



**VETO MESSAGE:** No

**GOVERNOR'S PRESS RELEASE ON SIGNING:** Yes

**FOLLOWING WERE PRINTED:**

To check for circulating copies, contact New Jersey State Government Publications at the State Library (609) 278-2640 ext.103 or <mailto:refdesk@njstatelib.org>

**REPORTS:** No

**HEARINGS:** No

**NEWSPAPER ARTICLES:** No

RH/CL

P.L.2017, CHAPTER 208, *approved August 7, 2017*  
Assembly, No. 1955 (*Second Reprint*)

1 AN ACT concerning <sup>1</sup>**[fiduciaries]** the voluntary discharge of  
2 personal representatives for estates by application to the  
3 Surrogate's Court <sup>2</sup>**[or Surrogate's Office]** <sup>1</sup> and <sup>1</sup>**[amending**  
4 **N.J.S.3B:14-18 and N.J.S.3B:14-19]** supplementing chapter 10  
5 of Title 3B of the New Jersey Statutes <sup>1</sup>.

6  
7 **BE IT ENACTED** *by the Senate and General Assembly of the State*  
8 *of New Jersey:*

9  
10 <sup>1</sup>**[1. N.J.S.3B:14-18 is amended to read as follows:**  
11 3B:14-18. Discharge from office of fiduciary; account;  
12 allowances.

13 A fiduciary may be discharged from the further duties of his  
14 office by the court by which the fiduciary was appointed. A  
15 fiduciary appointed by the Superior Court may request discharge by  
16 filing a complaint in the Superior Court. A fiduciary appointed by  
17 the Surrogate's Court may request discharge by filing an application  
18 in the Surrogate's Court.

19 The court shall examine into the matter and if sufficient cause  
20 appears, the court may grant the discharge unless it will be  
21 prejudicial to the estate or persons interested therein or for any  
22 other reason the discharge ought not to be granted.

23 A discharge so granted shall discharge the fiduciary of all the  
24 further duties of his office except accounting for and paying over  
25 the money and assets with which he is chargeable by virtue of his  
26 office.

27 If the fiduciary is discharged, the court **[shall]** may make orders  
28 respecting his commissions as may be just and equitable.  
29 (cf: N.J.S.3B:14-18)]<sup>1</sup>

30  
31 <sup>1</sup>**[2. N.J.S.3B:14-19 is amended to read as follows:**  
32 3B:14-19. Discharge from particular trust; effect.

33 **[Where a] a. A fiduciary [is] acting under a governing**  
34 **instrument including a fiduciary appointed [by] under a will to**  
35 **perform a particular trust [thereunder], [he] may [be discharged**  
36 **from the performance thereof] request discharge, without complaint**  
37 **or application, by filing with the court by which the fiduciary was**  
38 **appointed the following: (1) a written statement of intent to resign,**

**EXPLANATION – Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted in the law.**

**Matter underlined thus is new matter.**

**Matter enclosed in superscript numerals has been adopted as follows:**

<sup>1</sup>**Senate SJU committee amendments adopted March 13, 2017.**

<sup>2</sup>**Senate floor amendments adopted May 25, 2017.**

1 (2) a copy of the governing instrument which expressly authorizes  
 2 resignation of the fiduciary, (3) proof of compliance with the terms,  
 3 if any, set forth in the governing instrument, and (4) proof that the  
 4 resigning fiduciary has served written notice of intent to resign on  
 5 all co-fiduciaries and all parties to the estate or trust at least 20 days  
 6 prior to filing with the court.

7 b. A court in receipt of a request for discharge that meets the  
 8 requirements established pursuant to subsection a. of this section  
 9 shall discharge the fiduciary if: (1) no opposition has been filed, (2)  
 10 the discharge will not be prejudicial to the estate or persons  
 11 interested therein, and (3) either the estate or trust administration is  
 12 concluded, there is a co-fiduciary with authority to continue with  
 13 the administration, or there is a successor fiduciary appointed  
 14 simultaneously with the discharge who is acceptable to the court.

15 c. Upon finding that the requirements of this section have been  
 16 met [The] the court [may] shall grant the discharge and the  
 17 fiduciary shall be relieved of all further duties [and liabilities with  
 18 respect to the trust] of his office, except accounting for and paying  
 19 over to his successor all moneys or assets [pertaining to the trust,  
 20 for which he is accountable] with which he is chargeable by virtue  
 21 of his office.

22 (cf: N.J.S.3B:14-19)]<sup>1</sup>

23  
 24 <sup>1</sup>1. a. (1) Following appointment <sup>2</sup>by the Surrogate's Court<sup>2</sup>,  
 25 whenever a personal representative for an estate is unwilling or  
 26 unable to perform the duties and powers of a personal  
 27 representative, that personal representative may seek to be  
 28 voluntarily discharged from the further performance of the duties  
 29 and powers of the office by filing for voluntary discharge with the  
 30 Surrogate's Court of the county which granted the personal  
 31 representative's letters <sup>2</sup>[, or, if the letters were granted by the  
 32 Superior Court, by filing for voluntary discharge with the  
 33 Surrogate's Office where the Surrogate is acting as deputy clerk of  
 34 the Chancery Division, Probate Part for the Superior Court that  
 35 issued the letters appointing the personal representative]<sup>2</sup>. Any  
 36 application for voluntary discharge shall be consented to by all  
 37 parties in interest to the estate that is under the administration of the  
 38 personal representative seeking to be discharged.

