
By: **Senator Green**

Introduced and read first time: February 1, 2000

Assigned to: Judicial Proceedings

A BILL ENTITLED

1 AN ACT concerning

2 **Estates and Trusts - Personal Representative - Execution of Bond**

3 FOR the purpose of altering the order of application of provisions of law requiring a
4 personal representative appointed to administer an estate to execute a certain
5 bond under certain circumstances; requiring every personal representative to
6 execute a bond to secure payment of debts and certain taxes of the estate;
7 authorizing a court to require a personal representative to execute a bond to
8 secure payment to all interested parties under certain circumstances; and
9 generally relating to requiring a personal representative to execute a bond.

10 BY repealing and reenacting, with amendments,
11 Article - Estates and Trusts
12 Section 6-102
13 Annotated Code of Maryland
14 (1991 Replacement Volume and 1999 Supplement)

15 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF
16 MARYLAND, That the Laws of Maryland read as follows:

17 **Article - Estates and Trusts**

18 6-102.

19 (a) (1) Subject to the provisions of subsections (b) and (c) [unless] OF THIS
20 SECTION, EVEN IF a bond is expressly excused by the will of the decedent or by the
21 written waiver of all interested persons, every personal representative shall execute a
22 bond to the State of Maryland [for the benefit of all interested persons and creditors
23 with a surety or sureties approved by the register.

24 (b) (1) Even if a personal representative is excused from giving bond, a bond
25 shall be given] in an amount which the register or the court considers sufficient to
26 secure the payment of the debts and Maryland inheritance taxes payable by the
27 personal representative. The bond shall be conditioned accordingly.

1 (2) Even if a bond is not required as a condition of the appointment of a
2 personal representative, the court may require a bond during the administration
3 upon the petition of an interested person or creditor and for good cause shown.

4 (B) UPON THE PETITION OF AN INTERESTED PERSON OR CREDITOR AND FOR
5 GOOD CAUSE SHOWN, THE COURT MAY REQUIRE THE PERSONAL REPRESENTATIVE
6 TO EXECUTE A BOND TO THE STATE OF MARYLAND FOR THE BENEFIT OF ALL
7 INTERESTED PERSONS AND CREDITORS WITH A SURETY OR SURETIES APPROVED BY
8 THE REGISTER.

9 (c) (1) A national banking association as defined in the Financial
10 Institutions Article or a trust company serving as a personal representative is not
11 required to give a bond.

12 (2) A bond shall not be required for any period following the final
13 approval of the final administration account.

14 (d) The surety on the bond may be a corporation authorized to act as a surety
15 in the State or one or more individuals approved by the register. Unless otherwise
16 ordered by the court, all sureties and the personal representatives are jointly and
17 severally liable on the bond.

18 (e) (1) The penalty sum of a bond shall be fixed by the court or register in an
19 amount not exceeding the probable maximum value of the personal property of the
20 estate during administration less:

21 (i) The market value, as determined by the court, of collateral
22 posted with the court by the personal representative; and

23 (ii) The amount of cash belonging to the estate if deposited with a
24 banking institution approved by the court in an account expressly made subject to
25 withdrawal only in a manner that is approved by the court.

26 (2) The penalty sum may be increased or decreased by the court in its
27 discretion for good cause at any time during administration.

28 (f) Every bond executed by a personal representative shall be filed in the
29 office of the register. A person may obtain a copy of the bond certified by the register.

30 (g) The premium for a bond shall be chargeable against the property of the
31 estate.

32 (h) (1) [The bond shall be substantially in the following form:

33 The condition of the above obligation is such, that if shall well and truly
34 perform the office of the personal representative of, late of, deceased,
35 according to law, and shall in all respects discharge the duties required of him by law
36 as personal representative without any injury or damage to any person interested in
37 the faithful performance of the office, then the above obligation shall be void; it is
38 otherwise to be in full force and effect.

1 (2) If the giving of a bond is excused or waived, the] THE required
2 nominal bond shall be substantially in the following form:

3 The condition of the above obligation is such, that if shall, as personal
4 representative of late of, deceased, pay the debts due by the deceased
5 and the Maryland inheritance tax payable by the personal representative, then the
6 above obligation shall be void; it is otherwise to be in full force and effect.

7 (2) IF A BOND IS REQUIRED UNDER SUBSECTION (B) OF THIS SECTION,
8 THE BOND SHALL BE SUBSTANTIALLY IN THE FOLLOWING FORM:

9 THE CONDITION OF THE ABOVE OBLIGATION IS SUCH, THAT IF SHALL
10 WELL AND TRULY PERFORM THE OFFICE OF THE PERSONAL REPRESENTATIVE OF
11, LATE OF, DECEASED, ACCORDING TO LAW, AND SHALL IN ALL RESPECTS
12 DISCHARGE THE DUTIES REQUIRED BY LAW AS PERSONAL REPRESENTATIVE
13 WITHOUT ANY INJURY OR DAMAGE TO ANY PERSON INTERESTED IN THE FAITHFUL
14 PERFORMANCE OF THE OFFICE, THEN THE ABOVE OBLIGATION SHALL BE VOID; IT IS
15 OTHERWISE TO BE IN FULL FORCE AND EFFECT.

16 (i) (1) The court may require additional security, new security, and
17 countersecurity in accordance with the Maryland Rules.

18 (2) If the personal representative does not within a reasonable time fixed
19 by the court give new security or countersecurity as may be required by order of the
20 court, if the personal representative is removed as provided by § 6-306, or if the
21 personal representative fails to account for and deliver the property belonging to the
22 estate to the newly appointed successor personal representative or special
23 administrator, the court may direct the bond of the personal representative to be put
24 in suit.

25 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
26 October 1, 2000.