

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
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5 By: Representative Fite
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As Engrossed: H4/2/03
A Bill

HOUSE BILL 2315

For An Act To Be Entitled

9 *AN ACT TO ALLOW TESTATORS TO WAIVE THE SURETY*
10 *BOND REQUIREMENT FOR HIS OR HER PERSONAL*
11 *REPRESENTATIVE BY SIGNING AN AFFIDAVIT AFFIRMING*
12 *THAT THE TESTATOR UNDERSTANDS THAT THE DEVISEES*
13 *MAY NOT TAKE THEIR DEVISES IF THE PERSONAL*
14 *REPRESENTATIVE DEPLETES THE ESTATE IN A MANNER*
15 *NOT AUTHORIZED BY THE WILL, OR DEPLETES THE*
16 *ESTATE IN A MANNER THAT VIOLATES ARKANSAS LAW OR*
17 *OTHERWISE VIOLATES THE PERSONAL REPRESENTATIVE'S*
18 *FIDUCIARY DUTIES; AND FOR OTHER PURPOSES.*

Subtitle

21 ALLOW TESTATORS WITH ESTATES VALUED AT
22 TWO HUNDRED THOUSAND DOLLARS (\$200,000)
23 OR GREATER TO WAIVE THE SURETY BOND
24 REQUIREMENT BY SIGNING AN AFFIDAVIT.
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27 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:
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29 SECTION 1. Arkansas Code § 28-48-201(a) is amended to read as follows:

30 (a)(1) Prior to the issuance of letters and except as provided in §
31 28-48-206, the court or the clerk, subject to approval or rejection by the
32 court, shall take a bond from the personal representative with two (2) or
33 more sufficient sureties who are residents of this state, or a corporate
34 surety authorized to do business in this state, for the benefit of the
35 interested parties. The bond shall be in an amount fixed by the court not
36 less than double the amount or, if the surety is corporate, then not less



1 than the amount, of the estimated value of the property which may reasonably
2 be expected to pass through the hands of the personal representative.

3 (2) For wills or codicils executed on or after the effective
4 date of this act, a testator may direct or request in his or her will or
5 codicil that no bond will be required of his or her personal representative
6 only if the testator executes a signed affidavit stating:

7 “I, _____, affirm that I understand that, by waiving the
8 bond requirement under Arkansas Code § 28-48-201, my devisees may be deprived
9 of their devises in the event the personal representative depletes the estate
10 in a manner not authorized by the will, or depletes the estate in a manner
11 that violates Arkansas law or otherwise violates the personal
12 representative’s fiduciary duties.”

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

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

19 (2) For wills or codicils executed on or after the effective
20 date of this act, the court may not dispense with the bond requirement unless
21 the testator has signed the affidavit required under § 28-48-205.

22 (3) This section does not affect any claims or causes of action
23 that a devisee may have against a personal representative for depletion of
24 the estate in an unauthorized or unlawful manner.

25 /s/ Fite
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