39 (2) Nothing in this section concerning the voluntary discharge of  
 40 a personal representative through an application filed with the  
 41 Surrogate's Court <sup>2</sup>[or Surrogate's Office, as applicable,]<sup>2</sup> shall  
 42 prohibit a personal representative from instead filing a discharge  
 43 action with the Superior Court pursuant to N.J.S.3B:14-18 et seq.

44 b. The voluntary discharge filing <sup>2</sup>[, wherever made,]<sup>2</sup> shall  
 45 include the following:

46 (1) A <sup>2</sup>[completed Personal Representative Voluntary Discharge  
 47 Form, as promulgated by the Administrative Office of the Courts,]

1 request for discharge, made in accordance with Rules of Court  
2 adopted by the Supreme Court,<sup>2</sup> which contains the following  
3 information:

4 (a) the name of the personal representative seeking to be  
5 discharged, and the representative's address where future pleadings  
6 involving the estate can be served;

7 (b) the name and address of every party in interest to the estate,  
8 and a description of that party's interest;

9 (c) an affirmation by the personal representative that every party  
10 in interest to the estate listed in the form pursuant to subparagraph  
11 (b) of this paragraph has consented to the voluntary discharge of the  
12 personal representative, accompanied by the written, notarized  
13 consent of every party in interest, or that of any party in interest  
14 under disability whose consent is provided by the party's guardian  
15 or other legal representative;

16 (d) an affirmation by the personal representative, if applicable,  
17 that every party in interest to the estate listed in the form pursuant  
18 to subparagraph (b) of this paragraph has consented to waiving the  
19 additional requirement, set forth in subsection c. of this section, that  
20 the personal representative file a verified final account with the  
21 Chancery Division, Probate Part for adjudication, showing the true  
22 condition of the estate, in order to release any sureties on the  
23 personal representative's bond, accompanied by the written,  
24 notarized consent of every party in interest, or that of any party in  
25 interest under disability whose consent is provided by the party's  
26 guardian or other legal representative. This consent and the consent  
27 presented pursuant to subparagraph (c) of this paragraph, whereby  
28 every party in interest has agreed to the voluntary discharge of the  
29 personal representative, may be included in the same notarized  
30 document; and

31 (e) a statement that the personal representative's voluntary  
32 discharge is not intended to impair the rights of any party in interest  
33 or creditor of the estate; and

34 (2) Along with the <sup>2</sup>**【Personal Representative Voluntary**  
35 **Discharge Form】** request for discharge<sup>2</sup> and any accompanying  
36 documents, an application completed by another person to be  
37 appointed a successor <sup>2</sup>or substitute<sup>2</sup> personal representative for the  
38 estate.

39 c. (1) The personal representative filing for voluntary discharge  
40 with the Surrogate's Court <sup>2</sup>**【or Surrogate's Office, as applicable,】**<sup>2</sup>  
41 shall also file a verified final account showing the true condition of  
42 the estate with a verified complaint in the Chancery Division,  
43 Probate Part for adjudication, unless every party in interest to the  
44 estate listed in the Personal Representative Voluntary Discharge  
45 Form pursuant to subparagraph (b) of paragraph (1) of subsection b.  
46 of this section has consented in a written, notarized document to  
47 waiving this additional requirement and this consent accompanies

1 the discharge form in lieu of any filing for a final account of the  
2 estate with the Chancery Division, Probate Part.

3 (2) Any sureties on the bond of a personal representative who  
4 files for voluntary discharge with the Surrogate's Court <sup>2</sup>[or  
5 Surrogate's Office, as applicable,]<sup>2</sup> shall not be released until a  
6 final judgment has been rendered on the verified final account of  
7 the estate, unless the additional requirement for the final account  
8 was waived by the consent of every party in interest.

9 (3) Notwithstanding any consent by every party in interest to  
10 waive the requirement of a verified final account of an estate, a  
11 creditor of that estate whose interest has not been satisfied may  
12 petition the Superior Court for an accounting of the estate.

13 d. (1) A personal representative shall be discharged from the  
14 further performance of the duties and powers of the office, and the  
15 personal representative's letters revoked, upon the approval of the  
16 personal representative's voluntary discharge filing by the  
17 Surrogate's Court <sup>2</sup>[or Surrogate's Office, as applicable]<sup>2</sup>; except  
18 the personal representative shall account for and pay over the  
19 money and assets with which the personal representative is  
20 chargeable by virtue of the office <sup>2</sup>to the successor or substitute  
21 personal representative<sup>2</sup>.

22 (2) A personal representative who is voluntarily discharged from  
23 the office pursuant to an approved voluntary discharge filing shall  
24 not be entitled to any statutory commissions relating to the  
25 performance of the duties and powers of that office.<sup>1</sup>

26  
27 <sup>1</sup>[3.] 2.<sup>1</sup> This act shall take effect <sup>1</sup>[immediately] on the 60th  
28 day after the date of enactment, except the Administrative Office of  
29 the Courts and the County Surrogates may take any anticipatory  
30 administrative action in advance of the effective date as shall be  
31 necessary to implement the provisions of this act<sup>1</sup>.

32

33

34

35

36 Provides for voluntary discharge of personal representatives  
37 overseeing administration of estates by application to the  
38 Surrogate's Court.

# ASSEMBLY, No. 1955

## STATE OF NEW JERSEY 217th LEGISLATURE

PRE-FILED FOR INTRODUCTION IN THE 2016 SESSION

**Sponsored by:**

**Assemblywoman PATRICIA EGAN JONES**

**District 5 (Camden and Gloucester)**

**Assemblywoman PAMELA R. LAMPITT**

**District 6 (Burlington and Camden)**

**Co-Sponsored by:**

**Assemblymen Taliaferro, Rible and Webber**

**SYNOPSIS**

Updates process by which a fiduciary may be discharged.

