

the said petition to be served on such clerk or register within five days and shall within ten days thereafter take up the case and if he shall be satisfied from the evidence of the truth of the matters alleged, he shall pass an order requiring such clerk or register within a specified time to give counter security to be approved in the same manner as his original bond ; and for every day after the expiration of such specified time that such clerk or register shall fail to give such counter security, he shall be subject to a penalty of fifty dollars, which may be recovered by separate action for each penalty, in the name of the State, in the same manner provided for the recovery of small debts ; and upon judgment for any such penalty the fees of office of such clerk or register, whether for office work or for State tax on commissions, may be attached by way of execution ; and such penalty shall inure and be payable to the sureties of such clerk or register to insure them against any loss which they may sustain by the defalcation, misfeasance or malfeasance of such clerk or register.

1902, ch. 457, sec. 5 A. 1902, ch. 590.

6. Any surety or the personal representative of any surety upon the bond of trustees, committee, guardian, assignee, receiver, executor, administrator, or any other fiduciary may apply by petition to the court wherein said bond is directed to be filed or which may have jurisdiction of said fiduciary, praying to be relieved of further liability as such surety for the acts or omissions of such fiduciary which may occur after the date of the order relieving said surety ; any order or decree for such relief shall require such fiduciary to show cause why he should not account and said surety be relieved from further liability as aforesaid and said fiduciary be required to give a new bond ; and shall be made returnable at such time and place and to be served in such manner as said court may direct, and said court may restrain such fiduciary in the meantime from acting except in such manner as it may direct to preserve the estate ; and upon the return of such order to show cause, if the fiduciary account in due form of law and file a new bond duly approved, then said court shall make an order releasing said surety from liability upon the bond for any subsequent act or default of the fiduciary, and in default of said fiduciary accounting and filing such new bond, the said court shall make an order directing such fiduciary to account and file a new bond within thirty days ; and if he shall so account and file a new bond, duly approved, such