



**NEW YORK
CITY BAR**

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**REPORT ON LEGISLATION BY THE
TRUSTS, ESTATES AND SURROGATE'S COURTS COMMITTEE**

**A.7062
S.4272**

**M. of A. Weinstein
Sen. Bonacic**

AN ACT to amend the surrogate's court procedure act, in relation to the settlement of account by a resigning fiduciary

THIS BILL IS APPROVED

This brief memorandum is offered by the Trusts, Estates, and Surrogate's Courts Committee of the New York City Bar Association (the "Committee") in support of a recently introduced bill (A.7062/S.4272) amending the Surrogate's Court Procedure Act ("SCPA") Sections 715 and 716.

Under SCPA 715, a fiduciary seeking to resign must settle the account by a formal judicial process. SCPA 716 provides that following a SCPA 715 proceeding, the court may issue an intermediate order permitting the fiduciary to resign, revoking letters, appointing a successor, and directing the resigning fiduciary to turn over assets to the successor and to file a judicial accounting.

The proposed amendment would change the current law under SCPA 715 and 716 so as to remove the requirement that the fiduciary seeking to resign must file a judicial accounting—instead it would allow the court to approve either a formal (judicial) or informal settlement of the resigning fiduciary's account.

In the Committee's view, in many instances, settling an estate or trust by an informal accounting will achieve a substantial monetary savings and may be effected more quickly than a judicial accounting. Furthermore, many families may prefer to minimize court involvement where possible.

This measure would not prevent the Surrogate's Court from compelling a judicial accounting where, in the view of the Court, such a proceeding was necessary—it would merely remove the requirement to do so.

The Committee believes that the bill would amend SCPA 715 and 716 to bring the law in line with modern practices, in which estates and trusts are increasingly using informal accountings.

Committee on Trusts, Estates & Surrogate's Courts
Sharon L. Klein, Chair

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