

MAINE STATE LEGISLATURE

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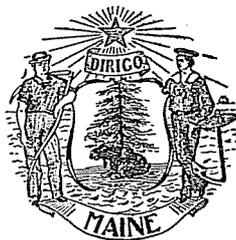
THE
REVISED STATUTES

OF THE

STATE OF MAINE,

PASSED SEPTEMBER 1, 1903, AND TAKING EFFECT JANUARY 1, 1904.

BY THE AUTHORITY OF THE LEGISLATURE.



AUGUSTA :
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CHAPTER 70.

TESTAMENTARY TRUSTEES AND VOLUNTARY TRUSTS.

TESTAMENTARY TRUSTEES.

Bonds of trustees.
R. S., c. 68, § 1.
17 Me., 140.
37 Me., 275.
61 Me., 98.
62 Me., 450.

SEC. 1. Every testamentary trustee, except those hereinafter exempted, before entering on his duties, shall give bond to the judge of probate for the county where the will is proved, with sufficient sureties, in such sum as the judge prescribes, conditioned as follows:

I. That he will faithfully execute such trust according to the will of the testator, so far as is consistent with law.

II. That he will make a true and perfect inventory of the real estate, goods and chattels, rights and credits of such estate, to be returned into the probate office at such time as the judge orders.

III. That he will render an account of the income and profits thereof, and of his payments and expenses, once in three years, and oftener if required by the judge.

IV. That at the expiration of such trust he will settle his accounts with the judge; pay and deliver over all balances, sums of money, or other property, that are due, and give possession of the other estate, with which he is entrusted, to the persons entitled thereto.

When bonds may not be required.
R. S., c. 68, § 2.
84 Me., 48.

SEC. 2. In the following cases bonds shall not be required of such trustees, unless, for special reasons, the judge determines it to be necessary; but when no bond is required, they shall settle their account with the judge of probate annually:

I. When the testator has requested or directed that a bond should not be required.

II. When all the parties interested in the trust fund, if of full age and legal capacity, in writing signify to the judge their request that a bond shall not be required.

III. When the trustee, not being before required to give bond, had entered on the duties of his trust prior to August one, eighteen hundred and forty-one.

Trustee, neglecting to give bond.
R. S., c. 68, § 3.

SEC. 3. Every person appointed a testamentary trustee, who neglects to give bond within the time allowed therefor by the judge, shall be considered to decline the trust. And whenever any trustee settles an account in probate court, unless such account is a final one, the judge of probate shall examine his bond, and the same proceedings shall be had in relation thereto as are provided in section twenty-two of chapter sixty-nine relating to bonds of guardians.

—examination of bond.
1897, c. 174.
See c. 74, § 2.

Trustee may resign, or be removed, after notice.
R. S., c. 68, § 4.

SEC. 4. Such trustee at his own request may be allowed to resign his trust, when it seems proper to the judge; no person succeeding to such trust as executor or administrator of a former trustee, is required to accept or retain it against his will; and when any trustee, appointed either by the testator or the judge, becomes insane or otherwise evidently unsuitable to discharge his trust, the judge, upon notice to him and all others interested, may remove him and appoint another.

Power of a trustee thus appointed.
R. S., c. 68, § 7.
65 Me., 106.
84 Me., 329.

SEC. 5. Every trustee, appointed by the judge, shall have and exercise the same powers, rights and duties, as sole or joint trustee, as if he had been appointed by the testator, and the trust estate vests in him accordingly; and the judge may order such conveyances to be made by the former

trustee or his representatives, or by the remaining trustees, as are proper to vest in the new trustee, solely or jointly, such estate and effects.

SEC. 6. Every trustee, appointed by the judge, shall, before entering on his duties, give bond as aforesaid; but the judge may dispense with the making and returning an inventory by any substituted trustee, when he thinks it unnecessary, and the condition of the bond shall be altered accordingly; but without such bond, accepted by the judge, no right or authority vests in such trustee.

Such trustee shall give bond.
R. S., c. 68, § 8.

SEC. 7. When a trustee is required to return an inventory, the estate and effects shall be appraised by three suitable persons, appointed and sworn, as in case of the estates of deceased persons. Warrants for inventories may be revoked by the judge for cause, and new ones issued, if deemed necessary.

Inventory shall be returned by trustee.
R. S., c. 68, § 9.

SEC. 8. The judge may authorize any trustee to refer or compromise claims by or against the trust estate.

May refer or compromise.
R. S., c. 68, § 10.

SEC. 9. Any judge of probate, having jurisdiction of the trust, and the supreme judicial court in any county, on application of the trustee, or of any person interested in the trust estate, after notice to all interested, may authorize or require him to sell any real or personal estate held by him in trust, and to invest the proceeds thereof, with any other trust moneys in his hands, in real estate, or in any other manner most for the interest of all concerned therein; and may give such further directions as the case requires, for managing, investing and disposing of the trust fund, as will best effect the objects of the trust.

Courts may direct trust estates to be sold, and moneys to be invested.
R. S., c. 68, § 11.
1903, c. 94.
See c. 79, § 6, ¶ viii.
33 Me., 553.
50 Me., 541.
84 Me., 555.

