

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-FOURTH LEGISLATURE

House Document

No. 704

S. P. 696 House of Representatives, March 21, 1929.

Referred to Committee on Revision of Statutes in concurrence and 500 copies ordered printed.

CLYDE R. CHAPMAN, Clerk.

Presented by Senator Weatherbee of Penobscot.

STATE OF MAINE

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

AN ACT to Amend Chapter Sixty-eight of the Revised Statutes, Relative to Executors and Administrators.

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

Section 1. Section twenty-four of chapter sixty-eight of
2 the revised statutes is hereby amended by striking out the
3 word "cited" in the second line of said section and by in-
4 serting in place thereof the word 'ordered' and by adding at
5 the end of said section the following sentence: 'An appeal
6 from the decree of removal of an executor or administrator
7 shall not suspend or vacate the decree pending decision by
8 the supreme court of probate,' so that said section as amend-
9 ed shall read as follows:

'Sect. 24. *Removal of executors or administrators; judge*
2 *may commit administration to other persons; decree not*
3 *vacated pending appeal.* When an executor or administra-
4 tor, residing out of the state, after being ordered by the
5 judge of probate, neglects to render his accounts and set-
6 tle the estate according to law, or when any executor or
7 administrator, joint or sole, becomes insane or otherwise
8 unsuitable to perform the trust, refuses or neglects to do
9 so, or mismanages the estate, said judge may remove him;
10 and he may accept the resignation of any joint or sole ex-
11 ecutor or administrator, when he is satisfied, after public
12 or personal notice to those interested, and a hearing, that
13 there is reasonable cause therefor, and that it will not be
14 detrimental to the estate or to those interested therein; and
15 in either case, if there is no other executor or administrator
16 to discharge the trust, the judge may commit administra-
17 tion of the estate not already administered, with the will
18 annexed or otherwise, as the case requires, to such persons
19 as he thinks fit, as if the one resigned or removed were
20 dead; and such administrator shall have the same powers
21 and be liable to the same obligations as other administra-
22 tors or executors whom he succeeds. An appeal from the
23 decree of removal of an executor or administrator shall
24 not suspend or vacate the decree pending decision by the
25 supreme court of probate.'

Sect. 2. Section forty-four of chapter sixty-eight of the
2 revised statutes as amended by section three of chapter

3 one hundred thirty-three of the public laws of nineteen hun-
4 dred seventeen, is hereby amended by striking out in the
5 fifteenth line of said section as amended the words “and
6 give public notice thereof” and by striking out in the
7 eighteenth and nineteenth lines of said section as amended
8 the words “and public notice thereof given,” so that said
9 section as amended shall read as follows:

‘Sect. 44. *Non-resident executors or administrators to*
2 *appoint agent or attorney in state.* No person residing out
3 of the state shall be appointed an executor or administrator,
4 unless he shall have appointed an agent or attorney in the
5 state. Such appointment shall be made in writing and shall
6 give the name and address of the agent or attorney. Said
7 written appointment shall be filed and recorded in the reg-
8 istry of probate for the county in which the principal is
9 appointed, and by such appointment the subscriber shall
10 agree that the service of any legal process against him as
11 such executor or administrator, or that the service of any
12 such process against him in his individual capacity in any
13 action founded upon or arising out of any of his acts or
14 omissions as such executor or administrator shall, if made
15 on such agent, have like effect as if made on himself per-
16 sonally within the state, and such service shall have such
17 effect. An executor or administrator who after his ap-
18 pointment removes from and resides without the state
19 shall so appoint an agent within thirty days after such re-
20 moval. If an agent appointed under the provisions of this

21 section dies or removes from the state before the final set-
22 tlement of the accounts of his principal, another appoint-
23 ment shall be made, filed and recorded as above provided;
24 the powers of an agent appointed under the provisions of
25 this section shall not be revoked prior to the final settle-
26 ment of the estate unless another appointment shall be made
27 as herein provided. Neglect or refusal by an executor or
28 administrator to comply with any provision of this section
29 shall be cause for removal. An executor or administrator
30 residing out of the state shall not appoint his co-executor or
31 co-administrator, residing in the state, as his agent.'

Sect. 3. Section fifty-seven of chapter sixty-eight of the
2 revised statutes is hereby amended by striking out the word
3 "reasonable" in the third line of said section and by insert-
4 ing in place thereof the word 'public' and by adding after
5 the word "account" in the fourth line the words 'unless
6 waived by all parties in interest other than creditors;' so
7 that said section as amended shall read as follows:

'Sect. 57. *Accounts when rendered; notice and examina-*
2 *tion.* Every executor or administrator shall render his ac-
3 counts agreeably to the condition of his bond; and the judge
4 may require him to account, when he deems it necessary.
5 Public notice shall be given before the allowance of any
6 such account unless waived by all parties in interest other
7 than creditors. On the examination thereof, the accountant
8 may be interrogated under oath in relation to the same, and

9 such record of his answers shall be made as the judge re-
10 quired.'

Sect. 4. Section seventy of chapter sixty-eight of the re-
2 vised statutes is hereby amended by inserting after the
3 word "state" in the second line of said section the words
4 'committee of the person or property' and by inserting after
5 the word "conservator" in the sixteenth line of said section
6 the word 'committee,' so that said section as amended shall
7 read as follows:

'Sect. 70. *Foreign executors, administrators, guardians,*
2 *conservators, committees or trustees may be licensed to col-*
3 *lect and receive personal estate.* Any executor, administra-
4 tor, guardian, conservator of the property of any person
5 living out of the state, committee of the person or property,
6 or trustee duly appointed in another state or in a foreign
7 country and duly qualified and acting, who may be entitled
8 to any personal estate in this state, may file an authenticated
9 copy of his appointment in the probate court for any county
10 in which there is real property of his trust, or, if there is
11 no such real property, in any county in which there is per-
12 sonal estate of his trust or to which he may be entitled, and
13 may upon petition to said court, after due notice to all per-
14 sons interested, be licensed to collect and receive such per-
15 sonal estate or to sell by public or private sale, or otherwise
16 dispose of, and to transfer and convey, shares in a cor-
17 poration or other personal property, if the court finds that
18 there is no executor, administrator, guardian, conservator

19 or trustee appointed in this state who is authorized so to col-
20 lect and receive such personal estate or to dispose of such
21 shares or other personal property, and that such foreign
22 executor, administrator, guardian, conservator, committee,
23 or trustee will be liable to account for such personal estate
24 or for the proceeds thereof in the state or country in which
25 he was appointed; and that no person resident in this state
26 and interested as a creditor or otherwise objects to the
27 granting of such license or appears to be prejudiced there-
28 by; but no such license shall be granted to a foreign execu-
29 tor or administrator until the expiration of six months after
30 the death of his testator or intestate, nor until all inherit-
31 ance taxes payable to the state, if any, are paid or secured.'