

Stricken language would be deleted from and underlined language would be added to the law as it existed prior to this session of the General Assembly.

1 State of Arkansas
2 84th General Assembly
3 Regular Session, 2003

A Bill

HOUSE BILL 2315

4
5 By: Representative Fite
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For An Act To Be Entitled

8 AN ACT TO ALLOW TESTATORS WITH ESTATES VALUED AT
9 TWO HUNDRED THOUSAND DOLLARS (\$200,000) OR
10 GREATER TO WAIVE THE SURETY BOND REQUIREMENT FOR
11 HIS OR HER PERSONAL REPRESENTATIVE BY SIGNING AN
12 AFFIDAVIT AFFIRMING THAT THE TESTATOR UNDERSTANDS
13 THAT THE DEVISEES MAY NOT TAKE THEIR DEVISES IF
14 THE PERSONAL REPRESENTATIVE DEPLETES THE ESTATE
15 IN A MANNER NOT AUTHORIZED BY THE WILL, OR
16 DEPLETES THE ESTATE IN A MANNER THAT VIOLATES
17 ARKANSAS LAW OR OTHERWISE VIOLATES THE PERSONAL
18 REPRESENTATIVE'S FIDUCIARY DUTIES; AND FOR OTHER
19 PURPOSES.
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Subtitle

21
22 ALLOW TESTATORS WITH ESTATES VALUED AT
23 TWO HUNDRED THOUSAND DOLLARS (\$200,000)
24 OR GREATER TO WAIVE THE SURETY BOND
25 REQUIREMENT BY SIGNING AN AFFIDAVIT.
26
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28

29 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:
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31 SECTION 1. Arkansas Code § 28-48-201(a) is amended to read as follows:

32 (a) (1) Prior to the issuance of letters and except as provided in §
33 28-48-206, the court or the clerk, subject to approval or rejection by the
34 court, shall take a bond from the personal representative with two (2) or
35 more sufficient sureties who are residents of this state, or a corporate



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1 surety authorized to do business in this state, for the benefit of the
2 interested parties. The bond shall be in an amount fixed by the court not
3 less than double the amount or, if the surety is corporate, then not less
4 than the amount, of the estimated value of the property which may reasonably
5 be expected to pass through the hands of the personal representative.

6 (2) If the value of the estate to be distributed is two hundred
7 thousand dollars (\$200,000) or greater, a testator may direct or request in
8 his or her will that no bond will be required of his or her personal
9 representative only if the testator executes a signed affidavit stating:
10 “I, _____, affirm that I understand that, by waiving the
11 bond requirement under Arkansas Code § 28-48-201, my devisees may not take
12 their devises in the event the personal representative depletes the estate in
13 a manner not authorized by the will, or depletes the estate in a manner that
14 violates Arkansas law or otherwise violates the personal representative’s
15 fiduciary duties.”

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17 SECTION 2. Arkansas Code § 28-48-206(b) is amended to read as follows:

18 (b)(1) At its discretion and subject to subsequent revocation, the
19 court may dispense with the requirement of a bond when, by the terms of the
20 will, the testator directed or requested that no bond be required of the
21 personal representative.

22 (2) If value of the estate to be distributed is two hundred
23 thousand dollars (\$200,000) or greater, the court may not dispense with the
24 bond requirement unless the testator has signed the affidavit required under
25 § 28-48-205.