

CHAPTER 142 - OATHS AND BONDS

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SECTION 142.010 Oath or affirmation of personal representative.

1. Before letters may be issued to a personal representative, the personal representative must take and subscribe an oath or affirmation, before a person authorized to administer oaths, that the personal representative will perform according to law the duties of a personal representative. The oath must be filed by the clerk.

2. The oath of a corporation appointed as a personal representative may be taken and subscribed by an authorized representative upon its behalf.

SECTION 142.020 Requirement of bond discretionary with court; reduction of bond; proof of blocked account; additional bond; amount of bond.

1. The requirement of a bond of a personal representative is discretionary with the court. Whether a bond is expressly required by the will or not, the court may:

- (a) Require a bond if it determines a bond is desirable; or
- (b) Dispense with the requirement of a bond if it determines a bond is unnecessary.

2. The bond must be conditioned so that the personal representative will faithfully execute the duties of the office according to law, and the bond must be filed by the clerk.

3. Personal assets of an estate may be deposited with a domestic credit union or other domestic financial institution upon such terms as may be prescribed by order of the court having jurisdiction of the estate. The deposit is subject to the further order of the court. The bond of the personal representative may be reduced accordingly. The personal representative shall file with the clerk the acknowledgment of an authorized representative of the financial institution that holds the assets deposited, which may be in the following form:

PROOF OF BLOCKED ACCOUNT

The undersigned affirms that, as personal representative of the estate of, deceased, has established an account, number, entitled “.....,” in the amount of \$.....

The undersigned acknowledges that this account bears a blocked/frozen designation, and that no money may be removed without first presenting an order from the court authorizing the withdrawal.

Dated on (date).

By:

Title:

4. During the pendency of the administration, any person, including a creditor, having an interest in an estate whose value exceeds \$10,000 may file a petition requesting that the personal representative submit additional bond. Upon the filing of the petition, the clerk shall set it for hearing, and the petitioner shall give notice for the period and in the manner provided in [SECTION 155.010](#). Upon hearing the petition, the court may require the personal representative to file additional bond in the amount of the claim of the petitioner, unless it determines that bond should be dispensed with or set in a different amount.

5. The amount of the bond is the estimated value of all personal property plus income for 1 year from both real and personal property, unless the amount of the bond is expressly mentioned in the will, changed by the court or required pursuant to subsection 4.

6. If a banking corporation, as defined in [SECTION 657.016](#) of the Nevada Revised Statutes, or trust company, as defined in [SECTION 669.070](#) of the Nevada Revised Statutes, doing business in this State is appointed the personal representative of the estate of a decedent, no bond is required unless otherwise specifically required by the court.

SECTION 142.030 Nature of surety's liability; Extent of bond. The bond is not void upon the first recovery, but may be sued upon from time to time by any person aggrieved in that person's own name until the whole penalty is exhausted.

SECTION 142.035 Jurisdiction of court over surety; clerk of court appointed as agent of surety; enforcement of liability of surety. If a personal representative is required by a court pursuant to the provisions of this chapter to provide security in the form of cash or a bond, stipulation or other undertaking with one or more sureties, each surety for that security submits to the jurisdiction of the court which ordered the security, and irrevocably appoints the clerk of that court as the agent upon whom any papers affecting the surety's liability on the security may be served. The liability of the surety may be enforced on petition without the necessity of an independent action. The petition and such notice of the hearing upon the petition as the court prescribes may be served on the clerk of the court, who shall mail copies to the surety at the surety's last known address.

SECTION 142.040 Justification on oath required by surety. If a bond is required under this chapter, the sureties must justify on oath before the court or clerk or before a notary public, or tribal judge, to the effect that they are householders, or freeholders, within this Reservation, and worth the amount for which they become surety, over and above all just debts and liabilities, exclusive of property exempt from execution. The justification must be signed by the sureties and certified by the person taking the justification, and endorsed on or attached to and filed with the bond.

SECTION 142.050 Hearing to determine accuracy of justification of surety; additional security.

1. Before a court approves any bond required under this chapter, it may, on its own motion, or at any time after the approval of a bond upon petition of an interested person, supported by affidavit that any one or all of the sureties is or are not worth as much as justified to, order a citation to issue, requiring the surety or sureties to appear before the court at a particular time and place to testify relating to the property and its value. The court shall, at the time the citation is issued, cause a notice or subpoena to issue to the personal representative requiring his appearance at the return of the citation.