**CURRENT VERSION OF TEXT**

Introduced Pending Technical Review by Legislative Counsel.



**(Sponsorship Updated As Of: 2/9/2016)**

1 AN ACT concerning fiduciaries and amending N.J.S.3B:14-18 and  
2 N.J.S.3B:14-19.

3

4 **BE IT ENACTED** by the Senate and General Assembly of the State  
5 of New Jersey:

6

7 1. N.J.S.3B:14-18 is amended to read as follows:

8 3B:14-18. Discharge from office of fiduciary; account;  
9 allowances.

10 A fiduciary may be discharged from the further duties of his  
11 office by the court by which the fiduciary was appointed. A  
12 fiduciary appointed by the Superior Court may request discharge by  
13 filing a complaint in the Superior Court. A fiduciary appointed by  
14 the Surrogate's Court may request discharge by filing an application  
15 in the Surrogate's Court.

16 The court shall examine into the matter and if sufficient cause  
17 appears, the court may grant the discharge unless it will be  
18 prejudicial to the estate or persons interested therein or for any  
19 other reason the discharge ought not to be granted.

20 A discharge so granted shall discharge the fiduciary of all the  
21 further duties of his office except accounting for and paying over  
22 the money and assets with which he is chargeable by virtue of his  
23 office.

24 If the fiduciary is discharged, the court **[shall]** may make orders  
25 respecting his commissions as may be just and equitable.  
26 (cf: N.J.S.3B:14-18)

27

28 2. N.J.S.3B:14-19 is amended to read as follows:

29 3B:14-19. Discharge from particular trust; effect.

30 **[Where a]** a. A fiduciary **[is]** acting under a governing  
31 instrument including a fiduciary appointed **[by]** under a will to  
32 perform a particular trust **[thereunder]**, **[he]** may **[be discharged**  
33 from the performance thereof] request discharge, without complaint  
34 or application, by filing with the court by which the fiduciary was  
35 appointed the following: (1) a written statement of intent to resign,  
36 (2) a copy of the governing instrument which expressly authorizes  
37 resignation of the fiduciary, (3) proof of compliance with the terms,  
38 if any, set forth in the governing instrument, and (4) proof that the  
39 resigning fiduciary has served written notice of intent to resign on  
40 all co-fiduciaries and all parties to the estate or trust at least 20 days  
41 prior to filing with the court.

42 b. A court in receipt of a request for discharge that meets the  
43 requirements established pursuant to subsection a. of this section  
44 shall discharge the fiduciary if: (1) no opposition has been filed, (2)

**EXPLANATION** – Matter enclosed in bold-faced brackets **[thus]** in the above bill is  
not enacted and is intended to be omitted in the law.

Matter underlined thus is new matter.



1 the discharge will not be prejudicial to the estate or persons  
2 interested therein, and (3) either the estate or trust administration is  
3 concluded, there is a co-fiduciary with authority to continue with  
4 the administration, or there is a successor fiduciary appointed  
5 simultaneously with the discharge who is acceptable to the court.

6 c. Upon finding that the requirements of this section have been  
7 met **【The】** the court **【may】** shall grant the discharge and the  
8 fiduciary shall be relieved of all further duties **【and liabilities with**  
9 **respect to the trust】** of his office, except accounting for and paying  
10 over to his successor all moneys or assets **【pertaining to the trust,**  
11 **for which he is accountable】** with which he is chargeable by virtue  
12 of his office.

13 (cf: N.J.S.3B:14-19)

14

15 3. This act shall take effect immediately.

16

17

18

#### STATEMENT

19

20 This bill would update the process by which a fiduciary may be  
21 discharged from office.

22 The bill would amend the current law to specify that a fiduciary  
23 may be discharged upon filing a complaint or application with the  
24 court by which the fiduciary was appointed, and the court's finding  
25 that sufficient cause, without being prejudicial to the estate or  
26 persons interested therein, exists.

27 In addition, the bill would amend the current law governing the  
28 discharge of fiduciaries acting under a governing instrument,  
29 including a fiduciary appointed under a will to perform a particular  
30 trust. Such a fiduciary could request discharge without filing a  
31 complaint or application to the court. The bill would instead  
32 require that the fiduciary file with the court by which the fiduciary  
33 was appointed the following: (1) a written statement of intent to  
34 resign; (2) a copy of the governing instrument which expressly  
35 authorizes resignation of the fiduciary; (3) proof of compliance with  
36 the terms, if any, set forth in the governing instrument; and (4)  
37 proof that the resigning fiduciary has served written notice of intent  
38 to resign on all co-fiduciaries and all parties to the estate or trust at  
39 least 20 days prior to the filing with the court.

40 A court in receipt of a fiduciary's proper filing seeking discharge  
41 would be required to discharge the fiduciary if: no opposition has  
42 been filed; the discharge would not be prejudicial to the estate or  
43 persons interested therein; and either the estate or trust  
44 administration is concluded, there is a co-fiduciary with authority to  
45 continue with the administration, or there is a successor fiduciary  
46 appointed simultaneous with the discharge who is acceptable to the  
47 court.

STATEMENT TO  
[First Reprint]  
**ASSEMBLY, No. 1955**

with Senate Floor Amendments  
(Proposed by Senator A.R. BUCCO)

ADOPTED: MAY 25, 2017

The underlying bill provides for a voluntary discharge process for personal representatives overseeing the administration of estates, whether those personal representatives were appointed by the Surrogate's Court or the Probate Part of the Superior Court, Chancery Division. The floor amendments would limit the scope of the bill so that it would only apply to personal representatives appointed by the Surrogate's Court.

