

§ 28A-8-3. Modification of bond requirements.

(a) Increase of Bond or Security in Case of Inadequacy or Insufficiency. –

- (1) The clerk of superior court, on the clerk's own motion, may require the personal representative to give a new bond or to furnish additional security if the clerk of superior court finds that the bond filed pursuant to this Article, or its security, is insufficient, inadequate in amount, or that any of the individual sureties has become or is about to become a nonresident or, in the case of a corporate surety, has withdrawn or is about to withdraw from doing business in this State.
- (2) Any interested person may file a verified petition in accordance with Article 2 of this Chapter requesting modification of bond requirements. Upon the filing of a verified petition, the clerk of superior court shall conduct a hearing in accordance with Article 2 of this Chapter. If the clerk of superior court finds that the bond filed or its security is insufficient or inadequate, the clerk shall make an order requiring the personal representative to give a new bond or to furnish additional security within a reasonable time to be fixed in the order.

(b) Increase of Bond upon Sale of Real Estate. – When a personal representative makes application for an order to sell real estate, the provisions of G.S. 1-339.10 shall govern.

(c) Reduction of Bond. – On application of the personal representative the penalty of the bond may be reduced from time to time when the clerk of superior court finds that such reduction is clearly justified, but in no event shall the penalty of the bond be reduced below the amount required by G.S. 28A-8-2(3).

(d) Substitution of Security. – When a bond is secured by a mortgage or deed of trust on real estate as provided in G.S. 28A-8-2(4)c or a deposit of negotiable securities as provided in G.S. 28A-8-2(4)d, the clerk of superior court may, on application of the personal representative, order that such real estate or negotiable securities, or a part thereof, be released upon the substitution therefor of other security in compliance with G.S. 28A-8-2(4)a, (4)c, or (4)d. Such substitution may be allowed in conjunction with any other modification of bond requirements permitted by this section. (1868-9, c. 113, s. 89; Code, s. 1518; Rev., s. 32; C.S., s. 43; 1973, c. 1329, s. 3; 2011-344, s. 4.)