

MAINE STATE LEGISLATURE

The following document is provided by the
LAW AND LEGISLATIVE DIGITAL LIBRARY
at the Maine State Law and Legislative Reference Library
<http://legislature.maine.gov/lawlib>



Reproduced from scanned originals with text recognition applied
(searchable text may contain some errors and/or omissions)

EIGHTY-SECOND LEGISLATURE

S. P. No. 377

S. D. No. 137

In Senate, March 3, 1925.

Referred to Committee on Legal Affairs and 500 copies ordered printed. Sent down for concurrence.

ROYDEN V. BROWN, Secretary.

Presented by Senator Cram of Cumberland.

STATE OF MAINE

IN THE YEAR OF OUR LORD ONE THOUSAND NINE
HUNDRED AND TWENTY-FIVE

AN ACT Relating to the Administration of Assignments for
the Benefit of Creditors.

Be it enacted by the People of the State of Maine, as follows:

Section 1. Every assignment, agreement or conveyance in
2 writing made by any debtor for the benefit of creditors,
3 whatever the form thereof, and whether the same is called
4 an assignment, conveyance, agreement, deed of trust, or by
5 any other name, which shall convey to a person or corpora-
6 tion the property of the debtor, excepting that which is by
7 law exempt from attachment and seizure on execution, and
8 which provides for a proportional distribution of the same
9 among the creditors of the debtor who become parties

10 thereto, shall be subject to all the provisions of this act.
11 Said instrument shall be hereinafter designated as an assign-
12 ment and the grantee therein as the assignee.

Sect. 2. The said assignment shall be acknowledged by
2 the debtor the same as a deed of real estate, and may con-
3 tain an agreement whereby the said debtor shall be released
4 from the claims of each of the creditors that become parties
5 thereto. Said debtor shall furnish the said assignee with a
6 full list of his creditors, with the amount due each and their
7 address so far as the same are then known to him. Credi-
8 tors shall have four months from the date of the said assign-
9 ment in which to become parties thereto. They may be
10 required to make proof of their claims in writing, under
11 oath, filing the same with the assignee.

Creditors shall have a right of appeal to the Judge of Pro-
2 bate from a decision of the assignee in relation to a claim
3 presented against the Estate upon such terms and conditions
4 as the Judge shall order, provided that notice of the appeal
5 shall be filed in said Probate Court and given the assignee
6 within fifteen days from the decision appealed from, unless
7 the Court for good cause extends the time, and provided
8 that no dividend or other payment previously made by order
9 of Court shall be effected by said appeal.

Sect. 3. The assignee shall file in the Probate Court in the
2 County in which the debtor resides, within ten days from
3 the date of the assignment, an attested copy thereof, and
4 within twenty days from its date shall file in said Court a

5 fully itemized inventory of all of the property of said debtor
6 which shall have come to his possession or knowledge,
7 whether the same be mentioned in said assignment or not,
8 taken at cost price to the debtor so far as the same can be
9 then ascertained, duly sworn to; if real estate or any inter-
10 est therein is thereby conveyed, the said assignment shall
11 be recorded in the Registry of Deeds in said county and in
12 all other counties in which the real estate is situated. Said
13 Assignee shall thereupon, if so required by the Court, give
14 a bond to the said Judge of Probate in such sum and with
15 such sureties as shall be approved by him, and said Court
16 shall require said bond provided creditors representing at
17 least twenty-five per cent of the then total known indebted-
18 ness request the same in writing. Said Court shall have
19 the power to appoint one or three appraisers to inventory
20 and appraise said estate if it shall be for the interest of the
21 creditors so to do, and shall appoint said appraisers if thereto
22 requested in writing by creditors representing not less than
23 fifty per cent of the then total indebtedness. Said bond
24 shall be conditioned as follows:

First.—To return into the Probate Court within twenty
2 days after the date of the order requiring the bond a fully
3 itemized inventory of all of the property which shall have
4 come to his possession or knowledge, whether the same be
5 contained in the original agreement or not, taken at cost
6 price to the debtor so far as the same can be ascertained,
7 provided the same has not already been done, and of all

8 other property which may have come into his possession
9 since the first inventory was filed.

Second.—To file in said Court within four months and
2 twenty days from the date of the assignment, unless the time
3 shall be extended by order of Court, a full list of all of the
4 creditors who have become parties to the assignment, with
5 the amounts allowed on each claim, and a statement of the
6 assets of the estate then in his hands.

Third.—To make proportional distribution of all the net
2 proceeds of such estate, among such creditors as become
3 parties to the assignment, in accordance with the order of
4 court.

