

MAINE STATE LEGISLATURE

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THE
REVISED STATUTES

OF THE
STATE OF MAINE,

PASSED JANUARY 25, 1871;

TO WHICH ARE PREFIXED
THE CONSTITUTIONS

OF THE
UNITED STATES AND OF THE STATE OF MAINE:

WITH AN APPENDIX.

BY AUTHORITY OF THE LEGISLATURE.



PORTLAND:
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after citing them to show cause, may enforce obedience by committing them to the county jail until they comply, or are released by the executors or administrators, or by order of the supreme judicial court. CHAP. 70.

SEC. 6. The person filing such bond may apply for commissioners on claims deemed exorbitant, unjust or illegal, with like proceedings and effect as in case of administrators or executors; or, if the partnership estate appears to be insufficient to pay the partnership debts, he may represent it to be insolvent, commissioners may be appointed, claims proved and allowed, and the partnership assets distributed to pay such as are allowed, and like proceedings shall be had as are prescribed in chapter sixty-six, so far as applicable, and with like effect. Nothing herein shall invalidate the right of claimants to recover from the surviving partner or the estate of the deceased partner, any balances due them after the partnership property is exhausted. When, in cases heretofore arising, such proceedings have been had, they shall be held valid.

Commissioners may be appointed on disputed claims. Partnership estates may be represented insolvent; proceedings. 1870, c. 113, § 16.

CHAPTER 70.

ASSIGNMENT FOR THE BENEFIT OF CREDITORS.

- SEC. 1. Assignment shall pass all estate of debtor, and provide for equal distribution.
2. Assignor to make oath; release may be inserted.
 3. Assignee to give bond; take possession of assets; file copies of assignment and inventory in the probate office. Conditions of bond.
 4. Assignee to give notice; time allowed to creditors; how they may become parties.
 5. Assignment not valid without oath, notice and bond.
 6. Claims of creditors, how to be proved. Appeal. Remedy on bond.
 7. Property assigned not to be attached, but excess may, after 18 months.
 8. Transfers of property to prefer or defraud creditors void.
 9. Judge may remove assignee, and fill vacancies.
 10. Purchaser of chose in action may sue for it.
 11. Compensation of judge, register and assignee.

SEC. 1. Every assignment, made by any debtor for the benefit of creditors, shall provide for a proportional distribution of all his real and personal estate, except what is by law exempt from attachment, among all his creditors becoming parties thereto; and, in whatever form made, or however expressed, shall have the effect aforesaid, and be also construed to pass all such estate, whether specified therein or not.

Assignment shall pass all estate of debtor, and provide for equal distribution. R. S. c. 70, § 1.

CHAP. 70.

Assignor to make oath; release may be inserted.
R. S. c. 70, § 2.

Assignee to give bond; take possession of assets; file assignment and inventory in the probate office. Conditions of bond.
R. S. c. 70, § 3.
1870, c. 123, § 1.

Assignee to give notice; time allowed to creditors; how they may become parties.
R. S. c. 70, § 4.
1859, c. 112, § 5.
1870, c. 123, § 2.

Assignment not valid without oath, notice and bond.
R. S. c. 70, § 5.
1870, c. 123, § 3.

Claims of creditors, how to be proved. Appeal. Remedy on bond.
R. S. c. 70, § 6.

SEC. 2. The assignor shall make oath to the truth of such assignment, and a certificate of the fact shall be made thereon by the magistrate administering it; and a release may be inserted therein, which shall forever discharge the assignor from the claims of such creditors as become parties thereto.

SEC. 3. The assignee named in such assignment shall give a bond to the judge of probate in such sum and with such sureties, living in the county, as shall be satisfactory to him, and shall immediately thereafter take possession of the property assigned; and within ten days after the execution of the assignment shall file in the probate office an attested copy thereof, and an inventory under oath of all the real estate, goods, chattels, rights and credits of the assignor which have come to his possession or knowledge, whether contained in the assignment or not. Said bond shall be conditioned as follows:

First.—To return into the probate office within ten days after the time allowed to creditors to become parties to the assignment, an inventory of any real or personal estate of the assignor not already returned whether contained in the assignment or not, and the names of all the creditors who have become parties to the assignment, with a list of their respective claims.

Second.—To make proportional distribution of all the net proceeds of such estate, among such creditors as become parties to the assignment.

Third.—To render a true account of his doings, on oath, to the judge of probate within six months, and at any other time when cited by the judge.

SEC. 4. Within fourteen days after the execution of the assignment, the assignee shall give public notice of his appointment in some newspaper printed in the county where either assignor lives, or if none, in the state paper, such notice to be continued three weeks successively, and three months from the execution of such assignment shall be allowed for creditors to become parties thereto. If the assignment is made by indenture in two or more parts, creditors, in order to become parties, are to execute the part held by the assignee.

SEC. 5. No such assignment shall be valid against attaching creditors, unless sworn to and notice given as aforesaid, nor unless such bond is filed and approved by the judge of probate within ten days after the execution of the assignment.

SEC. 6. Creditors becoming parties to the assignment, and presenting their claims to the assignee for allowance, shall offer the same proof thereof, and, if dissatisfied with his decision, have the same right of appeal, and the same remedy, that is provided in relation to claims presented to commissioners on insolvent estates; and shall

also have the same remedy on the assignee's bond that is provided CHAP. 70.
in relation to an administrator's bond.

SEC. 7. No property, assigned for the benefit of creditors, shall be liable to attachment for six months after the first publication of the notice herein required, nor shall the assignee during that time be liable to trustee process on account thereof; but after the lapse of eighteen months from the assignment, or two years, to which the probate court for satisfactory reasons may extend the time, any creditor, not a party to the assignment, may trustee the assignee for any excess of such estate remaining in his hands, after the payment of the debts of the parties thereto and lawful expenses; and if such suit is instituted before the expiration of the terms herein invested, it may be continued till after their expiration, on such conditions as the court directs.

Property assigned not to be attached, but excess may, after 18 months.
R. S. c. 70, § 7.
1859, c. 112, § 1.

SEC. 8. All property conveyed or transferred by the assignor, previous to and in contemplation of the assignment, with the design to defeat, delay or defraud creditors, or to give a preference to one creditor over another, shall pass to the assignee by the assignment, notwithstanding such transfer; and the assignee may recover, collect and apply it for the benefit of the creditors.

Transfer of property to prefer or defraud creditors, void.
1859, c. 112, § 2.

SEC. 9. If any assignee dies, resigns, becomes insane, or otherwise unsuitable to perform the trust, refuses or neglects so to do or mismanages the trust property, the judge of probate for the county after due notice, shall appoint another in his place, who shall have the same powers and be subject to the same liabilities as the original assignee.

Judge may remove assignee, and fill vacancies.
1859, c. 112, § 3.

SEC. 10. A purchaser of any chose in action, sold by an assignee at public or private sale, may sue therefor in his own name, subject to all legal and equitable defences.

Purchaser of chose in action may sue for it.
1859, c. 112, § 4.

SEC. 11. The assignee, judge, and register of probate, shall be allowed a reasonable compensation for all their services under this chapter, to be determined by the judge, subject to the right of appeal to the supreme court of probate, as from his decisions in other cases, and to be paid out of the estate.

Compensation of judge, register and assignee.
R. S. c. 70, § 8.