

**The Florida Senate**  
**BILL ANALYSIS AND FISCAL IMPACT STATEMENT**

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

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Prepared By: The Professional Staff of the Committee on Judiciary

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BILL: CS/SB 1288

INTRODUCER: Judiciary Committee and Senator Boyd

SUBJECT: Assets of an Estate in Administration

DATE: March 10, 2021

REVISED: \_\_\_\_\_

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Bond	Cibula	JU	Fav/CS
2.			BI	
3.			RC	

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**Please see Section IX. for Additional Information:**

COMMITTEE SUBSTITUTE - Substantial Changes

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**I. Summary:**

CS/SB 1288 amends s. 69.031, F.S., to repeal the requirements that a savings and loan be a member of the Federal Savings and Loan Insurance Corporation and doing business in the state in order to qualify as a depository institution for court-appointed fiduciaries. The Federal Savings and Loan Insurance Corporation was dissolved in 1989, making compliance with that requirement impossible.

The bill is effective July 1, 2021.

**II. Present Situation:**

Courts are commonly called on to assume control over a person's property. The most common form of this is probate, but other common areas include guardianship and receivership. The trial judge does not have the time or expertise to inventory, manage, and distribute such property, and so a fiduciary is appointed. These court-appointed fiduciaries are known by many names, including personal representative, guardian, curator, executor, administrator, trustee, or receiver. Current law provides numerous safeguards to guard against theft or mismanagement of property by a court-appointed fiduciary. A common safeguard is a requirement that a court-appointed fiduciary post a surety bond.

Surety bonds are expensive, and may not be available at any cost for large or complicated estates. Current law at s. 69.031, F.S., gives the court an alternative safeguard applicable to all

court-appointed fiduciaries -- the use of a depository account. A depository account may be used where “the size of the bond . . . is burdensome or for other cause.” Where a depository account is used, the property of the estate is deposited with a bank, trust company, or savings and loan. Court approval is required for every distribution from a depository account.

A depository account must be placed with a bank, trust company, or savings and loan association “(which savings and loan association is a member of the Federal Savings and Loan Insurance Corporation and doing business in this state)” designated by the court, consideration being given to any bank, trust company or savings and loan association proposed by the officer.<sup>1</sup>

The requirement that a savings and loan be a member of the Federal Savings and Loan Insurance Corporation is problematic. The Federal Savings and Loan Insurance Corporation was dissolved in 1989.<sup>2</sup> The requirement that a savings and loan must be doing business in the state is unique to savings and loan institutions, there is no similar requirement applicable to a bank or trust company appointed by the court as a depository institution.

### **III. Effect of Proposed Changes:**

The bill amends s. 69.031, F.S., to remove the requirements that a savings and loan be a member of the Federal Savings and Loan Insurance Corporation and be doing business in the state in order to qualify as a depository institution for court-appointed fiduciaries.

The bill is effective July 1, 2021.

### **IV. Constitutional Issues:**

#### **A. Municipality/County Mandates Restrictions:**

The bill does not require counties or municipalities to spend funds or limit their authority to raise revenue or receive state-shared revenues as specified in article VII, section 18 of the Florida Constitution.

#### **B. Public Records/Open Meetings Issues:**

None.

#### **C. Trust Funds Restrictions:**

None.

#### **D. State Tax or Fee Increases:**

None.

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<sup>1</sup> Section 69.031(1), F.S.

<sup>2</sup> Pub. L. No. 101-73, 103 Stat. 183 (August 9, 1989).

E. Other Constitutional Issues:

None identified.

**V. Fiscal Impact Statement:**

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

None.

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

None.

**VIII. Statutes Affected:**

This bill substantially amends s. 69.031, Florida Statutes.

**IX. Additional Information:**

A. Committee Substitute – Statement of Changes:

(Summarizing differences between the Committee Substitute and the prior version of the bill.)

**CS by Judiciary on March 9, 2020:**

The bill as filed only repealed the requirement that a savings and loan be a member of Federal Savings and Loan Insurance Corporation. The committee substitute also repeals the requirement that a savings and loan institution be doing business in the state in order to qualify as a depository institution.

B. Amendments:

None.