

MAINE STATE LEGISLATURE

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CHAPTER 201

**GENERAL PROVISIONS RELATING TO
EXECUTORS AND ADMINISTRATORS**

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§ 1401. Waiver of bond; petition, public notice

Letters testamentary shall not issue under section 109, nor shall administration or administration with the will annexed be granted without bond under section 1552, unless the petition for probate of the will or for administration contains an application that no bond, or a bond without sureties, be required, and the fact of such application is stated in the public notice on such petition.

R.S.1954, c. 154, § 61.

§ 1402. Agent for nonresident executors or administrators

No person residing out of the State shall be appointed an executor or administrator unless he shall have appointed an agent or attorney in the State. Such appointment shall be made in writing and shall give the name and address of the agent or attorney. Said written appointment shall be filed and recorded in the probate office for the county in which the principal is appointed, and by such appointment the subscriber shall agree that the service of any legal process against him as such executor or administrator, or that the service of any such process against him in his individual capacity in any action founded upon or arising out of any of his acts or omissions as such executor or administrator shall, if made on such agent, have like effect as if made on himself personally within the State, and such service shall have such effect. An executor or administrator who after his appointment removes from and resides without the State shall so appoint an agent within 30 days after such removal. If an agent appointed under this section dies or removes from the State before the final settlement of the accounts of his principal, another appointment shall be made, filed and recorded as above provided. The powers of an agent appointed under this section shall not be revoked prior to the final settlement of the estate unless another appointment shall be made as provided.

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Neglect or refusal by an executor or administrator to comply with any provision of this section shall be cause for removal. An executor or administrator residing out of the State shall not appoint his coexecutor or coadministrator, residing in the State, as his agent.

R.S.1954, c. 154, § 62.

§ 1403. Authority to carry on business

Whenever it is made to appear to the judge that it is clearly for the benefit of all parties interested and will result in a material increase of the assets of the estate, the judge may authorize and direct that the business of the deceased, in whole or in part shall, for a limited time to be determined by him, be carried on by the executor or administrator as a going business.

R.S.1954, c. 154, § 73.

§ 1404. Insurance on property

An executor or administrator may insure, at the expense of the estate, any property of the deceased that becomes assets in his hands or which he holds in trust by the provisions of a will.

R.S.1954, c. 154, § 79.

§ 1405. Allowance for monument or gravestones; funeral expenses of widow

In the settlement of the accounts of executors and administrators, the judge may allow a reasonable sum for the purchase of a suitable burial lot and for the erection of monuments or gravestones; but in insolvent estates the sum shall be fixed by the judge of probate. On petition of any person interested, the judge of probate may allow a reasonable sum for the erection of gravestones, for funeral expenses and expenses of last sickness of the widow of the deceased, provided she dies before the final settlement of her husband's estate and her estate is insufficient for the above purposes.

R.S.1954, c. 154, § 80.

§ 1406. Perpetual care of lots by executors and administrators

Executors and administrators may pay to cemetery corporations or to cities or towns having burial places therein a reason-

able sum of money for the perpetual care of the lot in which the body of their testate or intestate is buried, and the monuments thereon. The judge of probate shall determine, after notice to all parties in interest, to whom the same shall be paid and the amount thereof, and such sum shall be allowed in the accounts of such executors and administrators.

R.S.1954, c. 154, § 83.

§ 1407. Removal or resignation of executor or administrator

When there is more than one executor or administrator and either of them is removed or his resignation is accepted by the judge, the others may proceed to discharge the trust reposed in them and may bring actions of account against him and recover, by any proper legal process, such effects and assets as remain in his hands unadministered. Like actions or process may be brought by one executor or administrator against another, when the latter retains an undue proportion of the estate under his charge and refuses either to account to the other, or to pay the debts, legacies or other charges on such estate, or when the aggrieved executor is a residuary legatee.

R.S.1954, c. 154, § 86.

§ 1408. Remedies between coexecutors and coadministrators

The Superior Court may hear and determine all disputes and controversies between coexecutors and coadministrators, and between their respective legal representatives. In such case, the court has the same power and may proceed in like manner as in cases between copartners.