The floor amendments would also eliminate the requirement that the Administrative Office of the Courts (AOC) develop a Personal Representative Voluntary Discharge Form for use by personal representatives seeking to be discharged. Instead, a discharge filing would be done in accordance with Rules of Court adopted by the New Jersey Supreme Court, with the information to be included in the filing similar to what would have been required in the discharge form promulgated by the AOC.

Lastly, the floor amendments provide that a discharged personal representative may be replaced by either a successor or a substitute personal representative. The underlying bill only made reference to a successor personal representative.

# ASSEMBLY JUDICIARY COMMITTEE

## STATEMENT TO

### ASSEMBLY, No. 1955

# STATE OF NEW JERSEY

DATED: JUNE 6, 2016

The Assembly Judiciary Committee reports favorably Assembly Bill No. 1955.

This bill would update the process by which a fiduciary may be discharged from office.

Under current law, a fiduciary may be discharged from the further duties of his office by the court. The bill specifies that a fiduciary may be discharged by the court by which the fiduciary was appointed. A fiduciary appointed by the Superior Court may request discharge by filing a complaint in the Superior Court, and a fiduciary appointed by the Surrogate's Court may request discharge by filing an application in the Surrogate's Court. Under current law, which is unchanged by the bill, the court shall examine into the matter and if sufficient cause appears the court may grant the discharge unless it will be prejudicial to the estate or persons interested therein or for any other reason the discharge ought not to be granted.

The bill would also amend the current law governing the discharge of fiduciaries acting under a governing instrument, including a fiduciary appointed under a will to perform a particular trust. Such a fiduciary could request discharge without filing a complaint or application to the court. The bill would instead require that the fiduciary file with the court by which the fiduciary was appointed: (1) a written statement of intent to resign; (2) a copy of the governing instrument which expressly authorizes resignation of the fiduciary; (3) proof of compliance with the terms, if any, set forth in the governing instrument; and (4) proof that the resigning fiduciary has served written notice of intent to resign on all co-fiduciaries and all parties to the estate or trust at least 20 days prior to the filing with the court.

A court in receipt of a fiduciary's request for discharge that meets the requirements of the bill would be required to discharge the fiduciary if: no opposition has been filed; the discharge would not be prejudicial to the estate or persons interested therein; and either the estate or trust administration is concluded, there is a co-fiduciary with authority to continue with the administration, or there is a successor fiduciary appointed simultaneous with the discharge who is acceptable to the court.

Upon finding that the requirements of the bill have been met, the court would grant the discharge and the fiduciary would be relieved of all further duties of his office, except accounting for and paying over to his successor all moneys or assets with which he is chargeable by virtue of his office.

This bill was pre-filed for introduction in the 2016-2017 session pending technical review. As reported, the bill includes the changes required by technical review, which has been performed.

# SENATE JUDICIARY COMMITTEE

## STATEMENT TO

### **ASSEMBLY, No. 1955**

with committee amendments

# **STATE OF NEW JERSEY**

DATED: MARCH 13, 2017

The Senate Judiciary Committee reports favorably and with committee amendments Assembly Bill No. 1955.

This bill, as amended, would provide for the voluntary discharge of personal representatives for estates by way of application to the Surrogate's Court or Surrogate's Office. A "personal representative" is a recognized subset of fiduciary under Title 3B of the New Jersey Statutes whose duties and powers concern the administration of estates.

Under the bill, following appointment, whenever a personal representative for an estate is unwilling or unable to perform the duties and powers of a personal representative, that personal representative could seek to be voluntarily discharged from the further performance of the duties and powers of the office by filing for voluntary discharge with the Surrogate's Court of the county which granted the personal representative's letters, or, if granted by the Superior Court, by filing for voluntary discharge with the Surrogate's Office where the Surrogate is acting as deputy clerk of the Chancery Division, Probate Part for the Superior Court that issued the letters appointing the personal representative. Any application for voluntary discharge would need to be consented to in a written, notarized document by each party in interest to the estate that is under the administration of the personal representative seeking to be discharged.

The voluntary discharge filing, wherever made, would include: a completed Personal Representative Voluntary Discharge Form, as promulgated by the Administrative Office of the Courts, which contained contact information for the personal representative seeking to be discharged, and every party in interest to the estate (with a description of that party's interest); accompanying proof that each party in interest consented to the discharge; and an application completed by another person to be appointed a successor personal representative for the estate.

The personal representative filing for voluntary discharge would also be required to file a verified final account showing the true condition of the estate with a verified complaint in the Chancery Division, Probate Part for adjudication, unless every party in interest

to the estate listed in the discharge form has consented in a written, notarized document to waiving this additional requirement and this consent accompanies the discharge form filed with the Surrogate's Court or Surrogate's Office, as applicable.

Any sureties on the bond of a personal representative who makes a voluntary discharge filing could not be released until a final judgment has been rendered on the verified final account of the estate by the Chancery Division, Probate Part, unless this additional requirement for the final account was waived by the consent of every party in interest as explained above. Notwithstanding any consent to waive the requirement of a verified final account of an estate, a creditor of an estate whose interest has not been satisfied may petition the Superior Court for an accounting of the estate.

A personal representative would be discharged from the further performance of the duties and powers of the office, and the personal representative's letters revoked, upon the acceptance of the personal representative's voluntary discharge filing by the Surrogate's Court or Surrogate's Office, as applicable; except the personal representative would still have to account for and pay over the money and assets with which the personal representative is chargeable by virtue of the office. Additionally, the discharged personal representative would not be entitled to any statutory commissions relating to the performance of the duties and powers of the office.

