

and moreover, the account shall appear to have been proved as open accounts are required to be proved by article 35, title "Evidence."

Under this section and sec. 63 of art. 35, it is competent for a creditor or person suing, who is one of the necessary parties, to make the affidavit required by this section (although disqualified under art. 35, sec. 3, to testify to any statement or transaction with decedent), which, together with the affidavit of a disinterested credible witness, constitutes what is generally known as double probate. *Bogart v. Willis*, 158 Md. 401.

Sec. 112 is applicable to the claims mentioned in this section. *Coburn v. Harris*, 58 Md. 103.

For a case holding the affidavit to a claim defective both in itself and in the parties who made it, see *Cecil v. Rose*, 17 Md. 104.

Object and scope of this section. *Stevenson v. Schriver*, 9 G. & J. 336. And see *Hammond v. Hammond*, 2 Bl. 366.

Cited but not construed in *Flater v. Weaver*, 108 Md. 672; *Bushong v. Clark*, 168 Md. 662.

See notes to sec. 87.

An. Code, 1924, sec. 94. 1912, sec. 92. 1904, sec. 91. 1888, sec. 92. 1798, ch. 101, sub-ch. 9, sec. 10.

**97.** If the claim arises on a bond, note, or a bill of exchange, or account for dealing with a factor, and the principal be not within the State, the factor who took the said bond, note or bill, or who sold or delivered the articles in the account, may make oath, to be certified as aforesaid and endorsed on a statement of the money due thereon, "that the said statement is full, just and true, and that he (the deponent) took the said bond or note, or bill, or delivered the articles charged in the account, as factor to ———, living in or lately of ———, and that neither he, the deponent, nor the principal, nor any other person for him or the principal, to his knowledge or belief, hath received any part of the money originally due on such bond, note, bill or account, or any security or satisfaction for the same, except what (if any) is credited"; and the said oath with the other respective vouchers and proofs as aforesaid shall authorize the administrator to make payment or distribution.

Sec. 112 is applicable to the claims mentioned in this section. *Coburn v. Harris*, 58 Md. 103.

An. Code, 1924, sec. 95. 1912, sec. 93. 1904, sec. 92. 1888, sec. 93. 1798, ch. 101, sub-ch. 9, sec. 11.

**98.** If the factor aforesaid be dead or out of the State, and the principal be also out of the State, and it shall appear, in case of account, that the same has been regularly proved by a disinterested, credible witness, as prescribed in section 96 of this article, on oath of any other factor made after the death of the decedent and certified and endorsed on the statement as aforesaid, "that the said bond, note, bill or account came into his hands as factor for the creditor residing in ——— after the death or removal of ———, the factor who took the said bond, note, bill, or delivered the articles in the account, that he has reason to believe and does believe, that the said statement is full, just and true, and that no part of the money originally due on such bond, note, bill or account, or any security or satisfaction for the same hath been received except what (if any) is credited may be made"; and the said oath, with the other respective vouchers or proofs as aforesaid, shall be sufficient to authorize the administrator to pay as aforesaid.

An. Code, 1924, sec. 96. 1912, sec. 94. 1904, sec. 93. 1888, sec. 94. 1798, ch. 101, sub-ch. 9, sec. 12.

**99.** When any affidavit or depositions to prove claims shall have been taken out of the State, the same shall be good if taken and certified as