

MAINE STATE LEGISLATURE

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CHAPTER 207

**ADMINISTRATORS WITH WILL ANNEXED
AND DE BONIS NON**

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§ 1601. Appointment

If there is no person whom the judge can appoint executor of any will according to section 107; or, if the only one appointed neglects to file the required bond within the time therein allowed, he may commit administration of the estate, with the will annexed, to any suitable person whether beneficially interested or not having regard to the best interests of the persons interested under such will. When an executor is under 21 years of age at the time of the probate of the will, administration may be granted, with the will annexed, during his minority, unless there is another executor who accepts the trust, in which case the estate shall be administered by such other executor until the minor arrives at full age, when he may be admitted as joint executor with the former, upon giving bonds as provided.

R.S.1954, c. 154, § 42.

§ 1602. Removal of executors or administrators

When an executor or administrator residing out of the State, after being ordered by the judge of probate, neglects to render his accounts and settle the estate according to law, or when any executor or administrator, joint or sole, becomes mentally ill or otherwise unsuitable to perform the trust, refuses or neglects to do so, or mismanages the estate, said judge may remove him. He may accept the resignation of any joint or sole executor or administrator when he is satisfied, after public or personal notice to those interested and a hearing, that there is reasonable cause

therefor and that it will not be detrimental to the estate or to those interested therein. In either case, if there is no other executor or administrator to discharge the trust, the judge may commit administration of the estate not already administered, with the will annexed or otherwise as the case requires, to such persons as he thinks fit, as if the one resigned or removed were dead. Such administrator shall have the same powers and be liable to the same obligations as other administrators or executors whom he succeeds. An appeal from the decree of removal of an executor or administrator shall not suspend or vacate the decree pending decision by the supreme court of probate.

R.S.1954, c. 154, § 43; 1959, c. 242, § 8.

§ 1603. Death of executor

The executor of an executor has no authority, as such, to administer the estate of the first testator, but on the death of the sole or surviving executor of any last will, administration of said estate not already administered may be granted with the will annexed to such person as the judge thinks fit.

R.S.1954, c. 154, § 46.

§ 1604. Authority of administrator de bonis non

An administrator de bonis non shall collect and receive from his predecessor or his heirs, executors or administrators, and from all other sources, all the property and assets of the estate of the deceased, including the proceeds from the sale of real estate, not already distributed, and shall account for and distribute the same as though he were the original administrator or executor. All sums recovered on any probate bond shall be a part of the estate, but so much thereof as is recovered on any real estate bond shall be distributed as is provided for the distribution of the proceeds of the sale of real estate.

R.S.1954, c. 154, § 44.

§ 1605. Administrator de bonis non may prosecute, defend and sue judgments

When an executor or administrator ceases to be such, an action pending in his favor or against him may be prosecuted by or against an administrator de bonis non. If he does not appear after due notice, judgment may be rendered, as if the action had been commenced by or against him for debt and for costs. An

administrator de bonis non may maintain an action on uncollected judgments recovered by the deceased, or by his executors or administrators, before their death or removal from office.

R.S.1954, c. 165, § 4; 1961, c. 317, § 534.

§ 1606. Administrator de bonis non substituted as party on motion

When an executor or administrator ceases to be such after judgment against him, the administrator de bonis non may be substituted as a party on motion, notice of which shall be served in the same manner as original process, and an execution may issue as provided in section 1605; but the costs for which the executor or first administrator was personally liable may be enforced against his executor or administrator.

R.S.1954, c. 165, § 5; 1959, c. 317, § 292.

§ 1607. Appeals

An appeal may be maintained by or against an administrator de bonis non, when it could be by or against an executor or first administrator.

R.S.1954, c. 165, § 6; 1961, c. 317, § 535.

§ 1608. Bond

Except when a bond is not required as provided in section 1552, every person appointed administrator with the will annexed shall, before entering upon the execution of his trust, give such bond to the judge as is required of an executor. Every administrator de bonis non shall give such bond as is required of an executor or administrator as the case may demand.

R.S.1954, c. 154, § 47.