This bill, as amended and reported by the committee, is identical to the Senate Committee Substitute for Senate Bill No. 1795, also reported by the committee today.

The committee amendments to the bill:

- eliminate all of the amendatory sections of the underlying bill proposing an updated process by which any fiduciary could be discharged, which would have included discharge by the fiduciary's filing of a complaint or application, or by the filing of a written statement (with notice to all affected parties to an estate or trust), in whichever court appointed the fiduciary, either the Surrogate's Court or the Superior Court; and

- replace the eliminated sections with a new supplemental section providing for the voluntary discharge of personal representatives for estates, a specific subset of fiduciary under Title 3B of the New Jersey Statutes, as described in the bill statement above.

**SENATE, No. 1795**

**STATE OF NEW JERSEY**  
**217th LEGISLATURE**

INTRODUCED MARCH 7, 2016

**Sponsored by:**

**Senator ANTHONY R. BUCCO**

**District 25 (Morris and Somerset)**

**Senator STEVEN V. OROHO**

**District 24 (Morris, Sussex and Warren)**

**SYNOPSIS**

Updates process by which a fiduciary may be discharged.

**CURRENT VERSION OF TEXT**

As introduced.



**(Sponsorship Updated As Of: 6/21/2016)**

1 AN ACT concerning fiduciaries and amending N.J.S.3B:14-18 and  
2 N.J.S.3B:14-19.

3

4 **BE IT ENACTED** by the Senate and General Assembly of the State  
5 of New Jersey:

6

7 1. N.J.S.3B:14-18 is amended to read as follows:

8 3B:14-18. Discharge from office of fiduciary; account;  
9 allowances.

10 A fiduciary may be discharged from the further duties of his  
11 office by the court by which the fiduciary was appointed. A  
12 fiduciary appointed by the Superior Court may request discharge by  
13 filing a complaint in the Superior Court. A fiduciary appointed by  
14 the Surrogate's Court may request discharge by filing an application  
15 in the Surrogate's Court.

16 The court shall examine into the matter and if sufficient cause  
17 appears, the court may grant the discharge unless it will be  
18 prejudicial to the estate or persons interested therein or for any  
19 other reason the discharge ought not to be granted.

20 A discharge so granted shall discharge the fiduciary of all the  
21 further duties of his office except accounting for and paying over  
22 the money and assets with which he is chargeable by virtue of his  
23 office.

24 If the fiduciary is discharged, the court **[shall]** may make orders  
25 respecting his commissions as may be just and equitable.

26 (cf: N.J.S.3B:14-18)

27

28 2. N.J.S.3B:14-19 is amended to read as follows:

29 3B:14-19. Discharge from particular trust; effect.

30 **[Where a]** a. A fiduciary **[is]** acting under a governing  
31 instrument including a fiduciary appointed **[by]** under a will to  
32 perform a particular trust **[thereunder]**, **[he]** may **[be discharged**  
33 from the performance thereof] request discharge, without complaint  
34 or application, by filing with the court by which the fiduciary was  
35 appointed the following: (1) a written statement of intent to resign,  
36 (2) a copy of the governing instrument which expressly authorizes  
37 resignation of the fiduciary, (3) proof of compliance with the terms,  
38 if any, set forth in the governing instrument, and (4) proof that the  
39 resigning fiduciary has served written notice of intent to resign on  
40 all co-fiduciaries and all parties to the estate or trust at least 20 days  
41 prior to filing with the court.

42 b. A court in receipt of a request for discharge that meets the  
43 requirements established pursuant to subsection a. of this section  
44 shall discharge the fiduciary if: (1) no opposition has been filed, (2)  
45 the discharge will not be prejudicial to the estate or persons

**EXPLANATION** – Matter enclosed in bold-faced brackets **[thus]** in the above bill is  
not enacted and is intended to be omitted in the law.

Matter underlined thus is new matter.



1 interested therein, and (3) either the estate or trust administration is  
2 concluded, there is a co-fiduciary with authority to continue with  
3 the administration, or there is a successor fiduciary appointed  
4 simultaneously with the discharge who is acceptable to the court.

5 c. Upon finding that the requirements of this section have been  
6 met [The] the court [may] shall grant the discharge and the  
7 fiduciary shall be relieved of all further duties [and liabilities with  
8 respect to the trust] of his office, except accounting for and paying  
9 over to his successor all moneys or assets [pertaining to the trust,  
10 for which he is accountable] with which he is chargeable by virtue  
11 of his office.

12 (cf: N.J.S.3B:14-19)

13

14 3. This act shall take effect immediately.

15

16

17

#### STATEMENT

18

19 This bill would update the process by which a fiduciary may be  
20 discharged from office.

21 The bill would amend the current law to specify that a fiduciary  
22 may be discharged upon filing a complaint or application with the  
23 court by which the fiduciary was appointed, and the court's finding  
24 that sufficient cause, without being prejudicial to the estate or  
25 persons interested therein, exists.

26 In addition, the bill would amend the current law governing the  
27 discharge of fiduciaries acting under a governing instrument,  
28 including a fiduciary appointed under a will to perform a particular  
29 trust. Such a fiduciary could request discharge without filing a  
30 complaint or application to the court. The bill would instead  
31 require that the fiduciary file with the court by which the fiduciary  
32 was appointed the following: (1) a written statement of intent to  
33 resign; (2) a copy of the governing instrument which expressly  
34 authorizes resignation of the fiduciary; (3) proof of compliance with  
35 the terms, if any, set forth in the governing instrument; and (4)  
36 proof that the resigning fiduciary has served written notice of intent  
37 to resign on all co-fiduciaries and all parties to the estate or trust at  
38 least 20 days prior to the filing with the court.

