Article 5.

Renunciation by Personal Representative.

§ 28A-5-1. Renunciation by executor.

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

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

(c) Procedure upon Renunciation. – Upon renunciation by a person named or designated as executor, letters shall be issued to some other person as provided in G.S. 28A-4-1. (C.C.P., ss. 450, 451; Code, ss. 2163, 2164; Rev., ss. 10, 13; C.S., ss. 13, 16; 1931, c. 183; 1953, c. 78, s. 1; 1973, c. 1329, s. 3; 2011-344, s. 4; 2012-194, s. 13(a); 2025-54, s. 6(d).)

§ 28A-5-2. Renunciation of right to administer.

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

(b) Implied Renunciation. –

(1) If any person entitled to apply for letters of administration fails to apply therefor within 30 days from the date of death of the intestate, (i) the clerk of superior court may issue a notice to the person to qualify or move for an extension of time to qualify within 20 days, or (ii) any interested person may file a petition in accordance with Article 2 of this Chapter for an order finding that person to be deemed to have renounced. If the person does not file a response to the notice or petition within 20 days from the date of service of the notice or petition, the clerk of superior court shall enter an order adjudging that the person has renounced. If the person files a response within 20 days from the date of service of the notice or petition requesting an extension of time within which to qualify or renounce, upon hearing, the clerk of superior court may grant to that person a reasonable extension of time within which to qualify or renounce for cause shown. If the person qualifies within 20 days of the date of service of the notice or petition, the clerk of superior court shall dismiss the notice or petition, without prejudice, summarily and without hearing and the clerk of superior court shall issue letters to some other person as provided in G.S. 28A-4-1. No

notice shall be required to be given to any interested person, but the clerk may give notice as the clerk in the clerk's discretion may determine.

(2) If no person entitled to administer applies for letters of administration within 90 days after the date of death of an intestate, then the clerk of superior court may, in the clerk's discretion, enter an order declaring all prior rights to apply for letters of administration to be renounced, and issue letters to some suitable person as provided in G.S. 28A-4-1.

(c) Nomination by Person Renouncing. – Any person who expressly renounces the person's prior right to apply for letters of administration may at the same time nominate in writing some other person not disqualified under G.S. 28A-4-2 to be named as personal representative, and such designated person shall be entitled to the same priority of right to apply for letters of administration as the person making the nomination. (R.C., c. 46, ss. 2, 3; C.C.P., ss. 456, 460(a); 1868-9, c. 113, s. 115; c. 203; Code, ss. 1376, 1380; Rev., ss. 3, 12; C.S., ss. 6, 15; 1949, c. 22; 1973, c. 1329, s. 3; 2011-344, s. 4; 2012-194, s. 13(b); 2025-54, s. 6(e).)