

## Article 21.

### Accounting.

#### **§ 28A-21-1. Annual accounts.**

Until the final account has been filed pursuant to G.S. 28A-21-2, the personal representative or collector shall, for so long as any of the property of the estate remains in the control, custody or possession of the personal representative or collector, file annually in the office of the clerk of superior court an inventory and account, under oath, of the amount of property received by the personal representative or collector, or invested by the personal representative or collector, and the manner and nature of such investment, and the receipts and disbursements of the personal representative or collector for the past year. Such accounts shall be due 30 days after the expiration of one year from the date of qualification of the personal representative or collector, or if a fiscal year is selected by the fifteenth day of the fourth month after the close of the fiscal year selected by the personal representative or collector, and annually on the same date thereafter. The election of a fiscal year shall be made by the personal representative or collector upon filing of the first annual account. In no event may a personal representative or collector select a fiscal year-end which is more than twelve months from the date of death of the decedent or, in the case of trust administration, the date of the opening of the trust. Any fiscal year selected may not be changed without the permission of the clerk of superior court.

The personal representative or collector shall produce vouchers for all payments or verified proof for payments in lieu of vouchers. The clerk of superior court may examine, under oath, such accounting party, or any other person, concerning the receipts, disbursements or any other matter relating to the estate. The clerk of superior court must carefully review and audit such account and, if the clerk approves the account, the clerk must endorse the approval of the clerk thereon, which shall be prima facie evidence of correctness, and cause the same to be recorded. (C.C.P., s. 478; 1871-2, c. 46; Code, s. 1399; Rev., s. 99; C.S., s. 105; 1957, c. 783, s. 5; 1973, c. 1329, s. 3; 1977, c. 446, s. 1; 1981, c. 955, s. 1; 1987, c. 783, s. 1; 1991, c. 485, s. 1; 2011-344, s. 4; 2017-158, s. 9.)

#### **§ 28A-21-2. Final accounts.**

(a) Unless the time for filing the final account has been extended by the clerk of superior court, the personal representative or collector must file the final account for settlement within one year after qualifying or within six months after receiving a State estate or inheritance tax release, or in the time period for filing an annual account pursuant to G.S. 28A-21-1, whichever is later.

(a1) If no estate or inheritance tax return was required to be filed for the estate, the personal representative or collector shall so certify in the final account filed with the clerk of superior court. Such certification shall list the amount and value of all of the decedent's property and, with respect to real estate, its particular location within or outside the State, including any property transferred by the decedent over which the decedent had retained any interest, or any property transferred within three years prior to the date of the decedent's death, and, after being filed and accepted by the clerk of superior court, shall be prima facie evidence that such property is free from any State inheritance or State estate tax liability. This subsection only applies to estates of decedents who died before January 1, 2013.

(a2) The personal representative or collector shall produce vouchers for all payments or verified proof for all payments in lieu of vouchers. With the approval of the clerk of superior court, such account may be filed voluntarily at any time. In all cases, the accounting shall be reviewed, audited, and recorded by the clerk of superior court in the manner prescribed by G.S. 28A-21-1.

(b) Except as provided in subsection (a), after the date specified in the general notice to creditors as provided for in G.S. 28A-14-1, if all of the debts and other claims against the estate of the decedent duly presented and legally owing have been paid in the case of a solvent estate or satisfied pro rata according to applicable statutes in the case of an insolvent estate, the personal representative or collector may file the personal representative's or collector's final account to be reviewed, audited and recorded by the clerk of superior court. Nothing in this subsection shall be construed as limiting the right of the surviving spouse or minor children to file for allowances under G.S. 30-15 through 30-18 and the right of a surviving spouse to file for property rights under G.S. 29-30. (C.C.P., s. 481; Code, s. 1402; Rev., s. 103; C.S., s. 109; 1973, c. 1329, s. 3; 1975, c. 637, s. 5; 1977, c. 446, s. 1; 1979, c. 801, s. 13; 1981, c. 955, s. 2; 1981 (Reg. Sess., 1982), c. 1221, s. 3; 1985, c. 82, s. 3; c. 656, s. 3.1; 1985 (Reg. Sess., 1986), c. 822, s. 3; 1989, c. 770, s. 9; 1999-337, s. 4; 2011-344, s. 4; 2017-158, s. 10; 2017-212, s. 8.3.)

