

An. Code, sec. 237. 1904, sec. 221. 1888, sec. 205. 1874, ch. 483, sec. 107. 1892, ch. 241. 1900, ch. 114. 1912, ch. 778.

252. Every trustee to whom any estate, real, personal or mixed, shall be limited or conveyed for the benefit of creditors, or to be sold for any other purpose, except upon a contingency, shall file with the clerk of the court in which the deed or instrument creating the trusts may be recorded, a bond in such penalty as the clerk may prescribe, being as nearly as can be ascertained double the amount of the whole trust estate, and with sureties to be approved by the clerk, conditioned for the faithful performance of the trusts reposed in such trustee, which bond shall be retained and recorded in the office of said clerk; and no title shall pass to any trustee as aforesaid, until such bond shall be filed and approved as aforesaid, and no sale made by any such trustee without such bond shall be valid or pass any title to such property or estate. If the trust estate consists of real property, or of real and personal property, situated partly in the county or city in which the grantor reside, and partly in one or more other counties, it shall be sufficient that a bond has been accepted and filed in the county of the grantor's residence; if the trust estate consists entirely of real estate in a county or counties other than of the residence of the grantor, it shall be sufficient that a bond has been accepted and filed in the county in which the deed has been recorded; provided, nevertheless, that this section shall neither apply to, nor include, any deed of trust by which land is conveyed to a trustee or trustees to sell, in whole or in part or parts, for the benefit either of the grantor or grantors in the said deed of trust or of the person or persons who have contributed or paid the consideration, other than love and affection, of the said deed of trust and is or are entitled thereunder to the proceeds of sale or sales made thereunder.

Application of this section.

This section applies only to deeds creating trusts for the sale of property for the benefit of creditors or otherwise. It has no application to a deed creating a trust to hold property and then convey it absolutely, although an incidental power of sale is conferred. *Talbott v. Leatherbury*, 92 Md. 168; *Union Trust Co. v. Ward*, 100 Md. 101; *Casualty Co.'s Case*, 82 Md. 562.

This section held not to apply where money is deposited by a casualty company with the treasurer of Maryland to guarantee the payment of policies, although a trust is thereby created. *Casualty Co.'s Case*, 82 Md. 562. And see *Union Trust Co. v. Ward*, 100 Md. 101.

This section does not apply to an assignment for the benefit of creditors executed by a resident of another state conveying *choses in action* and personal property situated in this state. This section has no application if the deed of trust is not required to be recorded. *Moore v. Land Title, etc., Co.*, 82 Md. 289; *United Rys., etc., Co. v. Rowe*, 97 Md. 658.

A deed conveying property to trustees to hold for a person for her life and then (in case she failed to exercise a power of appointment) to convey it to her heirs, etc., giving the trustees a power of sale, and further directing the trustee to repay certain money expended for the support of the life tenant, is not within the purview of this and the following section, when it appears that the money so expended was repaid before the sale in question was made. Exceptions to title overruled. *Schmidt v. Hinkley*, 115 Md. 336 (decided prior to the act of 1912, ch. 778).

In the absence of fraud, this section has no application where the plaintiff in a pending suit assigns her interest in the prospective judgment to her counsel as trustee, with certain directions as to the distribution of the proceeds. *United Rys., etc., Co. v. Rowe*, 97 Md. 658.