

CHAPTER 208

AN ACT concerning the voluntary discharge of personal representatives for estates by application to the Surrogate's Court, and supplementing chapter 10 of Title 3B of the New Jersey Statutes.

BE IT ENACTED by the Senate and General Assembly of the State of New Jersey:

C.3B:10-30.1 Voluntary discharge of personal representative for an estate.

1. a. (1) Following appointment by the Surrogate's Court, whenever a personal representative for an estate is unwilling or unable to perform the duties and powers of a personal representative, that personal representative may seek to be voluntarily discharged from the further performance of the duties and powers of the office by filing for voluntary discharge with the Surrogate's Court of the county which granted the personal representative's letters. Any application for voluntary discharge shall be consented to by all parties in interest to the estate that is under the administration of the personal representative seeking to be discharged.

(2) Nothing in this section concerning the voluntary discharge of a personal representative through an application filed with the Surrogate's Court shall prohibit a personal representative from instead filing a discharge action with the Superior Court pursuant to N.J.S.3B:14-18 et seq.

b. The voluntary discharge filing shall include the following:

(1) A request for discharge, made in accordance with Rules of Court adopted by the Supreme Court, which contains the following information:

(a) the name of the personal representative seeking to be discharged, and the representative's address where future pleadings involving the estate can be served;

(b) the name and address of every party in interest to the estate, and a description of that party's interest;

(c) an affirmation by the personal representative that every party in interest to the estate listed in the form pursuant to subparagraph (b) of this paragraph has consented to the voluntary discharge of the personal representative, accompanied by the written, notarized consent of every party in interest, or that of any party in interest under disability whose consent is provided by the party's guardian or other legal representative;

(d) an affirmation by the personal representative, if applicable, that every party in interest to the estate listed in the form pursuant to subparagraph (b) of this paragraph has consented to waiving the additional requirement, set forth in subsection c. of this section, that the personal representative file a verified final account with the Chancery Division, Probate Part for adjudication, showing the true condition of the estate, in order to release any sureties on the personal representative's bond, accompanied by the written, notarized consent of every party in interest, or that of any party in interest under disability whose consent is provided by the party's guardian or other legal representative. This consent and the consent presented pursuant to subparagraph (c) of this paragraph, whereby every party in interest has agreed to the voluntary discharge of the personal representative, may be included in the same notarized document; and

(e) a statement that the personal representative's voluntary discharge is not intended to impair the rights of any party in interest or creditor of the estate; and

(2) Along with the request for discharge and any accompanying documents, an application completed by another person to be appointed a successor or substitute personal representative for the estate.

c. (1) The personal representative filing for voluntary discharge with the Surrogate's Court shall also file a verified final account showing the true condition of the estate with a verified complaint in the Chancery Division, Probate Part for adjudication, unless every party in interest to the estate listed in the Personal Representative Voluntary Discharge Form pursuant to subparagraph (b) of paragraph (1) of subsection b. of this section has consented in a written, notarized document to waiving this additional requirement and this consent accompanies the discharge form in lieu of any filing for a final account of the estate with the Chancery Division, Probate Part.

(2) Any sureties on the bond of a personal representative who files for voluntary discharge with the Surrogate's Court shall not be released until a final judgment has been rendered on the verified final account of the estate, unless the additional requirement for the final account was waived by the consent of every party in interest.

(3) Notwithstanding any consent by every party in interest to waive the requirement of a verified final account of an estate, a creditor of that estate whose interest has not been satisfied may petition the Superior Court for an accounting of the estate.

d. (1) A personal representative shall be discharged from the further performance of the duties and powers of the office, and the personal representative's letters revoked, upon the approval of the personal representative's voluntary discharge filing by the Surrogate's Court; except the personal representative shall account for and pay over the money and assets with which the personal representative is chargeable by virtue of the office to the successor or substitute personal representative.

(2) A personal representative who is voluntarily discharged from the office pursuant to an approved voluntary discharge filing shall not be entitled to any statutory commissions relating to the performance of the duties and powers of that office.

2. This act shall take effect on the 60th day after the date of enactment, except the Administrative Office of the Courts and the County Surrogates may take any anticipatory administrative action in advance of the effective date as shall be necessary to implement the provisions of this act.

Approved August 7, 2017.