

1 Article 5.

2 Renunciation by Personal Representative.

3 **§ 28A-5-1. Renunciation by executor.**

4 (a) Express Renunciation by Executor. – Any person named or designated as executor
5 in a duly probated will may renounce the office by filing with the clerk of superior court a
6 writing signed by such person, and acknowledged or proved to the satisfaction of the clerk.

7 (b) Implied Renunciation by Executor. – If any person named or designated as executor
8 fails to qualify or to renounce within 30 days after the will had been admitted to probate, (i) the
9 clerk of superior court may issue a notice to that person to qualify or move for an extension of
10 time to qualify within 15 days, or (ii) any other person named or designated as executor in the
11 will or any interested person may file a petition in accordance with Article 2 of this Chapter for
12 an order finding that person named or designated as executor to be deemed to have renounced.
13 If that person does not file a response to the motion or petition within 15 days from the date of
14 service of the motion or petition, the clerk of superior court shall enter an order adjudging that
15 the person has renounced. If the person files a response within 15 days from the date of service
16 of the motion or petition requesting an extension of time within which to qualify or renounce,
17 upon hearing, the clerk of superior court may grant to that person a reasonable extension of
18 time within which to qualify or renounce for cause shown. If that person qualifies within 15
19 days of the date of service of the motion or petition, the clerk of superior court shall dismiss
20 that motion or petition, without prejudice, summarily and without hearing.

21 (c) Procedure upon Renunciation. – Upon renunciation by a person named or
22 designated as executor, letters shall be issued to some other person as provided in G.S.
23 28A-4-1. (C.C.P., ss. 450, 451; Code, ss. 2163, 2164; Rev., ss. 10, 13; C.S., ss. 13, 16; 1931, c.
24 183; 1953, c. 78, s. 1; 1973, c. 1329, s. 3; 2011-344, s. 4.)
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26 **§ 28A-5-2. Renunciation of right to administer.**

27 (a) Express Renunciation. – Any person entitled to apply for letters of administration
28 may renounce the office by filing with the clerk of superior court a writing signed by such
29 person, and acknowledged or proved to the satisfaction of the clerk.

30 (b) Implied Renunciation. –

31 (1) If any person entitled to apply for letters of administration fails to apply
32 therefor within 30 days from the date of death of the intestate, (i) the clerk of
33 superior court may issue a notice to the person to qualify or move for an
34 extension of time to qualify within 15 days, or (ii) any interested person may
35 file a petition in accordance with Article 2 of this Chapter for an order
36 finding that person to be deemed to have renounced. If the person does not
37 file a response to the notice or petition within 15 days from the date of
38 service of the motion, the clerk of superior court shall enter an order
39 adjudging that the person has renounced. If the person files a response
40 within 15 days from the date of service of the motion requesting an
41 extension of time within which to qualify or renounce, upon hearing, the
42 clerk of superior court may grant to that person a reasonable extension of
43 time within which to qualify or renounce for cause shown. If the person
44 qualifies within 15 days of the date of service of the motion, the clerk of
45 superior court shall dismiss the motion, without prejudice, summarily and
46 without hearing and the clerk of superior court shall issue letters to some
47 other person as provided in G.S. 28A-4-1. No notice shall be required to be
48 given to any interested person, but the clerk may give notice as the clerk in
49 the clerk's discretion may determine.

50 (2) If no person entitled to administer applies for letters of administration within
51 90 days after the date of death of an intestate, then the clerk of superior court

1 may, in the clerk's discretion, enter an order declaring all prior rights to
2 apply for letters of administration to be renounced, and issue letters to some
3 suitable person as provided in G.S. 28A-4-1.

4 (c) Nomination by Person Renouncing. – Any person who expressly renounces the
5 person's prior right to apply for letters of administration may at the same time nominate in
6 writing some other person not disqualified under G.S. 28A-4-2 to be named as personal
7 representative, and such designated person shall be entitled to the same priority of right to
8 apply for letters of administration as the person making the nomination. (R.C., c. 46, ss. 2, 3;
9 C.C.P., ss. 456, 460(a); 1868-9, c. 113, s. 115; c. 203; Code, ss. 1376, 1380; Rev., ss. 3, 12;
10 C.S., ss. 6, 15; 1949, c. 22; 1973, c. 1329, s. 3; 2011-344, s. 4.)