

State of Arkansas

76th General Assembly

Regular Session, 1987

HOUSE BILL 1005

By: Representatives Mahony and Ward

"AN ACT TO PROVIDE THAT ANY GUARDIANSHIP ESTABLISHED DURING THE PERIOD FROM THE EFFECTIVE DATE OF ACT 345 OF 1983 UNTIL THE EFFECTIVE DATE OF ACT 940 OF 1985 UNDER THE PROCEDURES PRESCRIBED IN ACT 345 OF 1983 OR ANY ACT IN EFFECT CONCURRENTLY WITH OR IMMEDIATELY PRIOR TO ACT 345 SHALL BE VALID AND SHALL CONTINUE IN EFFECT BUT SHALL BE SUBJECT TO THE PROVISIONS OF ACT 940 OF 1985; AND FOR OTHER PURPOSES."

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

SECTION 1. It is hereby found and determined by the General Assembly that Act 345 of 1983 governing guardianships for incapacitated persons created considerable confusion concerning various other laws relating to the appointment of guardians; that a part of that confusion was due to uncertainty as to whether Act 345 repealed or was intended to repeal or supersede various other laws relating to guardianship; that as a result of such confusion, guardianships were established by various courts in the State under the provisions of various laws which were in effect concurrently with or immediately prior to Act 345 and there is now some question concerning the validity of some of those guardianships; and that this confusion and doubt should be removed in order that guardians appointed during such period can continue to carry out their responsibilities without the doubt and disagreement concerning their official capacity and authority. It is therefore the intent and purpose of this Act to validate any and all guardianships established from the effective date of Act 345 of 1983 until the effective date of Act 940 of 1985 under authority of Act 345 of 1983 or any law in effect concurrently with or immediately prior to the effective date of Act 345.

SECTION 2. Any guardianship established during the period from the

effective date of Act 345 of 1983 and the effective date of Act 940 of 1985 whether established under Act 345 of 1983 or under any Act in effect concurrently with Act 345 of 1983, or any Act in effect immediately prior to the effective date of Act 345 of 1983 is hereby declared to be valid and shall continue in effect for the purposes established, but the provisions of Act 940 of 1985 shall be applicable to all guardianships so established except as otherwise provided in Section 3 of Act 940 of 1985.

SECTION 3. All laws and parts of laws in conflict with this Act are hereby repealed.

SECTION 4. EMERGENCY. It is hereby found and determined by the General Assembly that considerable doubt and confusion has been cast on various guardianships established during the period from the effective date of Act 345 of 1983 until the effective date of Act 940 of 1985 due to the fact that the provisions of Act 345 of 1983 were unclear with respect to the repeal of various other laws relating to guardianships; that it is urgent that such doubt be removed at the earliest possible date in order that guardians appointed during that period can proceed to carry out their official responsibilities and to thereby accomplish the purposes for which the guardianships were established; that this Act is designed to remove this doubt and specifically validate all such guardianships and should be given effect immediately. Therefore, an emergency is hereby declared to exist and this Act being necessary for the preservation of the public peace, health and safety shall be in full force and effect from and after its passage and approval.

