

As to how the statute should be pleaded, see notes to sec. 1.  
 As to persons under disability, see notes to sec. 2.  
 See sections 1 and 6 and notes.

1904, art. 57, sec. 4. 1888, art. 57, sec. 4. 1860, art. 57, sec. 4.  
 1715, ch. 23, secs. 4, 5.

4. No person absenting himself from this State or that shall remove from county to county after any debt contracted whereby the creditor may be at an uncertainty of finding out such person or his effects shall have any benefit of any limitation herein contained, but nothing contained in this section shall debar any person from removing himself or family from one county to another for his convenience, or shall deprive any person leaving this State for the time herein limited of the benefit thereof, he leaving effects sufficient and known for the payment of his just debts in the hands of some person who will assume the payment thereof to his creditors.

The intent of the legislature is that limitations should not attach against a creditor where the debtor is absent from the state at the time the cause of action accrues. If, however, after such accrual, the debtor is in the state and thus affords the creditor an opportunity to prosecute his writ, the action should be instituted within the statutory period. What amounts to the requisite "presence within the state"? *Hysinger v. Baltzell*, 3 G. & J. 161.

This section has no application to a case where there is no fraud or concealment of residence. The object of this section discussed. *Flnk v. Zepp*, 76 Md. 185; *Maurice v. Worden*, 52 Md. 234.

The court seems to have placed very little reliance upon this section, declaring it to be so ambiguous as to be practically useless. *Mason v. Union Mills Co.*, 81 Md. 457; *Maurice v. Worden*, 52 Md. 294.

*Ibid.* sec. 5. 1888, art. 57, sec. 5. 1860, art. 57, sec. 5. 1765, ch. 12.

5. If any person liable to any action shall be absent out of the State at the time when the cause of action may arise or accrue against him he shall have no benefit of the limitation herein contained if the person who has the cause of action shall commence the same after the presence in this State of the person liable thereto within the terms herein limited.

Where both plaintiff and defendant are non-residents and the cause of action is made and to be performed in another state, the plaintiff is entitled to the benefit of this section. Where a non-resident defendant voluntarily appears in an attachment, he can not rely upon limitations, although the plaintiff is also a non-resident, unless the defendant has been within this state for the statutory period. *Mason v. Union Mills Co.* 81 Md. 448.

This section is to be construed in connection with section 1, so that the intent of the legislature to the effect that limitations should not apply to a creditor whose debtor is out of the state, may prevail. *Mason v. Union Mills Co.*, 81 Md. 457; *Hysinger v. Baltzell*, 3 G. & J. 161.

Though a defendant may be actually within the limits of the state, if he is beyond the reach of process, he is "out of the state" within the meaning of this section. If he can be reached by process, it makes no difference whether he is a resident or not. *Mason v. Union Mills Co.*, 81 Md. 457. See also, *Maurice v. Worden*, 52 Md. 291; *Hysinger v. Baltzell*, 3 G. & J. 162.

When the statute once begins to run, no subsequent disability will arrest it unless so provided by statute. The effect of the statute can not be avoided by a calculation to the effect that the defendant has not been in the state precisely three years. *Maurice v. Worden*, 52 Md. 294.

The fact that the defendant is a non-resident does not deprive him of the benefit of the statute if he has been in Maryland for more than three years