This section applies only when a judgment has been rendered against the surety; hence where the surety dies before judgment, his administrators are not entitled to an assignment of the judgment recovered against co-sureties. Wilson *v.* Ridgely, 46 Md. 246.

Where a judgment in favor of the state is paid by a surety, the attorney for the state has no authority under this section to assign the judgment. But see sec. 8. Peacock *v.* Pembroke, 8 Md. 348; McKnew *v.* Duvall, 45 Md. 508; Wilson *v.* Ridgely, 46 Md. 245.

The act of 1763, ch. 23, only confers the right to make the assignment upon the original creditor, and not upon his equitable assignee. Neptune Ins. Co. *v.* Howard, 3 Md. Ch. 338; Creager *v.* Brengle, 5 H. & J. 239.

This section is to be construed in connection with secs. 6 and 8. McKnew *v.* Duvall, 45 Md. 507.

Cited but not construed in Hickinger *v.* Hull, 5 Gill, 77.

An. Code, sec. 8. 1904, sec. 8. 1888, sec. 8. 1864, ch. 243.

8. In any case where judgment shall be recovered by the State against any principal debtor and a surety or sureties, and said judgment shall be satisfied by said surety or sureties, the same shall be entered by the attorney representing the State to the use of the surety or sureties satisfying the same, on the said attorney filing in the case a certificate of the comptroller stating that said judgment has been so satisfied, and said surety or sureties shall then be entitled to execution in his or their own name or names against the principal and the other sureties, in the same manner and subject to the same provisions contained in the two preceding sections.

This section applies only where a judgment has been rendered against the surety; hence where the surety dies before judgment, his administrators are not entitled to an assignment of the judgment recovered against a principal and co-sureties. Wilson *v.* Ridgely, 46 Md. 246.

This section is to be construed in connection with secs. 6 and 7. McKnew *v.* Duvall, 45 Md. 507.

This section apparently grew out of the decision in Peacock *v.* Pembroke, 8 Md. 352. See also McKnew *v.* Duvall, 45 Md. 508.

Cited but not construed in Orem *v.* Wrightson, 51 Md. 46.

This section is substantially the same as art. 10, sec. 28.

An. Code, sec. 9. 1904, sec. 9. 1888, sec. 9. 1763, ch. 23, sec. 9.

9. The assignee of any bond or other obligation under seal that has been assigned under hand and seal may maintain an action in his own name against the obligor therein named—and if such obligor shall be unable to pay the debt mentioned in the obligation, or cannot be found in the place or county of his usual abode, or any other thing or casualty should happen whereby the assignee should not be able to recover his debt from the obligor, an action may be maintained by the assignee against the obligee in such obligation, unless the assignee be a surety therein; provided, that where any debt shall be lost by the negligence or default of the assignee, the assignor shall not be liable.

To support an action under this section against the obligee, there must be proof that the assignment was under seal and that the assignee used due diligence to recover from the obligor; but the execution of the bond need not be proven. Parrott *v.* Gibson, 1 H. & J. 399.

If the assignment of an obligation under seal is not executed under the assignor's hand and seal, the latter cannot be sued. Dickey *v.* Pocomoke Bank, 89 Md. 293; Jackson *v.* Myers, 43 Md. 462.

The assignee of a sealed instrument has no right of action against the assignor if the assignment is in writing, but not under seal. Talbott *v.* Suit, 68 Md. 447.