

MAINE STATE LEGISLATURE

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SIXTY-FIRST LEGISLATURE.

SENATE.

No. 83.

STATE OF MAINE.

IN THE YEAR OF OUR LORD ONE THOUSAND EIGHT HUNDRED AND
EIGHTY-THREE.

AN ACT to amend section twelve of chapter eighty-seven of the revised statutes, relating to actions by or against executors or administrators.

Be it enacted by the Senate and House of Representatives in Legislature assembled, as follows :

Section twelve of chapter eighty-seven of the re-
2 vised statutes, as amended by chapter eighty-five
3 of the public laws of eighteen hundred and seventy-
4 two, is hereby further amended by inserting after
5 the word "demanded," in the fifth line, the words
6 "or the claim is filed in the probate office supported
7 by the affidavit of the claimant or of some other
8 person cognizant thereof, as provided in chapter
9 sixty-four, section sixty-two, and such notice is
10 given as the court orders thereon;" also by insert-

11 ing after the word "demanded," in the eighth line,
12 the words "or filed," so that the same section,
13 amended, shall read as follows, viz:

14 *Sect. 12.* No action against an executor or ad-
15 ministrator on a claim against the estate shall be
16 maintained, except as provided in sections thirteen
17 and fifteen, unless such claim is first presented in
18 writing and payment demanded, or the claim is
19 filed in the probate office supported by the affidavit
20 of the claimant or of some other person cognizant
21 thereof, as provided in chapter sixty-four, section
22 sixty-two, and such notice is given as the court
23 orders thereon, at least thirty days before the action
24 is commenced, and within two years after notice is
25 given by him of his appointment; and none shall be
26 maintained on a claim so presented and demanded
27 or filed, unless commenced during said two years
28 or within six months next following. Executors
29 or administrators residing out of the state at the
30 time of giving notice of their appointment, shall
31 appoint an agent or attorney in the state and insert
32 his name and address in such notice.

33 Executors or administrators removing from the
34 state after giving notice of their appointment, shall
35 appoint an agent or attorney in the state and give

36 public notice thereof; demand or service made on
37 any such agent or attorney shall have the same
38 effect in law as if made on such executors or ad-
39 ministrators. When an executor or administrator,
40 residing out of the state, has no agent or attorney
41 in the state, demand or service may be made on one
42 of his sureties, and shall have the same legal effect
43 as if made on him.

HOUSE AMENDMENT " A. "

Amend by striking out all after the word
2 "amended," in the third line, and substituting
3 therefor the following: "So that the same section
4 as amended shall read as follows:"

5 *Sect. 12.* If an action against an executor or
6 administrator, on a claim against the estate, shall
7 be commenced, except as provided in sections thir-
8 teen and fifteen, without such claim being first
9 presented in writing and payment demanded, or
10 the claim being filed in the probate office, sup-
11 ported by the affidavit of the claimant, or of some
12 other person cognizant thereof, as provided in
13 chapter sixty-four, section sixty-two, and such
14 notice given as the court orders thereon, at least
15 thirty days before the action is commenced, and
16 within two years after notice is given by him of
17 his appointment, such action shall be continued at
18 the cost of the plaintiff till the next term of court,
19 and such further time, and on such other terms, as
20 the court shall order, and a tender of payment, or
21 offer thereof, filed in the case during the time said
22 action is so continued, shall bar the same, and the
23 defendant shall recover his costs; and no action

24 shall be maintained in any such claim, unless com-
25 menced during said two years, or within six
26 months next following, except as provided in the
27 following sections. Executors or administrators
28 residing out of the state at the time of giving
29 notice of their appointment, shall appoint an agent
30 or attorney in the state and insert his name and
31 address in such notice. Executors or administra-
32 tors removing from the state after giving notice of
33 their appointment, shall appoint an agent or attor-
34 ney in the state and give public notice thereof;
35 demand or service made on any such agent or at-
36 torney, shall have the same effect in law as if made
37 on such executor or administrator. When an
38 executor or administrator residing out of the state
39 has no agent or attorney in the state, demand or
40 service may be made on one of his sureties, and
41 shall have the same legal effect as if made on him.

STATE OF MAINE.

IN SENATE, March 8, 1883.

Laid on the table to be printed with amendment.

C. W. TILDEN, *Secretary.*