

or rejection and failure to bring suit, the administrator may proceed to pay or distribute as if he had not knowledge or notice of such claim, or as if it did not exist; but if the claim be put in suit within nine months, it may be ascertained by verdict or otherwise, and the court shall proceed as herein directed, regard being had to the rules herein laid down as to the notice to be given by the administrator, and distribution or payment to be made after such notice.

In view of intention of executors to invoke "limitations" clause of this section against a valid contract, case remanded for passage of money decree to bind assets in hands of executors—see sec. 115; decree modified. *Marden v. Scott*, 154 Md. 429.

Claim of creditor of decedent is barred if suit is not brought within nine months after written refusal of payment by administrator. *Baker v. Cooper*, 166 Md. 3.

Cited but not construed in *Watkins v. State*, 162 Md. 617. Cited in *Goldsborough v. DeWitt*, 171 Md. 266.

The object of secs. 112 and 113 is to prevent creditor with controverted claim from unduly prolonging settlement of decedent's estate. *Davis v. Winter*, 172 Md. 348.

Cited but not construed in *Harford Bank v. Hopper's Estate*, 169 Md. 331.

The provisions of secs. 1-3, 106, 112, 116, 127 and 212-220 with respect to time of accounting are directory, as time of settlement is subordinate to exigencies of reasonable and prudent administration. *Goldsborough v. DeWitt*, 171 Md. 253.

Construction of the word "exhibited," as used in this section. If the claim is passed by orphans' court under sec. 124, and payment demanded and refused, this section applies although claim is not physically presented to administrator. Effect of an assignment of claim. *Bradford v. Street*, 84 Md. 276. *Cf. Coburn v. Harris*, 53 Md. 370; *Peterson v. Ellicott*, 9 Md. 60.

Suit brought and a plea of *non assumpsit* are a sufficient demand and refusal to pay under this section. This section has no application to a claim for goods sold administrator after death of deceased, but has reference to such claims as are referred to in secs. 96 and 97. *Coburn v. Harris*, 58 Md. 100.

Where suit is not brought within nine months after rejection of claim, surety is not bound by a judgment on such claim against administrator. *Md. Casualty Co. v. State*, 137 Md. 154.

This section distinguished from secs. 114 and 126, in that latter only relieve the executor from liability, whereas this section bars claim entirely. *Zollickoffer v. Seth*, 44 Md. 370. And see *Coburn v. Harris*, 53 Md. 371; *Coburn v. Harris*, 58 Md. 104.

Where one of two executors disputes a claim which has been passed by orphans' court, it becomes incumbent upon claimant to institute suit thereon at law or in equity so as to establish it by judgment or decree. *Strasbaugh v. Dallam*, 93 Md. 716.

This section has no application to possible or contingent claims. *Orendorff v. Utz*, 48 Md. 304.

See notes to sec. 111.

An. Code, 1924, sec. 110: 1920, ch. 674.

**113.** If a claim shall be asserted against or exhibited to an administrator or executor in any form, whether sworn to or passed by the Orphans' Court or not, and he shall refuse payment thereof in writing, such claim shall be forever barred unless the creditor shall bring suit upon the same within nine months after such rejection.

The refusal in writing contemplated by this section is before, and not after, a suit is brought on claim, and does not include refusal by means of pleading in pending suit. *Davis v. Winter*, 172 Md. 341.

A letter from executors of decedent, admitting claim against estate, had the effect of cancelling any former rejection, and before the bar provided by statute could be invoked, it was necessary to give notice of subsequent rejection. *Bogart v. Willis*, 158 Md. 407.

Cited but not construed in *Watkins v. State*, 162 Md. 617.

See notes to sec. 112.

This section complied with in prosecuting claim under art. 43, sec. 63. (Judge Dickerson, Baltimore City Court) *Baltimore v. Webb*, Daily Record, Nov. 15, 1939.

An. Code, 1924, sec. 111. 1912, sec. 108. 1904, sec. 107. 1888, sec. 108. 1798, ch. 101, sub-ch. 8, sec. 15. 1823, ch. 131, sec. 2.

**114.** In case all the assets have been paid away, delivered or distributed as herein directed, and a claim shall afterwards be exhibited of which the administrator hath not notice by the exhibition of the claim legally authenticated as herein required, he shall not be answerable for the same;