RLI SURETY

PROBATE BONDS

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Probate bonds, also referred to as fiduciary bonds, are court bonds that protect beneficiaries, heirs and creditors against fraud or mismanagement by an appointed fiduciary. A fiduciary is the appointed individual and may be an Executor, Personal Representative, Administrator, Guardian or other person exercising control over another person's assets and/or property.

IN GENERAL

Relatives of the deceased or incapacitated person are typically appointed as the fiduciary. If there is no party willing to serve, a public or private fiduciary will be appointed by the court.

Qualifying for a fiduciary bond is largely determined by the fiduciary's experience, credit history and personal background.

Bonds of this type do not contain a cancellation provision. The bond is terminated when the fiduciary handles the estate to completion, files a final accounting and has been discharged by a court order.

COMMON PROBATE/FIDUCIARY BOND TYPES

- Personal Representative
- Administrator
- Executor
- Guardian/Conservatorship

ADMINISTRATOR, EXECUTOR OR PERSONAL REPRESENTATIVE BONDS

A **Personal Representative** refers to either an Executor or administrator of a deceased individual's will. An **Administrator** is a fiduciary appointed by the court to conduct the affairs of an estate of someone who has died without a will. An **Executor** is a fiduciary appointed in a will by the decedent. The fiduciary assumes control of the decedent's property, collects and pays debts of the estate and preserves assets to be distributed by the court.

GUARDIAN BONDS

Generally, a **Guardian of Minor** administers the estate of a minor or preserves the rights and assets of a minor who is involved in litigation. A person who takes charge of an adult incompetent's estate is also called a **Guardian**.

Another bond very similar to a Guardian of Incompetent bond is a Legal Custodian bond, required by the **Department of Veterans Affairs.** The primary function of the Legal Custodian is to manage the money of the ward that is received from the Department of Veterans Affairs. The Legal Custodian must keep the funds in a separate account and file annual accountings with the Department of Veterans Affairs.

UNDERWRITING FACTORS

- Is the principal working with an experienced attorney? If not, what experience do they have to handle without an attorney?
- Is the appointed fiduciary an heir to the estate? If not, why were they appointed?
- Is the principal indebted to the estate?
- Is there a will?
- Is there an ongoing business?

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