

1. Effective January 1, 2008, the Court is adopting the following as a policy and is providing notice of this proposed Local Rule of Court for comment pursuant to Supt.R.5:

Rule 67.1 When the net proceeds of a claim for the benefit of a minor is Ten Thousand and No/100 Dollars (\$10,000) or less, an application may be filed with the Court to consider the approval of the claim by a parent or other next friend of the minor. The Court will consider whether to dispense with the appointment of a guardian for the estate of the minor under the same case number.

When the net proceeds of the claim for the benefit of a minor is over Ten Thousand and No/100 Dollars (\$10,000), an application shall be filed for the appointment of a guardian for the estate of that minor. The Court will consider the approval of that claim under the guardianship case number.

2. Due to a recent Court of Appeals decision on this issue, the Court will no longer be following a policy that a minimum bond shall always be filed by a nonresident executor even if the bond is waived by the will. However, counsel are referenced to R.C. 2109.04(A)(2), which provides that as a general rule: "...if the instrument creating the trust dispenses with the giving of bond, the court shall appoint a fiduciary without bond unless [emphasis added] the court is of the opinion that the interest of the trust demands it". Also, R.C. 2109.21(B)(1) provides that to qualify for appointment a nonresident executor named in a will "...shall be an individual who is related to the maker of the will by consanguinity or affinity" or who otherwise qualifies under that section. That same section further provides that the court "...may require that a nonresident executor ...named in, or nominated pursuant to, a will assure that all of the assets of the decedent that are in the county at the time of the death of the decedent will remain in the county until distribution or until the court determines that the assets may be removed from the county." Therefore, while there will no longer be a standing requirement that a nonresident executor named in a will be required to file a minimum bond, that does not mean that a bond is never required. A bond will be required if the court determines that the "interest of the trust demands it", or if the the requirements of R.C. 2109.21(B)(1) are not met.

A suggested Local Form which adds a check box and language for the appointment of an out-of-state executor without bond is found in the **Forms** section of the **Probate** menu found on the upper left of the Probate Court home page. Forms are in PDF format.