39 A court in receipt of a fiduciary's proper filing seeking discharge  
40 would be required to discharge the fiduciary if: no opposition has  
41 been filed; the discharge would not be prejudicial to the estate or  
42 persons interested therein; and either the estate or trust  
43 administration is concluded, there is a co-fiduciary with authority to  
44 continue with the administration, or there is a successor fiduciary  
45 appointed simultaneous with the discharge who is acceptable to the  
46 court.

# SENATE JUDICIARY COMMITTEE

## STATEMENT TO

### SENATE COMMITTEE SUBSTITUTE FOR **SENATE, No. 1795**

# **STATE OF NEW JERSEY**

DATED: MARCH 13, 2017

The Senate Judiciary Committee reports favorably a Senate Committee Substitute for Senate Bill No. 1795.

This substitute bill would provide for the voluntary discharge of personal representatives for estates by way of application to the Surrogate's Court or Surrogate's Office. A "personal representative" is a recognized subset of fiduciary under Title 3B of the New Jersey Statutes whose duties and powers concern the administration of estates.

Under the bill, following appointment, whenever a personal representative for an estate is unwilling or unable to perform the duties and powers of a personal representative, that personal representative could seek to be voluntarily discharged from the further performance of the duties and powers of the office by filing for voluntary discharge with the Surrogate's Court of the county which granted the personal representative's letters, or, if granted by the Superior Court, by filing for voluntary discharge with the Surrogate's Office where the Surrogate is acting as deputy clerk of the Chancery Division, Probate Part for the Superior Court that issued the letters appointing the personal representative. Any application for voluntary discharge would need to be consented to in a written, notarized document by each party in interest to the estate that is under the administration of the personal representative seeking to be discharged.

The voluntary discharge filing, wherever made, would include: a completed Personal Representative Voluntary Discharge Form, as promulgated by the Administrative Office of the Courts, which contained contact information for the personal representative seeking to be discharged, and every party in interest to the estate (with a description of that party's interest); accompanying proof that each party in interest consented to the discharge; and an application completed by another person to be appointed a successor personal representative for the estate.

The personal representative filing for voluntary discharge would also be required to file a verified final account showing the true condition of the estate with a verified complaint in the Chancery Division, Probate Part for adjudication, unless every party in interest

to the estate listed in the discharge form has consented in a written, notarized document to waiving this additional requirement and this consent accompanies the discharge form filed with the Surrogate's Court or Surrogate's Office, as applicable.

Any sureties on the bond of a personal representative who makes a voluntary discharge filing could not be released until a final judgment has been rendered on the verified final account of the estate by the Chancery Division, Probate Part, unless this additional requirement for the final account was waived by the consent of every party in interest as explained above. Notwithstanding any consent to waive the requirement of a verified final account of an estate, a creditor of an estate whose interest has not been satisfied may petition the Superior Court for an accounting of the estate.

A personal representative would be discharged from the further performance of the duties and powers of the office, and the personal representative's letters revoked, upon the acceptance of the personal representative's voluntary discharge filing by the Surrogate's Court or Surrogate's Office, as applicable; except the personal representative would still have to account for and pay over the money and assets with which the personal representative is chargeable by virtue of the office. Additionally, the discharged personal representative would not be entitled to any statutory commissions relating to the performance of the duties and powers of the office.

This substitute bill, as reported, is identical to Assembly Bill No. 1955, as amended and also reported today by the committee.

[Home](#) [Newsroom](#) [Media](#) [Administration](#) [NJ's Priorities](#) [Contact Us](#)
[Press Releases](#) [Public Addresses](#) [Executive Orders](#) [Press Kit](#) [Reports](#)
[Home](#) > [Newsroom](#) > [Press Releases](#) > 2017

## Governor Christie Takes Action On Pending Legislation

Monday, August 7, 2017

Tags: [Bill Action](#)

Trenton, NJ - Governor Chris Christie today announced that he has taken action on the following pending legislation:

### **BILL SIGNINGS:**

**S-169/A-4329 (Bateman/McKeon, Zwicker)** - Allows certain emergency squad volunteers holding municipal elective office to vote on emergency squad concerns

**S-452/A-838 (Sacco, Greenstein/Jimenez, Moriarty)** - Requires waiver of dealer obligation regarding necessary repairs impacting vehicle inspection to include description of known defects

**S-678/A-4967 (Rice/Watson, Tucker, Caputo)** - Requires local government units to certify compliance with certain federal hiring requirements when filing annual budgets

**S-726/A-4460 (Cruz-Perez, Oroho/Jones, Mosquera, Downey, Johnson)** – Extends full protection of Law Against Discrimination to persons having liability for service in Armed Forces of United States; guarantees equal employment opportunity in State contracting to all veterans

**S-996wGR/A-1378 (Rice, Van Drew, Turner/Muoio, Benson, Pintor Marin, Quijano, Schaer)** – Requires report on status of lead-safe program in DCA

**S-1219/A-936 (Holzapfel, Allen/Wolfe, McGuckin, Oliver, Giblin, Wimberly)** - Requires reporting of suspected abuse of institutionalized elderly to police and that facility employees receive notice of reporting requirement annually; designated as "Peggy's Law"

