

Get Your Probate, Fiduciary Bond Issued; Tips Sureties Use By Houston Bond Agent Mark Strange

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Probate is a legal proceeding where the will of a deceased person is tested for validity. The term **probate bond** has become a common term to describe a category of surety bonds more appropriately called fiduciary bonds. A fiduciary is a person or entity holding something in trust for another. Fiduciaries have duties and obligations which a court will require bonded as protection against the fiduciary not properly or faithfully executing his custodial obligation. The court sets the amount of the bond. The bond amount will have some relationship to the size and type of assets in the appointed fiduciaries custody.

Main Categories of Fiduciaries and Bonds

Guardian, Conservator, Curator or Committee- Appointed because age, mental or physical conditions prevent persons from properly handling their financial affairs.

Administrator- Manages and distributes assets; pays all claims and debts in estates where there is no will.

Executor- A person named in a will to manage estate assets.

Receiver or Trustee- Appointed to oversee the orderly disposition or liquidation of business assets due to bankruptcy or other legal entanglements.

Steps to Getting Your Bond

Since a bond guarantees the appointed persons obligation to honestly and properly manage assets of others, the bonding company will be careful who it undertakes to bond.

Applicants must demonstrate honesty and financial experience relative and commensurate to their expected duties.

Probate and **Fiduciary bonds** are purchased through independent insurance and bonding agencies contracted to represent surety companies.

Application Process

You will be asked to complete an application which includes an indemnity agreement to repay the bonding company if there is a loss. You will also need to submit a financial statement and provide a copy of your court appointment papers. You can expect the bonding company to ask permission to check background and credit.

Tips To Avoid Having Your Application Declined

- 1) Do not be indebted to the estate or business you are requesting court appointment to oversee.
- 2) Make sure you have sound legal representation from a reputable and experienced attorney.
- 3) Credit history must be in good order. No bankruptcies, child support owed, IRS liens or loan charge-offs.
- 4) Any disputes among the heirs or beneficiaries could cause an application to be declined.

Tips If Your Application Is Declined

- 1) Offer *Joint Control of Assets* to the bonding company, your attorney or trust company. This will give the bonding company some assurance that assets are managed in a businesslike manner. Joint Control also provides the fiduciary with an intermediary when dealing with unreasonable or improper requests from estate beneficiaries. This is a good tool when the bond amount is large; there is an ongoing business in the estate or there is a lengthy bond term.
- 2) Offer *Additional Credit-worthy Cosigners* (indemnitors) to improve chances of bond approval. This helps when the applicant has marginal credit or when the bond amount is significantly larger than the applicant's net worth.
- 3) Offer *Beneficiaries As Cosigners* (indemnitors) to the bond when there are many beneficiaries. Potential disputes are minimized when the beneficiaries of an estate are made a party to the bond and therefore subject to the indemnity agreement to repay the bonding company for loss.

Final Note:

Once a bond is written it can only be cancelled after a final accounting has been submitted and approved by the court at the close of an estate, trust or receivership.

For more information, related links and applications visit: www.suretybondservices.com