



Ohio Revised Code Section 2109.04 Bond.

Effective: January 13, 2012

Legislation: Senate Bill 124 - 129th General Assembly

(A)(1) Unless otherwise provided by law, order, or local rule, every fiduciary, prior to the issuance of the fiduciary's letters as provided by section 2109.02 of the Revised Code, shall file in the probate court in which the letters are to be issued a bond with a penal sum in an amount that is fixed by the court, but in no event less than double the probable value of the personal property and of the annual real property rentals that will come into the possession or under the control of the person as a fiduciary. The bond of a fiduciary shall be in a form approved by the court and signed by two or more personal sureties or by one or more corporate sureties approved by the court. It shall be conditioned that the fiduciary faithfully and honestly will discharge the duties devolving upon the person as fiduciary, and shall be conditioned further as may be provided by law.

(2) Except as otherwise provided in this division, if the instrument creating the trust dispenses with the giving of a bond, the court shall appoint a fiduciary without bond, unless the court is of the opinion that the interest of the trust demands it. If the court is of that opinion, it may require bond to be given in any amount it fixes. If a parent nominates a guardian for the parent's child in a will and provides in the will that the guardian may serve without giving bond, the court may appoint the guardian without bond or require the guardian to give bond in accordance with division (A)(1) of this section.

(3) A guardian of the person only does not have to give bond unless, for good cause shown, the court considers a bond to be necessary. When a bond is required of a guardian of the person only, it shall be determined and filed in accordance with division (A)(1) of this section. This division does not apply to a guardian of the person only nominated in a parent's will if the will provides that the guardian may serve without giving bond.

(4) When the probable value of the personal property and of the annual real property rentals that will come into the possession or under the control of the guardian as a fiduciary is less than ten thousand dollars, the court may waive or reduce a bond required by division (A)(1) of this section.



(B) When an executive director who is responsible for the administration of children services in the county is appointed as trustee of the estate of a ward pursuant to section 5153.18 of the Revised Code and has furnished bond under section 5153.13 of the Revised Code, or when an agency under contract with the department of developmental disabilities for the provision of protective service under sections 5123.55 to 5123.59 of the Revised Code is appointed as trustee of the estate of a ward under sections 5123.55 to 5123.59 of the Revised Code and any employees of the agency having custody or control of funds or property of that ward have furnished bond under section 5123.59 of the Revised Code, the court may dispense with the giving of a bond.

(C) When letters are granted without bond, at any later period on its own motion or upon the application of any party interested, the court may require bond to be given in an amount that is fixed by the court. On failure to give that bond, the defaulting fiduciary shall be removed.

No instrument authorizing a fiduciary whom it names to serve without bond shall be construed to relieve a successor fiduciary from the necessity of giving bond, unless the instrument clearly evidences that intention.

The court that appoints a fiduciary may reduce the amount of the bond of the fiduciary at any time for good cause shown.

When two or more persons are appointed as joint fiduciaries, the court may take a separate bond from each or a joint bond from all.