**S-1359/A-4096 (A.R. Bucco, Stack/A.M. Bucco, Vainieri Huttie, McKnight, Mazzeo)** - Guarantees full and equal access to all housing to disabled persons who retain their retired service or guide dog as a pet, and who also obtain a new service or guide dog

**S-1497/A-3225 (A.R. Bucco, Pennacchio/Dancer, Clifton, Munoz, A.M. Bucco)** - Designates Killed in Action flag as an official State flag; mandates it be displayed at certain public buildings

**SCS for S-1640, 1642, 1013/AS AS ACS for A-3152, 3154, 2426 (Van Drew, Holzapfel, Singer, Turner/Andrzejczak, McGuckin, Land, Wolfe, Vainieri Huttie, Taliaferro, Benson)** - Establishes requirements concerning necessary care of dogs, domestic companion animals, and service animals, and for tethering of dogs

**S-1660/A-770 (Van Drew, Cruz-Perez/Andrzejczak, Land, Houghtaling, DeAngelo, Johnson)** - Provides for voluntary contributions by taxpayers on gross income tax returns for maintenance of certain State memorials honoring war veterans

**S-1731/A-2368 (Gordon, Allen/Vainieri Huttie)** - Permits municipality to establish civil penalty for smoking in public places

**S-1739/A-2167 (Turner, Diegnan/Johnson, Vainieri Huttie, Wimberly)** - Establishes sexual assault training requirements for law enforcement officers

**S-1750/A-2729 (Madden, Cruz-Perez/A.M. Bucco, DeAngelo, Space, Mosquera, Wisniewski, DeCroce, Mukherji, Jones)** - Establishes special motorcycle license plates for veterans

**Stay Connected**  
with Social Media

**Stay Connected**  
with Email Alerts

LIKE THIS PAGE? SHARE IT  
WITH YOUR FRIENDS.

[+](#) SHARE [f](#) [t](#) [e](#) [...](#)

### More Information

[Letter Regarding S3074 \[pdf 45kB\]](#)

**S-1808/A-3342 (Van Drew, Diegnan/Karabinchak)** - Designates striped bass as NJ State Saltwater Fish; redesignates brook trout as NJ Freshwater Fish

**S-2153/A-3520 (Gordon/Eustace, Sumter, Wimberly, Vainieri Huttle, Johnson)** – Requires NJTA to study impact of constructing rail stations at certain park and ride facilities

**S-2369/A-4152 (Whelan, Van Drew, Connors/Andrzejczak, Mazzeo, Land, Burzichelli)** - Limits application of DEP shellfish habitat rules for certain dredging activities

**S-2457/A-3999 (Van Drew, Oroho/Houghtaling, Andrzejczak, Mazzeo, Space, Downey)** - Enables collection of voluntary contributions for Jersey Fresh Program through gross income tax returns

**S-2578/A-4239 (Cunningham, Pou, Gordon/Sumter, Jasey, Benson, Muoio, Downey, Mukherji)** - Revises New Jersey College Loans to Assist State Students Loan Program to require applicants first exhaust federal student loans, require income verification, and limit total student loan amounts

**S-2884/A-4484 (Whelan, Greenstein/Eustace, Quijano, Chiaravalloti, Caride)** - Declares that deed restrictions or agreements that prevent raising or constructing of a structure to certain flood elevation standards are unenforceable

**S-2892/A-5042 (Sweeney/Giblin)** - Exempts certain real estate brokers, broker-salespersons and salespersons from continuing education requirement

**S-3074/A-4586 (Lesniak, Turner/Johnson, Oliver, Holley, Chiaravalloti)** - Establishes gubernatorial veto power over Waterfront Commission of New York Harbor's meeting minutes; expands gubernatorial oversight powers over commission

**S-3244/A-4854 (Sweeney, Allen/Singleton, Burzichelli, Taliaferro)** - Designates portion of Interstate Highway Route 295 in West Deptford Township as "State Trooper Sean E. Cullen Memorial Highway"

**A-445/S-1661 (Mazzeo, Pinkin, DeAngelo, Chiaravalloti/Van Drew, A.R. Bucco)** - Provides for voluntary contributions by taxpayers on gross income tax returns for the NJ World War II Veterans' Memorial Fund

**A-1185/S-2771 (Mosquera, Holley, Moriarty, Quijano/Cruz-Perez, Van Drew)** - Requires State Comptroller to report findings of audit compliance reviews

**A-1199/S-1326 (Mosquera, Moriarty, Lagana, Zwicker, Downey/Turner, Oroho)** - Permits a victim or witness of any age to testify by closed circuit television under certain circumstances in prosecutions for domestic violence, sexual assault, and certain other crimes

**ACS for A-1690/SCS SCS for S-660, 2002 (Dancer, Singleton, Andrzejczak, Land, Benson, Moriarty, Houghtaling/Turner, Beach, Van Drew)** - Allows fire district elections to be moved to November; eliminates certain fire district budget referenda; and eliminates certain fire district capital purchase referenda

**A-1953/S-2448 (Coughlin, Lagana, Muoio, Benson, Houghtaling, Danielsen, Mukherji/Vitale, Whelan)** - Allows installment payments for senior and disabled property taxpayers to repay overpayments of homestead credits and homestead property tax reimbursements

**A-1955/SCS for S-1795 (Jones, Lampitt, Phoebus, Space/A.R. Bucco, Oroho)** - Provides for voluntary discharge of personal representatives overseeing administration of estates by application to the Surrogate's Court

**A-2176/S-156 (Taliaferro, Eustace, Benson, Mazzeo, Chiaravalloti/Madden, Ruiz)** - Criminalizes possession and sale of alpha-pyrrolidinopentophenone (alpha-PVP), commonly known as "flakka" or "flocka"

**A-3056/SCS for S-2360, 3030 (Taliaferro, Dancer, Houghtaling, Space, Andrzejczak, Webber/Allen, Greenstein, Bateman, Smith, Wimberly)** – Requires DEP to establish voluntary guidelines for K-12 schools and institutions of higher education to reduce, recover, and recycle food waste; extends "Food Bank Good Samaritan Act" immunity protections to public and nonpublic schools.

