

A bond not in accordance with this section does not stay the proceedings. *Johnson v. Goldsborough*, 1 H. & J. 501. *Cf. Smith v. Dorsey*, 6 H. & J. 261.

If a bond is insufficient, the appellee's remedy is by application to the lower court to compel the filing of a proper bond. If he fails so to apply, the court of appeals is powerless. *Fullerton v. Miller*, 22 Md. 9.

**Generally.**

The bond, and not the appeal, operates to stay further proceedings. *Barnum v. Barnum*, 42 Md. 294.

After the appeal is taken and a bond filed and approved, no step can be taken which may prejudice the appellant. *Ohio R. R. Co. v. Winn*, 4 Md. Ch. 254.

If a defendant has appealed in time, he may if he sees fit, defer filing bond until the last moment before the execution is consummated. *Eakle v. Smith*, 24 Md. 361.

The fact that a removed receiver has entered an appeal from the order removing him and filed an appeal bond, will not prevent the court from enforcing its order of removal. *In re Colvin*, 3 Md. Ch. 304.

This section does not apply to an appeal of a board of managers from a writ of mandamus directing them to hold an election. *Mottu v. Primrose*, 23 Md. 502.

The bond must be construed in connection with the decree; measure of damages in suit on bond. *Woods v. Fulton*, 2 H. & G. 71.

The giving of a bond has nothing to do with the right of appeal. *Baltimore v. B. & O. R. R. Co.*, 21 Md. 52; *Price v. Thomas*, 4 Md. 520.

The words "prosecute with effect," construed. *Karthous v. Owings*, 6 H. & J. 138. Sureties adjudged sufficient. *Ringgold's case*, 1 Bl. 5.

For a case apparently now inapplicable to this section by reason of changes in the law, see *Thompson v. McKim*, 6 H. & J. 331.

Cited but not construed in *Bendel v. Zion Church*, 71 Md. 85.

See sec. 33, *et seq.*; sec. 68, *et seq.*, and sec. 98, *et seq.*

An. Code, sec. 54. 1904, sec. 54. 1888, sec. 52. 1826, ch. 200, secs. 3, 4, 5. 1864, ch. 322.

**58.** The clerk or judge of any court of law or equity shall approve any bond under the preceding section, but no appeal bond in any case shall be approved, and no execution upon any judgment, order or decree in any of the courts of law or equity, shall be stayed or delayed by an appeal, unless the person against whom such judgment, order or decree has been recovered or passed, his heirs, executors or administrators, shall upon praying such appeal, file in the case an affidavit that said appeal is not taken for delay.

An. Code, sec. 55. 1904, sec. 55. 1888, sec. 53. 1840, ch. 232. 1861, ch. 17. 1862, ch. 249. 1864, ch. 268.

**59.** The filing of an appeal bond approved as aforesaid and of said affidavit shall stay any execution which has been issued on any such judgment or decree, whether the same has been in part executed or not; and the sheriff or other officer in whose hands the execution may be, upon the exhibition to him of satisfactory evidence that an appeal bond has been filed and approved, and that said affidavit has been filed, and upon the receipt of the costs which have accrued on said execution, shall stay all further proceedings, and deliver up the property; provided, that this section shall not extend to appeals from courts of common law rendered by confession, or to any judgment rendered on verdict, unless a bill of exceptions has been taken, or a motion in arrest of judgment has been overruled.

This section presupposes the taking of an appeal in due time. The non-payment of the costs of execution does not destroy the effect of the bond as a stay of execution. *Eakle v. Smith*, 24 Md. 361.

The running of the statute of limitations is not arrested pending the stay of execution. *Kirkland v. Krebs*, 34 Md. 96.

*Cf. sec. 68, and notes; sec. 33 and notes; and sec. 98 and notes.*