

MAINE STATE LEGISLATURE

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CHAPTER 413

APPEALS

Sec.

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§ 3301. Bond; notice

The claimant, the administrator, an heir at law or any creditor may appeal from the decision of the commissioners by giving written notice thereof at the probate office within 20 days after their report is made. If the appellant is an heir at law or creditor other than the claimant, he shall file in the probate office with his notice of appeal a bond to the claimant with sureties to the satisfaction of the judge for the payment of all costs awarded against him. When the appeal is made by any party other than the claimant, he shall give notice to the creditor within 30 days by service of a copy, attested by the register, on him, his agent or attorney, personally or by leaving it at his last and usual place of abode if he has any within the State; otherwise, such notice shall be given as the judge directs.

R.S.1954, c. 157, § 12.

§ 3302. Petition for leave to bring action after failure to prosecute appeal

A person, whose claim has been disallowed in whole or in part and who by accident or mistake has omitted to give notice at the probate court in season, or after giving such notice has by accident or mistake omitted further to prosecute his appeal may, within 2 years after the report is made, petition the Superior Court and, after notice to the administrator and hearing, leave may be given to commence within 30 days a civil action in the county where administration was granted for the recovery of his claim, but not after 4 years from granting administration. No

decree of distribution can be disturbed by a judgment so recovered.

R.S.1954, c. 157, § 13; 1961, c. 317, § 510.

§ 3303. Proceedings on appeal

When an appeal is so taken or leave is so granted, the claim shall be determined in a civil action commenced within 3 months after the report was made or within 30 days after leave was granted. Such claim shall be deemed contingent and provision shall be made for it as in chapter 407.

R.S.1954, c. 157, § 14; 1961, c. 317, § 511.

§ 3304. Appeal by administrator, heir or creditor, claimant may apply to Superior Court

A person whose claim against an insolvent estate has been allowed by commissioners and their decision has been appealed from by the administrator, heir at law or any other creditor, and who by accident or mistake has omitted to commence a civil action within the time prescribed by section 3303, may petition the Superior Court, and after notice to the administrator and a hearing, the court may grant leave to commence an action for the recovery of his claim, within 30 days after leave is granted, in the county where administration was granted, within 4 years from granting administration, but no decree of distribution can be disturbed by a judgment so recovered.

R.S.1954, c. 157, § 15; 1961, c. 317, § 512.

§ 3305. List of claims; abstract of demands

The creditor, before service, must annex to his writ a schedule of his claims, stating the nature of them or file it with the clerk of the court where the writ is returnable, 14 days before its return day. At such time as the court directs, the administrator shall file an abstract of all demands of the deceased against the claimant and judgment shall be rendered for either party for the balance ascertained at the trial.

R.S.1954, c. 157, § 16; 1963, c. 402, § 265.

§ 3306. Reference; examination of creditor

When notice of appeal is given or leave granted, the parties may agree upon referees authorized to act by a rule of the probate court, whose award is final. On trial before the court or

referees, the creditor may be examined on oath, as before commissioners, and with like effect, if he refuses to be examined.

R.S.1954, c. 157, § 17.

§ 3307. Judgment against administrator added to claims allowed

If final judgment or award is made against an administrator, no execution can be issued except for costs allowed to the prevailing party. The sum found due to the claimant shall be entered by the judge of probate on the list of debts entitled to dividends. The administrator may charge costs awarded against him to the estate, but not when he appealed without reasonable cause shown for it.

R.S.1954, c. 157, § 18.