

# MAINE STATE LEGISLATURE

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# Sixty-Ninth Legislature.

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SENATE.

No. 115

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## STATE OF MAINE.

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IN THE YEAR OF OUR LORD ONE THOUSAND EIGHT  
HUNDRED AND NINETY-NINE.

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AN ACT to amend chapter eighty-seven of the Revised Statutes, as amended by chapter 218 of the Public Laws of 1893 and chapter 133 of the Public Laws of 1895, relating to the Limitations of Actions against Executors and Administrators.

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

Section 1. Section twelve of chapter eighty-seven of the  
2 Revised Statutes as amended by chapter one hundred thirty-  
3 three of the Public Laws of 1895, is hereby amended by strik-  
4 ing out in the eighth line the words "two years" and insert-  
5 ing in place thereof the words 'one year,' and by striking out  
6 in the seventeenth and eighteenth lines the words "two years"  
7 and inserting in place thereof the words 'one year, or within  
8 three months following,' so that said section as amended  
9 shall read as follows:

‘Sect. 12. Actions against executors or administrators, on  
11 claims against the estate, except as provided in sections thir-  
12 teen and fifteen shall, if brought after the time limited in the  
13 preceding section, be continued at the cost of the plaintiff  
14 until the next term of court, and for such further time and  
15 on such other terms as the court may order, unless, at least  
16 thirty days before commencement of suit, and within one year  
17 after notice given by him of his appointment, such claim was  
18 presented in writing and payment demanded, or was filed in  
19 the probate office, supported by affidavit of the claimant, or  
20 of some other person cognizant thereof, as provided in sec-  
21 tion sixty-two of chapter sixty-four and such notice given  
22 as the court orders thereon; a tender of payment or offer  
23 thereof filed in the case during the time of such continuance,  
24 shall bar the same, and the defendant shall recover his costs;  
25 and no action shall be maintained on such claim, unless com-  
26 menced during said one year, or within three months follow-  
27 ing, except as provided in the following sections. Executors  
28 or administrators residing out of the State at the time of  
29 giving notice of their appointment, shall appoint an agent or  
30 attorney in the State, and insert therein his name and address.  
31 Executors or administrators removing from the State, after  
32 giving notice of their appointment, shall appoint an agent or  
33 attorney in the State, and give public notice thereof; demand  
34 or service made on such agents or attorneys has the same  
35 effect as if made on such executor or administrator. When  
36 an executor or administrator, residing out of the State, has  
37 no agent or attorney in the State, demand or service may be  
38 made on one of his sureties, with the same effect as if made  
39 on him.’

Sect. 2. Section thirteen of said chapter, as amended by  
2 chapter two hundred eighteen of the Public Laws of 1893,  
3 is hereby amended by striking out in the second line the

4 words "two years" and inserting in place thereof the words  
5 'one year,' and by striking out in the fourth line the words  
6 "two years" and inserting in place thereof the words 'one  
7 year and three months,' so that said section as amended shall  
8 read as follows :

'Sect. 13. When assets come into the hands of an executor  
10 or administrator after said term of one year, presentment  
11 and demand may be made by a creditor, and after thirty days  
12 an action may be commenced, within one year and three  
13 months from the receipt of such assets and within six months  
14 after the creditor has notice thereof. Judgment rendered in  
15 any action authorized by this section, shall not disturb pay-  
16 ments made in good faith by the executor or administrator  
17 prior to presentment of the claim sued in such action.'

Sect. 3. Section fourteen of said chapter of the Revised  
2 Statutes is hereby amended by striking out in the second line  
3 the words "two years" and inserting in place thereof the  
4 words 'one year,' so that said section as amended shall read  
5 as follows :

'Sect. 14. When an action on a covenant or contract does  
7 not accrue within said one year, the claimant may file his  
8 demand in the probate office within that time, verified as  
9 required in case of claims presented to commissioners on  
10 insolvent estates; and the judge of probate shall direct that  
11 sufficient assets, if such there are, shall be retained by the  
12 executor or administrator, unless the heirs or devisees of the  
13 estate give bond to the executor or administrator, with one  
14 or more sureties, approved by said judge, to pay whatever  
15 is found due on said claim.'

Sect. 4. Section fifteen of said chapter is hereby amended  
2 by striking out in the second line the word "six" and insert-  
3 ing in place thereof the word 'three,' so that said section as  
4 amended shall read as follows :

‘Sect. 15. When no bond is so given, an action may be brought by the claimant against the executor or administrator, within three months after his demand becomes due. When a bond is given, assets shall not be reserved, but the estate is liable in the hands of the heirs or devisees, or those claiming under them, and an action may be brought on such bond. If anything is found due, the claimant shall have judgment therefor, and for his costs.’

Sect. 5. Section sixteen of said chapter is hereby amended by striking out in the second line the words “two years” and inserting in place thereof the words ‘one year,’ so that said section as amended shall read as follows :

‘Sect. 16. When such claim has not been filed in the probate office within said one year, the claimant may have remedy against the heirs or devisees of the estate within one year after it becomes due, and not against the executor or administrator.’

Sect. 6. Section seventeen of said chapter is hereby amended by striking out in the first line the words “two years” and inserting in place thereof the words ‘one year,’ and by striking out in the fourth line the word “three” and inserting in place thereof the word ‘two,’ and by striking out in the sixth line the word “three” and inserting in place thereof the word ‘two,’ and by striking out in the seventh line the word “six” and inserting in place thereof the word ‘three,’ and by striking out in the eighth line the word “three” and inserting in place thereof the word ‘two,’ so that said section as amended shall read as follows :

‘Sect. 17. When a vacancy occurs within said one year, and an administrator de bonis non is appointed, an additional year is allowed for the presentment and demand of claims against the estate; but the period of the vacancy shall not be a part of the two years limited; and on any claim pre-

17 sented to the administrator de bonis non or his predecessor,  
18 and demanded within said two years, an action may be com-  
19 menced after thirty days, and within three months from the  
20 end of said two years, but not within one year from the  
21 notice of appointment given by the executor or first adminis-  
22 trator.'

Sect. 7. This act shall not apply to any pending action nor  
2 to any cause of action against estates in which administration  
3 has already been granted.







STATE OF MAINE.

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IN SENATE, March 8, 1899.

Reported by Mr. WEEKS from Committee on Legal Affairs,  
and laid on table to be printed under joint rules.

KENDALL M. DUNBAR, *Secretary*.