524.3-606 TERMS AND CONDITIONS OF BONDS.

(a) The following requirements and provisions apply to any bond required by this part:

(1) Bonds shall name the state as obligee for the benefit of the persons interested in the estate and shall be conditioned upon the faithful discharge by the fiduciary of all duties according to law.

(2) Unless otherwise provided by the terms of the approved bond, sureties are jointly and severally liable with the personal representative and with each other. The address of sureties shall be stated in the bond.

(3) By executing an approved bond of a personal representative, the surety consents to the jurisdiction of the probate court which issued letters to the primary obligor in any proceedings pertaining to the fiduciary duties of the personal representative and naming the surety as a party. Notice of such proceeding shall be delivered to the surety or mailed by registered or certified mail at the address listed with the court where the bond is filed and to the address then known to the petitioner.

(4) On petition of a successor personal representative, any other personal representative of the same decedent, or any interested person, a proceeding in the court may be initiated against a surety for breach of the obligation of the bond of the personal representative.

(5) The bond of the personal representative is not void after the first recovery but may be proceeded against from time to time until the whole penalty is exhausted.

(b) No action or proceeding may be commenced against the surety on any matter as to which an action or proceeding against the primary obligor is barred by adjudication or limitation.

(c) If a sole or last surviving representative is removed, is disabled or dies, the court may, upon notice and hearing, order the representative's surety to file a verified final account and petition for complete settlement and, if proper, for distribution and closing of the estate.

If in a proceeding under this clause the court determines that the representative has mismanaged the estate, misappropriated funds or committed other misconduct for which the surety is liable, the court shall settle the account and enter judgment against the representative and the surety as may be appropriate. The judgment may be filed, docketed and enforced in the same manner as any other judgment. This remedy is in addition to any other remedy for breach of the obligations of the bond.

History: *1974 c 442 art 3 s 524.3-606; 1975 c 347 s 50; 1977 c 154 s 2; 1986 c 444*