

**Senate Bill No. 156**

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Passed the Senate August 30, 2013

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*Secretary of the Senate*

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Passed the Assembly August 26, 2013

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*Chief Clerk of the Assembly*

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This bill was received by the Governor this \_\_\_\_\_ day  
of \_\_\_\_\_, 2013, at \_\_\_\_\_ o'clock \_\_\_\_M.

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*Private Secretary of the Governor*

## CHAPTER \_\_\_\_\_

An act to amend Section 2640 of the Probate Code, relating to conservatorships and guardianships.

## LEGISLATIVE COUNSEL'S DIGEST

SB 156, Beall. Conservatorships and guardianships: attorney's fees.

Existing law provides for the administration of guardianships and conservatorships. Existing law authorizes a guardian or conservator of an estate to petition the court for an order allowing compensation to the guardian, conservator, or attorney for the guardian or conservator, as specified. Existing law prohibits the guardian or conservator from being compensated from the estate for any costs or fees that he or she incurred in unsuccessfully opposing a petition, or other request or action, made by or on behalf of the ward or conservatee, unless the court determines that the opposition was made in good faith, based on the best interests of the ward or conservatee.

This bill would instead prohibit the guardian or conservator from being compensated from the estate for any costs or fees, including attorney's fees, incurred in defending the compensation in the petition, if the court reduces or denies the compensation requested in the petition.

*The people of the State of California do enact as follows:*

SECTION 1. Section 2640 of the Probate Code is amended to read:

2640. (a) At any time after the filing of the inventory and appraisal, but not before the expiration of 90 days from the issuance of letters or any other period of time as the court for good cause orders, the guardian or conservator of the estate may petition the court for an order fixing and allowing compensation to any one or more of the following:

(1) The guardian or conservator of the estate for services rendered to that time.

(2) The guardian or conservator of the person for services rendered to that time.

(3) The attorney for services rendered to that time by the attorney to the guardian or conservator of the person or estate or both.

(b) Notice of the hearing shall be given for the period and in the manner provided for in Chapter 3 (commencing with Section 1460) of Part 1.

(c) Upon the hearing, the court shall make an order allowing (1) any compensation requested in the petition the court determines is just and reasonable to the guardian or conservator of the estate for services rendered or to the guardian or conservator of the person for services rendered, or to both, and (2) any compensation requested in the petition the court determines is reasonable to the attorney for services rendered to the guardian or conservator of the person or estate or both. The compensation allowed to the guardian or conservator of the person, the guardian or conservator of the estate, and to the attorney may, in the discretion of the court, include compensation for services rendered before the date of the order appointing the guardian or conservator. The compensation allowed shall be charged to the estate. Legal services for which the attorney may be compensated include those services rendered by any paralegal performing legal services under the direction and supervision of an attorney. The petition or application for compensation shall set forth the hours spent and services performed by the paralegal.

(d) Notwithstanding subdivision (c), if the court reduces or denies the compensation requested in the petition, the guardian or conservator shall not be compensated from the estate for any costs or fees, including attorney's fees, that the guardian or conservator incurred in defending the compensation in the petition.

Approved \_\_\_\_\_, 2013

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*Governor*