SEC. 10. Either of said courts may hear and determine, in equity, all other matters relating to the trusts herein mentioned.

Equity power as to trusts.
R. S., c. 68, § 12.
50 Me., 541.
94 Me., 346.
How bonds of trustees may be sued.
R. S., c. 68, § 13.

SEC. 11. Any bond given by a trustee may be put in suit, by order of the judge of probate, for the benefit of any person interested in the trust estate; and the proceedings in such suit shall be conducted in the manner prescribed with respect to bonds of administrators.

SEC. 12. The foregoing provisions are applicable to executors, who, by the provisions of a will, become trustees by operation of law without express appointment; but they are not required to return another inventory.

Executors becoming trustees by operation of law.
R. S., c. 68, § 14.
37 Me., 275.
50 Me., 548.

VOLUNTARY TRUSTS.

SEC. 13. A person placing property for any purpose in the hands of a trustee, may, on petition to the judge of probate in the county where he resides, have the appointment of trustee confirmed by the judge; and said trustee shall file a bond, with sureties to be approved by the judge, for the fulfilment of said trust, according to the terms and conditions of the trust deed or declaration. The provisions of section seventeen are applicable to cases of voluntary trusts, arising under this section.

Trustee, appointment in case of voluntary trusts.
R. S., c. 68, § 15.
—bond.

SEC. 14. Such trustee shall account to the judge in the same manner as testamentary trustees, unless excused or released therefrom by the person creating the trust, or for whose benefit it was created; and at the termination of such trust, the money or property held by the trustee shall be paid or delivered to the person legally entitled thereto.

—§ 17 applicable to such trust.
1897, c. 199.

SEC. 15. If said trustee at any time fails to fulfil the conditions of the trust or of his bond, parties interested have the same remedies, and like proceedings shall be had, as in case of other probate bonds.

Trustee, accountable to judge of probate.
It. S., c. 68, § 16.

Remedies, if trustee fails to fulfil his bond.
R. S., c. 68, § 17.

CHAP. 70.

APPOINTMENT OF TRUSTEES TO FILL VACANCIES.

Supreme
judicial
court may
fill vacancies
of trustees
when vacancy
cannot be
filled by
surviving
trustees.
1897, c. 245.
See c. 75, § 16.

—after
notice and
hearing.

—property
shall vest
in new
trustee.

—decree to be
recorded.

Vacancy in
trusts, how
filled.
R. S., c. 68, § 5.
See c. 75, § 16.
69 Me., 398.
85 Me., 88.
94 Me., 311.

—new trustee
shall give
bonds.

—his powers,
rights and
duties.

Court may
order
conveyances
to be made
to him.
R. S., c. 68, § 6.
69 Me., 399.
85 Me., 90.

SEC. 16. Whenever vacancies shall occur by the death or resignation of any or all of the trustees named in any deed of trust or mortgage, and from any cause such vacancy cannot be filled by appointment by the surviving trustee or trustees named therein, or such trustees neglect or refuse to make such appointment, the supreme judicial court, or any judge thereof, in term time or vacation, on the petition of any party interested in said trust, and upon such notice to all persons interested by publication or otherwise as the court shall order, and after hearing thereon, may appoint a trustee or trustees to fill such vacancy or vacancies, and upon and by virtue of said appointment the property described in said deed of trust or mortgage held by said trustees at the time of such decease or resignation, shall vest in said trustees so appointed without further conveyance thereof, whether said trustees have deceased before March twenty, eighteen hundred and ninety-seven, or otherwise, and they shall have the rights and powers and be subject to the duties relating to such trust to the same extent and for the same purposes as the same were held by the original trustees in said trust; the decree making such appointment shall confirm the transfer of title as hereinbefore provided and shall be recorded as the original trust deed was recorded. The heirs at law and personal representatives of any deceased trustee, shall not be necessary as parties to said petition nor any proceedings thereunder, but may appear and be heard in relation to the matters therein contained, and such notice of said petition and hearing shall be given them by publication or otherwise as the court may order.

SEC. 17. When a trustee under a written instrument, declines, resigns, dies or is removed, before the objects thereof are accomplished, if no adequate provision is made therein for supplying the vacancy, the probate court or supreme judicial court shall, after notice to all persons interested, appoint a new trustee to act alone or jointly with the others, as the case may be. Such new trustee, upon giving the bonds and security required, shall have and exercise the same powers, rights and duties, whether as a sole or joint trustee, as if he had been originally appointed, and the trust estate vests in him in like manner as it had or would have vested in the trustee in whose place he is substituted.

SEC. 18. Upon the appointment of a trustee under the preceding section, the court may order such conveyance to be made by the former trustee, or by his representatives, or by the other remaining trustees, as is proper or convenient to vest in such trustee, either alone or jointly with the others, the estate and effects to be held in trust.

Note. City or town appointed trustee not required to give bond in certain cases, c. 20, § 13.

Compensation of trustees, c. 65, § 37.

Bondholders under mortgage given by a corporation may elect trustees to fill vacancies, c. 52, §§ 36, 60.

Probate court has jurisdiction of all matters relating to trusts for sale of contingent remainders, c. 75, § 6.