.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:

2 Section 1. Section 14-3722, Arizona Revised Statutes, is amended to  
3 read:

4 14-3722. Compensation of appointees

5 A. If not otherwise compensated for services rendered, an  
6 investigator, accountant or lawyer appointed pursuant to this article is  
7 entitled to reasonable compensation from the estate of the decedent. If the  
8 court compensates the provider of a service the court may charge the estate  
9 for the reasonable cost of the service and shall deposit these monies in the  
10 probate fund pursuant to section 14-5433.

11 B. Notwithstanding subsection A of this section, if compensation by  
12 the estate is not feasible the court shall determine and pay reasonable  
13 compensation for services rendered by an investigator, accountant or lawyer  
14 appointed in a probate administration proceeding.

15 C. IF A COUNTY PAYS FOR ANY OF THESE SERVICES FROM GENERAL FUND  
16 APPROPRIATIONS, THE COUNTY MAY CHARGE THE ESTATE FOR REASONABLE COMPENSATION.  
17 THE COUNTY TREASURER SHALL DEPOSIT MONIES COLLECTED PURSUANT TO THIS  
18 SUBSECTION IN THE SAME FUND FROM WHICH THE EXPENDITURE WAS MADE.

19 Sec. 2. Section 14-5314, Arizona Revised Statutes, is amended to read:

20 14-5314. Compensation of appointees; definitions

21 A. If not otherwise compensated for services rendered, an  
22 investigator, accountant, lawyer, physician, registered nurse, psychologist  
23 or guardian who is appointed pursuant to this article, including an  
24 independent lawyer representing the alleged incapacitated person pursuant to  
25 section 14-5303, subsection C, is entitled to reasonable compensation from  
26 the estate of the ward if the petition is granted, or from the petitioner if  
27 the petition is denied.

28 B. If the petitioner withdraws the petition or if the petition is  
29 dismissed because of the petitioner's failure to prosecute, the court may  
30 order that the compensation of the investigator, accountant, lawyer,  
31 physician, registered nurse, psychologist or guardian appointed pursuant to  
32 this article, including an independent lawyer representing the alleged  
33 incapacitated person pursuant to section 14-5303, subsection C, be paid  
34 either from the ward's estate or by the petitioner, depending on the facts  
35 and circumstances. In making this determination, the court may consider any  
36 evidence it deems appropriate.

37 C. A lawyer who is employed by the guardian to represent the guardian  
38 in the guardian's appointment or duties as guardian is entitled to reasonable  
39 compensation from the ward's estate if the petition is granted. If the  
40 petitioner withdraws the petition or if the court dismisses the petition  
41 because of the petitioner's failure to prosecute, the court may order that  
42 the compensation of the proposed guardian's lawyer be paid either from the  
43 ward's estate or by the petitioner, depending on the facts and circumstances.  
44 In making these determinations, the court may consider any evidence it deems  
45 appropriate.

1 D. A lawyer who is employed by the petitioner to represent the  
2 petitioner in seeking the appointment of a guardian is entitled to reasonable  
3 compensation from the ward's estate if the petition is granted.

4 E. If the court compensates the provider of a service, the court may  
5 charge the estate for the reasonable cost of the service and shall deposit  
6 these monies in the probate fund pursuant to section 14-5433.

7 F. If compensation by the ward or the petitioner is not feasible the  
8 court shall determine and pay reasonable compensation for services rendered  
9 by an investigator, accountant, lawyer, physician, registered nurse,  
10 psychologist or guardian appointed in a guardianship proceeding.

11 G. IF A COUNTY PAYS FOR ANY OF THESE SERVICES FROM GENERAL FUND  
12 APPROPRIATIONS, THE COUNTY MAY CHARGE THE ESTATE FOR REASONABLE COMPENSATION.  
13 THE COUNTY TREASURER SHALL DEPOSIT MONIES COLLECTED PURSUANT TO THIS  
14 SUBSECTION IN THE SAME FUND FROM WHICH THE EXPENDITURE WAS MADE.

15 ~~G~~ H. For the purposes of this section:

16 1. "Guardian" includes both a guardian and a temporary guardian.

17 2. "Petition" means a petition filed pursuant to section 14-5303,  
18 subsection A or section 14-5310, subsection A.

19 3. "Ward" includes an alleged incapacitated person.

20 Sec. 3. Section 14-5414, Arizona Revised Statutes, is amended to read:  
21 14-5414. Compensation and expenses: definitions

22 A. If not otherwise compensated for services rendered, any  
23 investigator, accountant, lawyer, physician, registered nurse, psychologist  
24 or conservator who is appointed in a protective proceeding, including a  
25 lawyer of the person alleged to be in need of protection pursuant to section  
26 14-5407, subsection B, is entitled to reasonable compensation from the estate  
27 of the protected person if the petition is granted or from the petitioner if  
28 the petition is denied.

