

1 HB168
2 181203-1
3 By Representatives Buskey and Gaston
4 RFD: Judiciary
5 First Read: 09-FEB-17

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8 SYNOPSIS: Under existing law, a court may authorize,
9 direct, or ratify any transaction it deems
10 necessary or desirable to achieve any protective
11 arrangement, security, or service for a protected
12 person if the basis for appointment of a
13 conservator or protective order exists under
14 Section 26-2A-130 and is established in a proper
15 proceeding. A court may also authorize, direct, or
16 ratify any contract, trust, or other transaction
17 relating to a protected person's property or
18 business affairs if the basis for appointment of a
19 conservator or protective order exists under
20 Section 26-2A-130 and is established in a proper
21 proceeding.

22 This bill clarifies that leasing of oil,
23 gas, and mineral rights is one of the protective
24 arrangements or contracts that the court is allowed
25 to authorize under Section 26-2A-137.

26
27 A BILL

1 TO BE ENTITLED

2 AN ACT

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4 To amend Section 26-2A-137, Code of Alabama 1975 to
5 allow the court to authorize the leasing of oil, gas, and
6 mineral rights when the basis exists under Section 26-2A-130.

7 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

8 Section 1. Section 26-2A-137 is amended to read as
9 follows:

10 "§26-2A-137.

11 "(a) If it is established in a proper proceeding
12 that a basis exists for the appointment of a conservator or
13 protective order as described in Section 26-2A-130, the court,
14 without appointing a conservator, may authorize, direct, or
15 ratify any transaction necessary or desirable to achieve any
16 security, service, or care arrangement meeting the foreseeable
17 needs of the protected person. Protective arrangements include
18 payment, delivery, deposit, or retention of funds or property;
19 sale, mortgage, lease, or other transfer of property,
20 including, but not limited to the leasing of oil, gas and
21 other mineral rights of the protected person; entry into an
22 annuity contract, a contract for life care, a deposit
23 contract, or a contract for training and education; or
24 addition to or establishment of a suitable trust.

25 "(b) If it is established in a proper proceeding
26 that a basis exists for the appointment of a conservator or
27 protective order as described in Section 26-2A-130, the court,

1 without appointing a conservator, may authorize, direct, or
2 ratify any contract, trust, or other transaction relating to
3 the protected person's property and business affairs,
4 including, but not limited to the leasing of oil, gas and
5 other mineral rights of the protected person, if the court
6 determines that the transaction is in the best interest of the
7 protected person.

8 "(c) Before approving a protective arrangement or
9 other transaction under this section, the court shall consider
10 the interests of creditors and dependents of the protected
11 person and, in view of the disability, whether the protected
12 person needs the continuing protection of a conservator. The
13 court may appoint a special conservator to assist in the
14 accomplishment of any protective arrangement or other
15 transaction authorized under this section who shall have the
16 authority conferred by the order and serve until discharged by
17 order after report to the court of all matters done pursuant
18 to the order of appointment."

19 Section 2. This act will become effective
20 immediately following its passage and approval by the
21 Governor, or its otherwise becoming law.