**§ 28A-21-2.1: Reserved for future codification purposes.**

**§ 28A-21-2.2. Final accounting by limited personal representative.**

(a) Filing Requirement. – A limited personal representative appointed pursuant to Article 29 of this Chapter shall file a sworn affidavit or report listing all debts and other claims duly presented to the limited personal representative and providing proof that the debts and other claims were satisfied, compromised, or denied, and that the time for filing suit thereon has expired. The sworn affidavit or report shall be filed within 30 days of the later of the following:

- (1) The date by which a claim must be presented as set forth in the general notice to creditors provided for in G.S. 28A-14-1.
- (2) The date by which an action for recovery of a rejected claim must be commenced under G.S. 28A-19-16.

(b) Action by Clerk. – The affidavit or report shall be reviewed and recorded by the clerk of superior court. Following the review, the clerk of superior court shall take one of the following actions:

- (1) Discharge the limited personal representative from office.
- (2) Require the filing of any additional information or documents determined by the clerk to be necessary to the understanding of the affidavit or report.
- (3) Order the full administration of the decedent's estate and appoint a personal representative. (2009-444, s. 2; 2014-115, s. 32.5.)

**§ 28A-21-3. What accounts must contain.**

Accounts filed with the clerk of superior court pursuant to G.S. 28A-21-1, signed and under oath, shall contain:

- (1) The period which the account covers and whether it is an annual accounting or a final accounting;
- (2) The amount and value of the property of the estate according to the inventory and appraisal or according to the next previous accounting, the amount of income and additional property received during the period being accounted for, and all gains from the sale of any property or otherwise;
- (3) All payments, charges, losses, and distributions;
- (4) The property on hand constituting the balance of the account, if any; and

- (5) Such other facts and information determined by the clerk to be necessary to an understanding of the account. (1973, c. 1329, s. 3.)

**§ 28A-21-3.1: Repealed by Session Laws 2011-326, s. 6, effective June 27, 2011.**

**§ 28A-21-4. Clerk may compel account.**

If any personal representative or collector fails to account as directed in G.S. 28A-9-3, 28A-21-1 or 28A-21-2 or renders an unsatisfactory account, the clerk of superior court shall, upon motion of the clerk of superior court or upon the request of one or more creditors of the decedent or other interested party, promptly order such personal representative or collector to render a full satisfactory account within 20 days after service of the order. If, after due service of the order, the personal representative or collector does not on or before the return day of the order file such account, or obtain further time in which to file it, the clerk may remove the personal representative or collector from office or may issue an attachment against the personal representative or collector for a contempt and commit the personal representative or collector until the personal representative or collector files said account. (C.C.P., s. 479; Code, s. 1400; Rev., s. 100; C.S., s. 106; 1933, c. 99; 1973, c. 1329, s. 3; 2011-344, s. 4.)

**§ 28A-21-5. Vouchers presumptive evidence.**

Vouchers, without other proof, are presumptive evidence of disbursement, unless impeached. If lost, the accounting party must, if required, make oath to that fact setting forth the manner of loss, and state the contents and purport of the voucher. (C.C.P., s. 480; Code, s. 1401; Rev., s. 101; C.S., s. 107; 1973, c. 1329, s. 3.)

**§ 28A-21-6. Permissive notice of final accounts.**

The personal representative or collector may, but is not required to, give written notice of a proposed final account pursuant to G.S. 1A-1, Rule 4, to all devisees of the estate in the case of testacy, and to all heirs of the estate in the case of intestacy, of the date and place of filing of such account. In giving written notice, the personal representative shall attach a copy of the proposed final accounting with exhibits made a part thereof, but is not required to include copies of vouchers, account statements, or other supporting evidence submitted to the clerk. If the personal representative or collector elects to provide this notice, the personal representative or collector shall file with the clerk of superior court a certificate indicating that this notice has been given to all devisees and heirs. Notwithstanding any right to appeal an order or judgment under G.S. 1-301.3, any payment, distribution, action, or other matter disclosed on such account or any annual account for the estate attached to the written notice must be objected to by a devisee or heir within 30 days after the receipt of the written notice or will be deemed to be accepted by the devisee or heir. (2011-344, s. 4; 2012-18, s. 3.8.)