

LDIR#208
ART. III
ADMINISTRA-
TION
PART 3 BONDS

Final

Sec. 5.01. BOND OF PERSONAL REPRESENTATIVE. a. Letters may be issued to a personal representative only after he files a bond of an amount determined by the court to be sufficient to protect interested parties. The bond, to be procured at the expense of the estate, is conditioned upon the faithful discharge by the personal representative of his lawful duties. In the absence of special circumstances, the court shall fix the amount of the bond at the sum of:

(1) the value of any part of the estate which appears to the court to be easily convertible by the personal representative during the period of administration, plus

(2) the value of the easily convertible annual income of the estate.

b. The court may at any time increase or decrease the amount of the bond in the best interests of the estate. In the absence of special circumstances, the court shall change the required amount to correspond to not less than the sum of a(1) and (2) above.

~~SOURCE:~~ Model, sec. 106, sec. 115; Mo. sec. 74; Cal. Prob.C.A. Sec. 541; ACLA, Sec. 61-4-1.

COMMENT: /

A bond has almost always been regarded as necessary to protect an estate from maladministration, 2 Woerner 830, and requirements are found in nearly all if not all states. Stat. Notes for Sec. 106, Model Code, p. 310. However, it is questionable whether the rigid imposition of a statutory amount is necessary or desirable. Comment to Sec. 106. This section therefore changes ~~ACLA's rule, laid down in Sec. 61-4-1,~~ ^(HCLA 1949) and allows the

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Part ~~IV~~^{III}. Bonds

Sec. 4.01. Personal representative to give bond.

Except as provided in section 4.02, every personal representative shall, before entering upon the duties of his office and within such time as the court directs, execute and file a bond, procured at the expense of the estate, with sufficient surety or sureties in such amount as the court finds necessary for the protection of interested parties, conditioned upon the faithful discharge of all duties of his trust according to law, including his duty to account as provided in section _____.

In the absence of special circumstances, the court shall fix the bond in the amount of the value of any part of the estate which it can determine from examination that the personal representative might easily convert during the period of administration plus the value of the gross annual income of the estate.

Source: