

XI. AND BE IT ENACTED, That on all sales to be made by the governor and council, and under their direction and appointment, of confiscated property, in pursuance of this act, deeds shall be executed by the chancellor to the purchaser or purchasers, in the same manner as for other confiscated property heretofore disposed of.

C H A P.
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Deeds to be executed, &c.

XII. AND BE IT ENACTED, That in all cases where bonds shall be taken in virtue of this act, such bonds shall be a lien on the real property of the obligors from the date thereof, or on so much of the said real property as the governor and council shall think sufficient, to be particularly mentioned in a schedule to be annexed to the said bond, in which case it shall be a lien on the property contained in such schedule, and no more, such bond and schedule to be lodged with the treasurer of the western shore, and all such bonds shall express the county in which the obligors respectively reside; and the treasurer of the respective shores shall, within one month after they receive them respectively, cause them, with the schedules annexed to them, to be recorded in the office of the clerks of the western and eastern shores respectively, at the expence of the obligors, and a copy of said record, certified under the hand and official seal of the clerk in whose office the same record shall have been made, shall be as good evidence in any court of law or equity in this state as the original bond would be if it was produced.

Bonds to be a lien, &c.

XIII. AND BE IT ENACTED, That the governor and council be and they are hereby requested to make communications to the next general assembly of the several proceedings under this act.

Communications to be made.

XIV. AND BE IT ENACTED, That the governor and council be and they are hereby authorised to allow to any person whom they shall think proper to appoint to sell any real property directed to be sold in virtue of this act, a sum not exceeding three *per centum* on the amount of any sale.

Commission to be allowed, &c.

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A Supplement to an act for amending, and reducing into system, the laws and regulations concerning last wills and testaments, the duties of executors, administrators and guardians, and the rights of orphans and other representatives of deceased persons.

Passed 8th of January, 1802.

BE IT ENACTED, by the General Assembly of Maryland, That if an executor or administrator conceives that he hath not assets sufficient to discharge the claim, or any part thereof, for which a suit shall be brought against him, he may plead the fact, and a trial by a jury shall be had thereupon; and if, on any trial so had against an executor or administrator, and the debt or demand of the plaintiff shall be contested, and there be any other issue joined than upon the subject of assets, the jury, if they find for the plaintiff upon the issues so to be joined, and the amount of assets so found by them be less than the debt or demand of the plaintiff, they shall declare the amount of the debt or demand, and likewise the sum to be paid by the defendant to the plaintiff, regard being had to the amount of assets in hand, and the debts due from the deceased, the court shall thereupon enter judgment against the defendant for the penalty of the bond, or damages laid in the plaintiff's declaration, and cost of suit, if the court shall so direct, which said debt or damages shall be released upon the payment of the sum ascertained to be paid by the verdict of the jury, and interest thereon from the time of rendering the said judgment, which said sum, so ascertained to be paid by the verdict of the jury, is to be levied of the goods and chattels of the deceased, or of the proper goods and chattels of the defendant, and residue of the debt or damages, so ascertained as aforesaid, is to be levied of the goods and chattels of the deceased which may hereafter come to the hands of the defendant to be administered, with interest as aforesaid, or of the proper goods and chattels of the defendant; and if such goods and chattels shall thereafter come to the hands of the defendant, as executor or administrator as aforesaid, or into the hands of any other person who may have authority to administer the goods of the deceased, the plaintiff may issue on the said judgment a writ *scire facias*, suggesting the coming of assets to the hands of the executor or administrator, liable and subject to the payment of the residue of the said debt or demand, with interest as aforesaid so due, upon which, if the defendant contests the same, there shall be a trial by jury as aforesaid; provided nevertheless, that in all cases where the amount of the claim of the plaintiff has been ascertained, by confession or otherwise, in any case now depending in any court, and the same has been referred to an auditor to ascertain the sum for which judgment shall be entered agreeable to the provisions of the act to which this is a supplement, that the auditor, previous to his marshalling the assets, shall cause notice to be given to the executor or administrator of the time and place of his proceeding to marshal the assets as aforesaid, and should it appear to the auditor that there

Executors, &c. may plead, &c.