

§ 28A-8-5. Rights of surety in danger of loss.

Any surety on the bond of a personal representative who is in danger of loss under the surety's suretyship may file a verified petition with the clerk of superior court setting forth the facts, and asking that such personal representative be removed from office, or that the personal representative be required to give security to indemnify the petitioner against apprehended loss, or that the petitioner be discharged as surety and be released from liability for any future breach of the bond. The clerk of superior court shall conduct a hearing in accordance with Article 2 of this Chapter. If, upon the hearing, the clerk of superior court determines that the surety is entitled to relief, the clerk may grant the same in such manner as to serve the best interest of the estate. In any event, however, the previous surety shall not be released from liability for any breach of duty by the personal representative occurring prior to the filing of bond with a new surety unless the new surety assumes liability for the earlier breaches. (1868-9, c. 113, s. 90; Code, s. 1519; Rev., s. 33; C.S., s. 41; 1973, c. 1329, s. 3; 2011-344, s. 4.)