§ 1804. Contingent or unliquidated claims; retention of assets for estate taxes

1. Whenever at the death of any person there shall be a contingent or unliquidated claim against the decedent's estate or an outstanding bond, recognizance or undertaking upon which the decedent was principal, surety, or indemnitor and on which at the time of the decedent's death the liability is still contingent or unliquidated, a claimant or a surety shall have the right to file with the fiduciary an affidavit showing the facts upon which the contingent or unliquidated liability is based and the probable amount thereof, and there shall be no distribution without reservation of such estate assets as the court, by a special proceeding or upon the final accounting, shall determine to be adequate to pay the contingent or unliquidated claim when the amount thereof shall become due and payable. In fixing the amount to be reserved for payment of the claim the court may determine the value of any security or collateral to which the creditor may resort for payment of the debt and may thereafter direct the reservation if necessary of sufficient estate assets to make up the difference between the value of such security or collateral and the amount necessary to pay the contingent or unliquidated claim.

2. If before a final judicial accounting and decree the contingent or unliquidated claim or liability shall have become fixed and liquidated, then evidence thereof shall be filed with the fiduciary in accordance with the provisions of 1803. If the contingent or unliquidated claim has not become so fixed and liquidated the decree on a final accounting shall direct that the assets found sufficient to satisfy the claim or the proportion to which it is entitled be retained in the hands of the accounting party for such period or periods as the court may deem proper for the purpose of being applied to the payment of the claim when fixed and liquidated and that so much of the assets as are not needed for that purpose be afterwards distributed according to law.

3. Where the state estate tax is or may be due and the amount thereof has not been finally determined or such tax cannot for any reason be paid at the time of final judicial accounting and decree thereon, the

decree on a final accounting shall direct that assets found sufficient to satisfy the tax or possible tax be retained in the hands of the accounting party for such period as the court may deem proper for the purpose of being applied to the payment of the tax. In that event the commissioner of taxation and finance shall be among those served upon the final accounting. Such portion of the assets as are not needed for that purpose shall be distributed according to law.