

LEGISLATIVE BILL 500

Approved by the Governor April 21, 1975

Introduced by Murphy, 17

AN ACT to amend section 30-2446, Revised Statutes Supplement, 1974, relating to the probate of wills; to revise the requirements for bonds; and to repeal the original section.

Be it enacted by the people of the State of Nebraska,

Section 1. That section 30-2446, Revised Statutes Supplement, 1974, be amended to read as follows:

30-2446. ~~A bond is required (1) upon the appointment of a special administrator; (2) when a personal representative is appointed to administer an estate under a will containing an express requirement of bond; but a bond required by will may be dispensed with in a formal proceeding upon determination by the court that it is not necessary; or (3) when bond is required under section 30-2448. Bond is not required of a personal representative if the will relieves the personal representative of bond, unless bond has been requested by an interested party. No bond is required of any personal representative who, pursuant to statutes, has deposited cash or collateral with an agency of this state to secure performance of his duties. In other cases, bond may be required by court order at or after the time of appointment of a personal representative appointed in any formal or informal proceeding or thereafter in any formal proceeding brought to secure bond or any other relief.~~

(1) A bond shall be required of a personal representative unless: (a) The will expressly waives the bond, expressly requests that there be no bond, or waives the requirement of a surety thereon other than the personal representative; (b) all of the heirs, if no will has been probated, or all of the devisees under a will which does not provide for relieving the personal representative of bond in accordance with subdivision (1) (a) of this section, file with the court a written waiver of the bond requirement; a duly appointed guardian or conservator may waive on behalf of his ward or protected person unless the guardian or conservator is the personal representative; (c) the personal representative is a national banking association, a holder of a banking permit under the laws of this state, or a trust company holding a certificate to engage in trust business from the Department of Banking; or (d) the petition for formal or informal appointment alleges that the probable value

of the entire estate will permit summary procedures under section 30-24,127.

(2) In any case when bond is not required under subsection (1) of this section, the court may, upon petition of any interested person and upon reasonable proof that the interest of the petitioning person is in danger of being lost because of the administration of the estate, require a bond in such amount as the court may direct in order to protect the interest of the petitioner or of the petitioner and others. An heir or devisee who initially waived bond may be a petitioner under this subsection.

(3) If a bond is not initially required because the petition for appointment alleges that the probable value of the entire estate will permit summary procedures under section 30-24,127, and it later appears from the inventory and appraisal that the value of the estate will not permit use of such procedures, then the personal representative shall promptly file a bond unless one is not required for some other reason under subsection (1) of this section.

Sec. 2. That original section 30-2446, Revised Statutes Supplement, 1974, is repealed.