

# VIRGINIA ACTS OF ASSEMBLY -- 1996 SESSION

## CHAPTER 57

*An Act to amend and reenact § 64.1-121 of the Code of Virginia, relating to when a surety is not required.*

[H 525]

Approved March 4, 1996

**Be it enacted by the General Assembly of Virginia:**

**1. That § 64.1-121 of the Code of Virginia is amended and reenacted as follows:**

§ 64.1-121. When security not required.

If all distributees of a decedent's estate or all beneficiaries under the decedent's will are personal representatives of that decedent's estate, whether serving alone or with others who are not distributees or beneficiaries, the court or clerk shall not require security; ~~nor shall~~; *if all personal representatives of a testate decedent are entitled to file a statement in lieu of an accounting under § 26-20.1, the security shall be required only upon the portion of their bond given in connection with the property passing to beneficiaries who are not personal representatives; and no security shall be required of an executor when the will waives security of an executor nominated therein. However, in either any case, upon the application of any person who has a pecuniary interest or upon motion of the court or clerk, such fiduciary may be required to provide security in an amount deemed sufficient. If at any time any person with an interest, or a legatee, devisee or distributee of an estate files with the court a motion in writing suggesting that surety upon the bond should be required of a fiduciary for the protection of the estate, a copy of such motion shall be served upon the fiduciary. The court shall hear the matter and may require the fiduciary to furnish surety upon his bond in the amount it deems necessary and, in addition, award to the movant reasonable attorney's fees and costs which shall be paid out of the estate.*

This section shall be deemed to permit qualification without security in situations where the personal representative or personal representatives are the only distributees or only beneficiaries by virtue of one or more instruments of disclaimer filed prior to, or at the time of, such personal representative's qualification.