

SENATE BILL 314

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2000 Regular Session  
0lr1661

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By: **Senator Green**  
Introduced and read first time: February 1, 2000  
Assigned to: Judicial Proceedings

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Committee Report: Favorable with amendments  
Senate action: Adopted  
Read second time: February 23, 2000

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CHAPTER \_\_\_\_\_

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~~ bonds under certain circumstances; requiring every personal  
6 representative to execute a bond to secure payment of debts and certain taxes,  
7 costs, and fees of the estate; authorizing a court to require a personal  
8 representative to execute a bond ~~to secure payment to all interested parties for~~  
9 the benefit of all interested persons and creditors under certain circumstances;  
10 and generally relating to requiring a personal representative to execute a bond.

11 BY repealing and reenacting, with amendments,  
12 Article - Estates and Trusts  
13 Section 6-102  
14 Annotated Code of Maryland  
15 (1991 Replacement Volume and 1999 Supplement)

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

18 **Article - Estates and Trusts**

19 6-102.

20 (a) (1) Subject to the provisions of subsections (b) and (c) [unless] OF THIS  
21 SECTION, EVEN IF a bond is expressly excused by the will of the decedent or by the  
22 written waiver of all interested persons, every personal representative shall execute a

1 bond to the State of Maryland [for the benefit of all interested persons and creditors  
2 with a surety or sureties approved by the register.

3 (b) (1) Even if a personal representative is excused from giving bond, a bond  
4 shall be given] in an amount which the register or the court considers sufficient to  
5 secure the payment of the debts ~~and~~ Maryland inheritance taxes, COURT COSTS, AND  
6 REGISTER'S FEES payable by the personal representative. The bond shall be  
7 conditioned accordingly.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

10 The condition of the above obligation is such, that if ..... shall, as personal  
11 representative of ..... late of ....., deceased, pay the debts due by the deceased  
12 ~~and~~ the Maryland inheritance tax, COURT COSTS, AND REGISTER'S FEES payable by  
13 the personal representative, then the above obligation shall be void; it is otherwise to  
14 be in full force and effect.

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

17 THE CONDITION OF THE ABOVE OBLIGATION IS SUCH, THAT IF ..... SHALL  
18 WELL AND TRULY PERFORM THE OFFICE OF THE PERSONAL REPRESENTATIVE OF  
19 ....., LATE OF ....., DECEASED, ACCORDING TO LAW, AND SHALL IN ALL RESPECTS  
20 DISCHARGE THE DUTIES REQUIRED BY LAW AS PERSONAL REPRESENTATIVE  
21 WITHOUT ANY INJURY OR DAMAGE TO ANY PERSON INTERESTED IN THE FAITHFUL  
22 PERFORMANCE OF THE OFFICE, THEN THE ABOVE OBLIGATION SHALL BE VOID; IT IS  
23 OTHERWISE TO BE IN FULL FORCE AND EFFECT.

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

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

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