R.S.1954, c. 154, § 87; 1961, c. 317, § 500.

§ 1409. Validity of acts of removed executor or administrator

When letters of administration are revoked or an executor or administrator is removed, all previous sales of real or personal estate made in a legal manner by him and with good faith on the part of the purchaser, and all other acts in due course of administration done by him in good faith remain valid and effectual, and he is accountable in the same manner as if he had not been removed.

R.S.1954, c. 154, § 88.

§ 1410. Foreign fiduciaries licensed to collect and receive personal estate

Any executor, administrator, guardian, conservator of the property of any person living out of the State, committee of the person or property, or trustee duly appointed in another state or in a foreign country and duly qualified and acting, who may be entitled to any personal estate in this State, may file an authenticated copy of his appointment in the probate court for any county in which there is real property of his trust, or, if there is no such real property, in any county in which there is personal estate of his trust or to which he may be entitled, and may upon petition to said court, after due notice to all persons interested, be licensed to collect and receive such personal estate or to sell by public or private sale, or otherwise to dispose of, and to transfer and convey shares in a corporation or other personal property, if the court finds that there is no executor, administrator, guardian, conservator or trustee appointed in this State who is authorized so to collect and receive such personal estate or to dispose of such shares or other personal property, and that such foreign executor, administrator, guardian, conservator, committee or trustee will be liable to account for such personal estate or for the proceeds thereof in the state or country in which he was appointed; and that no person resident in this State and interested as a creditor or otherwise objects to the granting of such license or appears to be prejudiced thereby; but no such license shall be granted to a foreign executor or administrator until the expiration of 6 months after the death of his testator or intestate, nor until all inheritance taxes payable to this State, if any, are paid or secured.

R.S.1954, c. 154, § 89.

§ 1411. Determination of cases of contribution

All cases of contribution, arising under this chapter and chapter 1, may be determined in a civil action, or in the probate court subject to appeal.

R.S.1954, c. 169, § 14; 1961, c. 317, § 560.

§ 1412. Legacy payable on condition, no time stated; payment

When executors or trustees are directed to pay a legacy to a person or a corporation, on conditions precedent, and no time is stated in the will or in the charter or bylaws of the corporation for

their performance, a reasonable time is allowed therefor, not exceeding 5 years from the probate of a will. If not so performed, it shall be administered as undivided estate, unless otherwise disposed of by the will.

R.S.1954, c. 169, § 17.

§ 1413. Marriage of executrix or administratrix

When an unmarried woman who is joint or sole executrix or administratrix marries, her husband shall not exercise such trust in her right nor is her authority thereby extinguished.

R.S.1954, c. 154, § 45.

§ 1414. Disposal of goods before letters issued; penalty

Whoever sells or embezzles any of the goods or effects of a deceased person liable to administration, before taking out letters testamentary or of administration thereon and giving bond accordingly, is liable as an executor in his own wrong to the actions of the creditors and other persons aggrieved, and to the rightful executor or administrator for the full value of the goods or effects of the deceased taken by him and for all damages caused by his acts to said estate. He shall not retain any part of the goods or effects, except for such funeral expenses, debts of the deceased or other charges actually paid by him as the rightful executor or administrator would have had to pay.

R.S.1954, c. 154, § 60.

§ 1415. Bonds for payments on account

When an executor or administrator pays to a creditor, heir or legatee a sum exceeding \$30 on account of a debt, legacy or decree of distribution, the judge of probate may authorize him to require of the payee a sufficient bond to refund so much thereof as said sum may exceed such payee's equitable proportion on final settlement of the estate, unless such payment is made to a creditor under an order of distribution of an insolvent estate.

R.S.1954, c. 156, § 25.

§ 1416. Time for payment of legacies

Legacies shall be payable in 20 months after final allowance of the will; but such payments shall not be affected by any claims presented to the executor or administrator with the will annexed,

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or filed in the probate office after the expiration of said 20 months and after such payment; nor shall the executor or administrator with the will annexed be responsible for the payments of said legacies on account of such claims.

R.S.1954, c. 156, § 26.