2. Upon the return of the citation, the court shall question the surety and such witnesses as may be produced concerning the property of the surety or sureties and its value. If, upon such investigation, the court is satisfied that the bond is insufficient, it may require sufficient additional security within such time as it may set.

SECTION 142.060 Appointment of person next entitled. If sufficient security is not given within the time fixed by the court's order, or such further time as the court may allow, the right of the personal representative to administer the estate ceases and the person next entitled to the administration of the estate, who will post a sufficient bond, must be appointed to the administration.

SECTION 142.070 Bond may be required despite provisions of will. If it is expressly provided in the will of a decedent that no bond may be required of the personal representative, letters may issue without any bond being given, but a personal representative to whom letters have been issued without bond may, at any time afterward, if it is shown for any cause to be necessary or proper, be required to provide and file a bond as in other cases.

SECTION 142.080 Petition for additional security; court may require additional security; petition for increase in bond.

1. If an interested person discovers that the sureties of a personal representative have become or are becoming insolvent, or that any one of them has removed from, or is about to remove from the Reservation or State, or that from any other cause the bond is insufficient, the interested person may file a petition with the court requesting that further security be given.

2. If it comes to the knowledge of the court that the bond is for any cause insufficient, it may, on its own motion, without any petition, require further security.

3. A personal representative or his counsel, if either becomes aware of facts causing a need therefor, shall petition the court for an order ex parte increasing a bond to the total appraised value of personal property on hand plus 1 year's estimated income from real and personal property. In an accounting, if a bond has been posted, a separate paragraph must be included describing the total bond posted, the appraised value of personal property on hand plus the estimated annual income from real and personal property and a statement of any additional bond thereby required.

SECTION 142.090 Hearing on sufficiency: Issuance and service of citation; order.

1. If the court is satisfied from a petition for additional bond or otherwise believes that the matter requires investigation, a citation must be issued to the personal representative requiring the personal representative to appear before the court at a designated time and place, to show cause why the personal representative should not give further security. The citation must be served on the personal representative pursuant to [SECTION 155.050](#).

2. On the return of the citation or at such other time as the court may appoint, it shall proceed to hear the matter, and if it satisfactorily appears that the security, from any cause, is insufficient, it shall enter an order requiring the personal representative to give further security, or to file a new bond in the usual form, within a reasonable time, not less than 5 nor more than 30 days.

SECTION 142.100 Appointment of person next in order. If sufficient security or additional security is not given within the time fixed by the court's order, the right of the personal representative to administer the estate ceases, and the person next entitled to administer the estate, who will post a sufficient bond, must be appointed. If letters have already been issued to the personal representative, the letters must be revoked and the authority of the personal representative thereupon ceases. The person next entitled to administer the estate, who will post a proper bond, must be appointed, upon giving the notice required by [SECTION 155.010](#).

SECTION 142.110 Suspension of powers pending hearing; effect of order of suspension.

1. If a petition is presented requesting that a personal representative be required to give further security, and if it is also alleged on oath or affirmation that the personal representative is wasting the property of the estate, the court may, by order, suspend the powers of the personal representative until the matter can be heard and determined.

2. If an order of suspension is entered, the personal representative is restrained as provided in [SECTION 141.095](#). After the suspension, the personal representative must be cited to show cause and the matter must be heard and determined pursuant to [SECTION 141.130](#).

SECTION 142.130 Petition of surety for discharge; issuance and service of citation. If a surety of a personal representative desires to be released from responsibility on account of future acts, the surety may petition the court for relief. The court shall cite the personal representative to appear at a designated time and place and give other security. If the personal representative cannot be found after due diligence and inquiry, the citation may be served by leaving a copy of it at the residence of the personal representative, or by serving the attorney of the personal representative, or by such publication as the court orders pursuant to the provisions of [SECTION 143.190](#).

SECTION 142.140 Revocation for failure to give new sureties. If the personal representative neglects or refuses to give new sureties, to the satisfaction of the court, on the return of the citation, the court being satisfied the citation has been served, or within such reasonable time as the court allows, not exceeding 5 days unless the surety petitioning consents to a longer extension of time, the court shall revoke the letters granted.

SECTION 142.150 Discharge of sureties. If new sureties are given to the satisfaction of the court, it shall thereupon enter an order that the surety who applied for relief is not liable for any subsequent act, default or misconduct of the personal representative.