

# MAINE STATE LEGISLATURE

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REVISED STATUTES

OF THE  
STATE OF MAINE

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and be heard in relation to the matters therein contained, and such notice of said petition and hearing shall be given them by publication or otherwise as the court may order.

See c. 154, § 19, re trustees in mortgage hold in joint tenancy.

**Sec. 19. Vacancy in trusts, how filled; bond.** R. S. c. 82, § 18. When a trustee under a written instrument declines, resigns, dies, or is removed before the objects thereof are accomplished, if no adequate provision is made therein for supplying the vacancy, the probate court or superior court shall, after notice to all persons interested, appoint a new trustee to act alone or jointly with the others, as the case may be. Such new trustee, upon giving the bonds and security required, shall have and exercise the same powers, rights, and duties, whether as a sole or joint trustee, as if he had been originally appointed, and the trust estate vests in him in like manner as it had or would have vested in the trustee in whose place he is substituted.

See c. 154, § 19, re trustees in mortgage hold in joint tenancy; 69 Me. 398; \*85 Me. 88; 94 Me. 311; 111 Me. 255, 523; 130 Me. 14, 322; 135 Me. 190.

**Sec. 20. Court may order conveyance to be made to him.** R. S. c. 82, § 19. Upon the appointment of a trustee under the provisions of the preceding section, the court may order such conveyance to be made by the former trustee, or by his representatives, or by the other remaining trustees, as is proper or convenient to vest in such trustee, either alone or jointly with the others, the estate and effects to be held in trust.

See c. 42, §§ 30, 54, re bondholders under mortgage given by a corporation may elect trustees to fill vacancies; c. 54, § 14, re city or town appointed trustee not required to give bond in certain cases; c. 140, § 44, re compensation of trustees; c. 154, § 6, re jurisdiction of probate court in matters relating to trusts for sale of contingent remainders; 69 Me. 399; 85 Me. 90.

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## CHAPTER 148.

### ESTATES OF DECEASED PARTNERS.

**Sec. 1. Partnership property, how appraised and administered.** R. S. c. 83, § 1. The executor or administrator of a deceased member of a partnership shall include in the inventory the property of the partnership, appraised as in other cases, except that an amount is to be carried out equal only to the share of the deceased. This property shall be retained and administered, unless the surviving partner gives bond to the judge as provided in the following section.

\*36 Me. 343; 55 Me. 236; 56 Me. 229; 59 Me. 243; 61 Me. 17; 65 Me. 163; 74 Me. 339; 79 Me. 160; \*81 Me. 228; 130 Me. 338.

**Sec. 2. Bond to be given; conditions.** R. S. c. 83, § 2. The bond shall be for such sum and with such sureties resident in the state, or with a surety company authorized to do business in the state, as surety, as the judge approves, conditioned to use fidelity and due diligence in closing the affairs of the late partnership; to apply the property thereof towards payment of partnership debts; to render an account, on oath, when required, of all partnership affairs, including property owned, debts due to and from, the amount received and collected, and the amount paid; and to pay to the executor or administrator of

the deceased his proportion of any balance remaining after settlement, within 1 year after date of the bond, unless a longer time is allowed by the judge.

See c. 56, § 193, re foreign insurance companies as sureties on bonds; 55 Me. 236; 59 Me. 243; 65 Me. 163; 68 Me. 417; 79 Me. 159; 92 Me. 83.

**Sec. 3. Liability, as if administrator.** R. S. c. 83, § 3. The judge has the same authority to cite the principal in such bond, and to adjudicate upon his accounts, and the parties interested have the like remedies on his bond as if he were an administrator.

79 Me. 159; 103 Me. 380.

**Sec. 4. Administrator to give bond if survivor does not.** R. S. c. 83, § 4. If the survivor, on being cited, does not give the bond required, the executor or administrator of the deceased shall give such bond, with the necessary variations, as is required in section 2, and take possession of the property. He may use the name of the survivor to collect the debts.

\*59 Me. 243; 74 Me. 339; 79 Me. 159.

**Sec. 5. Survivor to produce property for appraisal and administration.** R. S. c. 83, § 5. Every surviving partner shall exhibit to the executors or administrators of a deceased partner for appraisal all partnership property existing at the time of his decease; and if such executors or administrators administer upon the partnership property, shall deliver it to them with all books, notes, documents, and papers pertaining thereto and shall afford them all reasonable information and facilities for the execution of their trust. If he neglects to do so, the judge, after citing him to show cause, may enforce obedience by committing him until he complies or is released by the executors or administrators or by order of the superior court.

\*36 Me. 343; 55 Me. 236.

**Sec. 6. Commissioners may be appointed on disputed claims; partnership estate may be represented insolvent; proceedings.** R. S. c. 83, § 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 may be distributed to pay such claims as are allowed, and like proceedings shall be had as are prescribed in chapter 144, so far as applicable and with like effect. Nothing herein invalidates 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. Such proceedings already had are valid.

See c. 141, § 67, re commissioners may be appointed on disputed claims against estates; c. 100, § 184, re execution upon award to creditors by commissioners on exorbitant etc. claims against a solvent estate; 64 Me. 71.

**Sec. 7. Sale of copartnership real estate when a partner has died.** R. S. c. 83, § 7. The executor or administrator of a deceased member of a copartnership, or the surviving partner who files a bond and is authorized to close the affairs of a partnership estate, may, on application to the judge of probate of the county, be licensed to sell real estate, assets of the late partnership, in the same manner as any other executor or administrator is licensed to sell real estate, on petition and notice, and on giving bond, with sufficient sureties, to appropriate the proceeds to the payment of the partnership debts; and to pay over any balance that remains in his hands, after closing the affairs of said

partnership estate, to the persons entitled to the same, and on complying with all the requirements of the law authorizing a sale of real estate.

See c. 150, §§ 1-6, re granting of license by probate courts for sale etc. of real estate; 74 Me. 339.

**Sec. 8. Death of administrator on partnership estate, proceedings. R. S. c. 83, § 8.** When the person who has given bond to administer on a partnership estate where one of the partners is deceased dies before completing the administration, the judge may commit administration on the estate of the partnership not already administered to such person as he thinks fit, who shall give the bond required by section 2, with the necessary variations, and comply with all the provisions of this chapter applicable to such cases.

See c. 140, § 44, re compensation of surviving partners.

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## CHAPTER 149.

### THE INSOLVENT LAW.

In accordance with the provisions of chapter 140 of the resolves of 1941 for revision of the statutes, chapter 84 of the revised statutes of 1930, entitled "The Insolvent Law," is incorporated in this revision and printed by title only. It may be cited as chapter 149 of the revised statutes of 1944.

The laws relating to "The Insolvent Law" may be found in chapter 72 of the revised statutes of 1903, as amended by chapter 90 of the public laws of 1923 and chapter 76 of the public laws of 1927.

See c. 143, § 24.

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## CHAPTER 150.

### SALES OF REAL ESTATE BY LICENSE OF COURT.

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#### Granting of the License

**Sec. 1. Sale, lease, mortgage, or exchange of real estate, when to be licensed. R. S. c. 85, § 1.** Judges of probate who have jurisdiction of the estate may license the sale, mortgage, lease, or exchange of real estate and any interests therein, in whatever county situated, in the following cases, on application:

8 Me. 222; 20 Me. 395; 44 Me. 47; 52 Me. 195; 62 Me. 543; \*96 Me. 573; 129 Me. 74.