

CHAPTER 2018-20

Senate Bill No. 498

An act relating to the Office of Public and Professional Guardians direct-support organization; amending s. 744.2105, F.S.; abrogating the scheduled repeal of provisions governing a direct-support organization established under the Office of Public and Professional Guardians within the Department of Elderly Affairs; providing an effective date.

Be It Enacted by the Legislature of the State of Florida:

Section 1. Section 744.2105, Florida Statutes, is amended to read:

744.2105 Direct-support organization; definition; use of property; board of directors; audit; dissolution.—

(1) DEFINITION.—As used in this section, the term “direct-support organization” means an organization whose sole purpose is to support the Office of Public and Professional Guardians and is:

(a) A not-for-profit corporation incorporated under chapter 617 and approved by the Department of State;

(b) Organized and operated to conduct programs and activities; to raise funds; to request and receive grants, gifts, and bequests of moneys; to acquire, receive, hold, invest, and administer, in its own name, securities, funds, objects of value, or other property, real or personal; and to make expenditures to or for the direct or indirect benefit of the Office of Public and Professional Guardians; and

(c) Determined by the Office of Public and Professional Guardians to be consistent with the goals of the office, in the best interests of the state, and in accordance with the adopted goals and mission of the Department of Elderly Affairs and the Office of Public and Professional Guardians.

(2) CONTRACT.—The direct-support organization shall operate under a written contract with the Office of Public and Professional Guardians. The written contract must provide for:

(a) Certification by the Office of Public and Professional Guardians that the direct-support organization is complying with the terms of the contract and is doing so consistent with the goals and purposes of the office and in the best interests of the state. This certification must be made annually and reported in the official minutes of a meeting of the direct-support organization.

(b) The reversion of moneys and property held in trust by the direct-support organization:

1. To the Office of Public and Professional Guardians if the direct-support organization is no longer approved to operate for the office;
2. To the Office of Public and Professional Guardians if the direct-support organization ceases to exist;
3. To the Department of Elderly Affairs if the Office of Public and Professional Guardians ceases to exist; or
4. To the state if the Department of Elderly Affairs ceases to exist.

The fiscal year of the direct-support organization shall begin on July 1 of each year and end on June 30 of the following year.

(c) The disclosure of the material provisions of the contract, and the distinction between the Office of Public and Professional Guardians and the direct-support organization, to donors of gifts, contributions, or bequests, including such disclosure on all promotional and fundraising publications.

(3) BOARD OF DIRECTORS.—The Secretary of Elderly Affairs shall appoint a board of directors for the direct-support organization from a list of nominees submitted by the executive director of the Office of Public and Professional Guardians.

(4) USE OF PROPERTY.—The Department of Elderly Affairs may permit, without charge, appropriate use of fixed property and facilities of the department or the Office of Public and Professional Guardians by the direct-support organization. The department may prescribe any condition with which the direct-support organization must comply in order to use fixed property or facilities of the department or the Office of Public and Professional Guardians.

(5) MONEYS.—Any moneys may be held in a separate depository account in the name of the direct-support organization and subject to the provisions of the written contract with the Office of Public and Professional Guardians. Expenditures of the direct-support organization shall be expressly used to support the Office of Public and Professional Guardians. The expenditures of the direct-support organization may not be used for the purpose of lobbying as defined in s. 11.045.

(6) PUBLIC RECORDS.—Personal identifying information of a donor or prospective donor to the direct-support organization who desires to remain anonymous is confidential and exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution.

(7) AUDIT.—The direct-support organization shall provide for an annual financial audit in accordance with s. 215.981.

(8) DISSOLUTION.—A not-for-profit corporation incorporated under chapter 617 that is determined by a circuit court to be representing itself as a direct-support organization created under this section, but that does not

have a written contract with the Office of Public and Professional Guardians in compliance with this section, is considered to meet the grounds for a judicial dissolution described in s. 617.1430(1)(a). The Office of Public and Professional Guardians shall be the recipient for all assets held by the dissolved corporation which accrued during the period that the dissolved corporation represented itself as a direct-support organization created under this section.

~~(9) REPEAL.—This section is repealed October 1, 2018, unless reviewed and saved from repeal by the Legislature.~~

Section 2. This act shall take effect July 1, 2018.

Approved by the Governor March 19, 2018.

Filed in Office Secretary of State March 19, 2018.