Fourth.—To render a true account of his doings, on oath,
2 to the Judge of Probate within six months from the date of
3 said assignment, unless the time is extended by order of the
4 Court, and at any other time when thereto ordered by the
5 Judge.

Creditors shall have the same remedy on this bond that is
2 now given creditors of an estate on an administrators or
3 executors bond.

Sect. 4. Within fourteen days from the date of the afore-
2 said assignment, the assignee shall give written notice, by
3 mail, to all of the then known creditors of the said debtor,
4 at their last known address, that the said debtor has con-
5 veyed his property to him in trust for the benefit of his
6 creditors, that creditors may prove their claims within four
7 months from the date of the said assignment, with a brief

8 statement of debtor's assets and liabilities, provided the same
9 are then known to him, and shall give such other notice and
10 notices as the Judge of Probate may at any time order.
11 Creditors may become parties to said conveyance either by
12 joining the original conveyance or by a writing upon a sepa-
13 rate paper.

Sect. 5. No assignment shall be valid against attaching
2 creditors unless notice is given the creditors as before re-
3 quired, and, if a bond is required by the Judge of Probate,
4 unless the same is filed within twenty days from the date
5 of the assignment.

Sect. 6. The assignee shall, upon petition filed in said
2 Probate Court, obtain authority to sell and dispose of the
3 assets of the said estate and shall give such notice to credi-
4 tors upon said petition as the Court orders, provided that
5 whenever it appears to the Court that it will be for the
6 interest of the estate to sell and dispose of the assets with-
7 out notice to the creditors the Court shall have the power to
8 so order such sale.

Sect. 7. Within thirty days after the expiration of four
2 months from the date of the filing of the assignment in the
3 Probate Court, the Court shall order the payment of a first
4 dividend, provided there are sufficient funds in the hands of
5 the assignee to pay all priority claims, the expenses of ad-
6 ministration, a dividend of at least ten per cent, and it is
7 for the interest of the creditors to distribute the estate by
8 the payment of more than one dividend. The Court may

9 for good cause shown extend this time not exceeding thirty
10 days. The Court may thereafter order the payment of such
11 further dividends as the estate requires. If it shall appear
12 to the Court that it is not for the interest of the creditors to
13 distribute the estate by payment of more than one dividend
14 the Court shall so order.

Sect. 8. No property assigned for the benefit of creditors
2 shall be liable to attachment for one year after the assign-
3 ment is filed in the Probate Court provided the notice here-
4 inbefore required is given creditors, and bond has been filed,
5 if required, nor shall the assignee, during that time, be
6 liable to trustee process on account thereof; but after the
7 expiration of said year or of two years from said date
8 provided the Court has so extended the time, any creditor
9 not a party to the assignment may trustee the assignee for
10 any excess of such estate remaining in his hands after the
11 payment of the debts of the creditors who become parties
12 to the assignment, the expenses of administration and any
13 other sums of money paid by order of the Court.

Sect. 9. All property conveyed or transferred by the
2 debtor within four months prior to the date of the assign-
3 ment with an intent to hinder, delay or defraud creditors,
4 or to give a preference to one creditor over another, may
5 be recovered by the assignee as a part of the estate of the
6 debtor, provided the creditor or other person to whom said
7 conveyance or transfer was made knew or had reasonable
8 cause to believe that the said debtor was insolvent at the

9 time of the said conveyance or transfer, and provided that
10 the property is not then in the hands of an innocent person
11 who paid a present fair cash value therefor.

Sect. 10. If an assignee dies or resigns, or for any reason
2 becomes unsuitable or unable to perform said trust, refuses
3 or neglects so to do, or mismanages the said property, the
4 said Judge of Probate, upon petition of a creditor or credi-
5 tors, after due notice, if the allegations in said petition are
6 found to be true, shall appoint another assignee. Said
7 assignee shall have the same powers and be subject to the
8 same liabilities as the original assignee.

Sect. 11. A purchaser of any chose in action, sold by an
2 assignee at public or probate sale, may sue therefor in his
3 own name, subject to all legal and equitable defences.

Sect. 12. The assignee shall be allowed his reasonable
2 and proper expenses in administering the estate, including
3 attorney fees, provided the appointment of an attorney shall
4 have been approved by the Court, and a reasonable compen-
5 sation for his services in administering the said estate, to be
6 determined by the said Judge of Probate, and shall have the
7 right of appeal to the Supreme Court of Probate from his
8 decision as in other cases. Said expenses and compensation
9 are to be paid out of the estate.

Sect. 13. The said Judge of Probate shall have the same
2 power and jurisdiction over the assignee that he now has
3 over executors and administrators.