**A-3058/S-2366 (Space, Taliaferro, Dancer, Houghtaling, Andrzejczak/Oroho, Ruiz)** - Establishes Farm to School Coordinating Council

**A-3381 (McKnight, Holley, Vainieri Huttle, Houghtaling, Chiaravalloti, Quijano, Gordon)** – Authorizes municipal volunteer programs for free removal of snow from certain residential properties occupied by seniors or disabled persons.

**A-3386/S-2711 (Schaer, Vainieri Huttle, Chiaravalloti, Caride, Mukherji, Wimberly/Vitale, Rice)** - Provides protections for children under the age of 18 with developmental disabilities and individuals with developmental disabilities ages 18-21 receiving services from Division of Children's System of Care

**A-3437/S-1076 (DeAngelo, Gusciora, Land, Andrzejczak/Turner)** - Designates "Garden State" as State Slogan

**A-3896/S-2790 (Sumter, Mukherji, Pintor Marin/Scutari, Turner)** - Concerns sale of certain tires

**A-3908/S-3021 (Mazzeo, DeAngelo, Mukherji, Houghtaling, Quijano/Whelan, T. Kean)** - Establishes 9/11 Memorial Registry

**A-3911/S-2863 (Wisniewski, Vainieri Huttle, Mukherji/Cardinale, Pennacchio)** - Provides that motor vehicle registration expires on registrant's numerical calendar day of birth

**A-4164/S-2588 (Houghtaling, Downey, Holley, Muoio, Webber/Van Drew, Cruz-Perez)** - Requires State Auditor to annually report on unspent State account balances

**A-4206/S-2676 (Karabinchak, Prieto, Webber, Holley/Diegnan, A.R. Bucco)** - Requires candidates for election to school board to file with their nominating petitions specific affirmation that they have not been convicted of crimes that would disqualify them from office

**A-4230/S-3141 (Conaway, O'Scanlon, Mukherji, Pintor Marin/Codey)** - Requires health insurance carriers; SHBP, and SEHBP to inform covered persons about organ and tissue donation

**ACS for A-4432/SCS for S-2841 (Schaer, Lampitt, Benson, Singleton, Chiaravalloti, Wimberly/Cunningham)** - Provides increased tax credit amounts under Grow New Jersey Assistance Program for certain businesses that have collaborative research relationships with colleges or universities

**A-4542/S-2986 (Mazzeo, Johnson, Land, Andrzejczak, DeCroce/Van Drew)** - Designates portion of State Highway Route 55 as "State Trooper Frankie L. Williams Memorial Highway"

**A-4580/S-2989 (Taliaferro, Burzichelli, Quijano, Houghtaling/Lesniak, Oroho)** - Appropriates \$2,900,000 from "2009 Farmland Preservation Fund" for grants to certain nonprofit organizations for farmland preservation purposes

**A-4581/S-2987 (Houghtaling, Andrzejczak, Singleton, Downey/Cruz-Perez, Oroho)** - Appropriates \$22,385,743 to State Agriculture Development Committee for farmland preservation purposes

**A-4582/S-2990 (Andrzejczak, Mazzeo, Taliaferro, Zwicker, Houghtaling/Whelan, Van Drew)** - Appropriates \$32.5 million from constitutionally dedicated CBT revenues to State Agriculture Development Committee for county planning incentive grants

**A-4584/S-2988 (Zwicker, Taliaferro, Burzichelli, Houghtaling/Sweeney)** - Appropriates \$7,500,000 from constitutionally dedicated CBT revenues for planning incentive grants to municipalities for farmland preservation purposes

**A-4630/S-1938 (Jones/Cruz-Perez)** - Repeals law regulating charges assessed by a miller for grinding grain

**A-4673/S-3095 (Houghtaling, Downey/Van Drew)** - Concerns assessment of buildings or structures on real property located in certain counties following material depreciation thereof

**A-4713/S-3235 (Burzichelli, Prieto, Gusciora, DeAngelo, Benson/Kyrillos, Whelan)** - Designates building where NJEDA is located in memory of Caren Franzini to commemorate her outstanding service to State

**A-4895/S-3056 (Egan, Sumter, Pinkin/Cunningham)** - Eliminates UI exemption for interns employed by hospitals

#### **BILL VETOED:**

**S-2214/A-3847 (Turner, Cunningham/Lampitt, Mukherji, Johnson, Eustace) - CONDITIONAL** - Requires institutions of higher education and proprietary degree-granting institutions to improve transparency of tuition and fees

###

Press Contact:  
Brian Murray  
609-777-2600



[Contact Us](#) | [Privacy Notice](#) | [Legal Statement & Disclaimers](#) | [Accessibility Statement](#) | 

Statewide: [NJ Home](#) | [Services A to Z](#) | [Departments/Agencies](#) | [FAQs](#)  
Office of the Governor: [Home](#) | [Newsroom](#) | [Media](#) | [Administration](#) | [NJ's Priorities](#) | [Contact Us](#)

Copyright © State of New Jersey, 1996-2018  
Office of the Governor  
PO Box 001  
Trenton, NJ 08625  
609-292-6000