29 B. If the petitioner withdraws the petition or if the court dismisses  
30 the petition because of the petitioner's failure to prosecute, the court may  
31 order that the compensation of the investigator, accountant, lawyer,  
32 physician, registered nurse, psychologist or conservator who is appointed  
33 pursuant to this article, including a lawyer of the person alleged to be in  
34 need of protection pursuant to section 14-5407, subsection B, be paid either  
35 from the protected person's estate or by the petitioner, depending on the  
36 facts and circumstances. In making these determinations, the court may  
37 consider any evidence it deems appropriate.

38 C. A lawyer who is employed by the conservator to represent the  
39 conservator in the conservator's appointment or duties as conservator is  
40 entitled to reasonable compensation from the estate if the petition is  
41 granted. If the petitioner withdraws the petition or if the petition is  
42 dismissed because of the petitioner's failure to prosecute, the court may  
43 order that the compensation of the proposed conservator's lawyer be paid  
44 either from the protected person's estate or by the petitioner, depending on

1 the facts and circumstances. In determining which party shall pay, the court  
2 may consider any evidence it deems appropriate.

3 D. A lawyer who is employed by the petitioner to represent the  
4 petitioner in seeking the appointment of a conservator is entitled to  
5 reasonable compensation from the protected person's estate if the petition is  
6 granted.

7 E. If the court pays for any of these services it may charge the  
8 estate for reasonable compensation. The clerk shall deposit monies it  
9 collects in the probate fund pursuant to section 14-5433.

10 F. IF A COUNTY PAYS FOR ANY OF THESE SERVICES FROM GENERAL FUND  
11 APPROPRIATIONS, THE COUNTY MAY CHARGE THE ESTATE FOR REASONABLE COMPENSATION.  
12 THE COUNTY TREASURER SHALL DEPOSIT MONIES COLLECTED PURSUANT TO THIS  
13 SUBSECTION IN THE SAME FUND FROM WHICH THE EXPENDITURE WAS MADE.

14 ~~F.~~ G. Compensation payable to the department of veterans' services,  
15 when acting as a conservator of the estate of a veteran or a veteran's  
16 surviving spouse or minor child or the incapacitated spouse of a protected  
17 veteran, shall not be more than five per cent of the amount of monies  
18 received during the period covered by the conservatorship. A copy of the  
19 petition and notice of hearing shall be given to the proper officer of the  
20 veterans administration in the manner provided in the case of any hearing on  
21 a guardian's account or any other pleading. A commission or compensation is  
22 not allowed on the monies or other assets received from a prior conservator  
23 or on the amount received from liquidation of loans or other investments.

24 ~~G.~~ H. For the purposes of this section:

25 1. "Conservator" includes a conservator, temporary conservator or  
26 special conservator.

27 2. "Petition" means a petition filed pursuant to section 14-5401.01,  
28 subsection A or section 14-5404, subsection A.

29 3. "Protected person" includes a person who is alleged to be in need  
30 of protection.

31 Sec. 4. Section 14-5414.01, Arizona Revised Statutes, is amended to  
32 read:

33 14-5414.01. State veterans' conservatorship fund

34 A. The state veterans' conservatorship fund is established.

35 B. All conservatorship monies collected pursuant to section 14-5414,  
36 subsection ~~F~~ G shall be deposited, pursuant to sections 35-146 and 35-147,  
37 by the department of veterans' services in the state veterans'  
38 conservatorship fund. On notice from the department of veterans' services,  
39 the state treasurer shall invest and divest monies in the fund as provided by  
40 section 35-313, and monies earned from investment shall be credited to the  
41 fund.

APPROVED BY THE GOVERNOR APRIL 14, 2011.

FILED IN THE OFFICE OF THE SECRETARY OF STATE APRIL 14, 2011.

Passed the House March 1, 20 11

Passed the Senate April 7, 20 11

by the following vote: 50 Ayes,

by the following vote: 38 Ayes,

7 Nays, 3 Not Voting

0 Nays, 2 Not Voting

[Signature]  
Speaker of the House

[Signature]  
President of the Senate

Cheryl Laube  
Chief Clerk of the House

[Signature]  
Secretary of the Senate

EXECUTIVE DEPARTMENT OF ARIZONA  
OFFICE OF GOVERNOR

This Bill received by the Governor this

11 day of April, 20 11

at 2:40 o'clock P. M.

[Signature]  
Secretary to the Governor

Approved this 14<sup>th</sup> day of

April

at 2:40 o'clock P.M. M.

[Signature]  
Governor of Arizona

EXECUTIVE DEPARTMENT OF ARIZONA  
OFFICE OF SECRETARY OF STATE

This Bill received by the Secretary of State

this 14<sup>th</sup> day of April, 20 11

at 5:07 o'clock P. M.

[Signature]  
Secretary of State

H.B. 2372