

C H A P.  
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county, unless the decision be reversed by the court of chancery or general court; and no nuncupative will shall be proved within fourteen days after the death of the testator, unless his widow (if any) and some one of the next of kin have been summoned to contest the same, if they please.

C H A P. 3.

How and of whom letters testamentary or of administration are to be obtained.

1. WHEN any will or codicil, respecting personal property, shall have been authenticated as aforesaid, or proved as aforesaid before the register of wills, or orphans court, letters testamentary may forthwith be committed to the executor, executrix or executors, named in the said will or codicil; provided the said executor or executrix, or each of the executors, shall execute a bond to the state of Maryland, with two good sureties, approved by the said register or orphans court, as the case may require, and in such penalty as the said register or court may require, conditioned for the faithful performance of the trust in him or her reposed as executor or executrix, to be lodged and recorded in the said register's office, and subject to be put in suit as hereafter mentioned.

2. If the executor or executrix, or all the executors named in a will, who shall not have renounced in the manner hereafter directed, shall, in due time, procure an attested copy of the said will, and of the authentication or probat, under the seal of the office where it was authenticated or proved, and shall produce the same to the orphans court, or in its recess to the register of wills, in any county wherein is personal property of the testator or testatrix to be administered, the said will, and the authentication or probat thereof, shall be there recorded; and letters testamentary may be granted to the said executor or executrix, or all the executors, not renouncing, by the said court, or in its recess by the said register, at any time within forty days from the date of the said copy, on his, her or their executing bond or bonds as aforesaid; and in case of sickness of, or accident to, or reasonable excuse made in behalf of, any such executor or executrix, the said court, or register, may allow a further time, not exceeding thirty days, for filing such bond, and taking such letters; but in no case shall letters testamentary be granted in such county after the expiration of such time allowed, or in any other county except that wherein the will was authenticated or proved; and it shall be the duty of such executor or executrix to transmit to the court where the will was authenticated or proved, a certificate, under seal of the register of wills of the county wherein letters testamentary shall have been granted, to shew that such letters have been granted.

3. If there be only one executor or executrix named, and he or she shall have been present at the authentication or probat of the will, and shall not, within thirty days thereafter, file a bond as aforesaid, or procure an attested copy under seal as aforesaid, for the purpose of taking letters as aforesaid in another county, letters of administration, with the copy of the will annexed, may be granted by the orphans court of the county wherein was the probat or authentication, to such person as they might be granted to in case of intestacy; and if the said executor or executrix, so procuring an attested copy, shall not obtain letters testamentary in some other county, within seventy days from the date of the copy, letters of administration may be granted as aforesaid by the orphans court of the county where the will was proved or authenticated; and it shall not be incumbent on the party applying for or taking such letters of administration, to shew that letters testamentary have not been obtained in some other county on the copy aforesaid; but such letters of administration shall not be granted, if it shall be proved to the court, by affidavit, or certificate under the seal of office, or if they shall have reason to believe, that such letters testamentary have been granted in a county proper for granting them.

4. In case the said sole executor or executrix shall not have been present at the authentication or probat, but shall have been within the state, a summons may issue against him or her, either at the instance of a person interested, or *ex officio* by the orphans court, or (in their recess) the register of wills of the county wherein the will was authenticated or proved, returnable not less than twenty, nor more than sixty days after date; and if the summons shall be returned "summoned," and the executor or executrix shall not appear accordingly, or appearing shall not, within twenty days thereafter, file a bond or bonds as aforesaid, or if two such summonses shall be returned "*non est*," and the party shall not appear according to the tenor of the second summons, or appearing shall not, within twenty days thereafter, file a bond as aforesaid, letters of administration may be granted as aforesaid; provided nevertheless, that in case of sickness of, or accident to, such executor or executrix, or reasonable excuse made in his or her behalf, the court may, at discretion, allow a further time, not exceeding forty days after such return or appearance, for filing such bond.

5. If the said sole executor or executrix be out of the state at the time of authentication or probat, and shall not, within six months thereafter, return and file a bond as aforesaid, letters of administration may be granted as aforesaid; but in case the said executor be out of the state as aforesaid, and shall return, at any time before the expiration of the said six months, in order to expedite the granting of letters, there may be a summons, and the same proceedings thereon, as if he or she had been in the state at the time of authentication and probat, and upon the said proceedings letters of administration may be granted before the expiration of six months; but it shall not be held necessary to proceed by summons as aforesaid, in case the party be as aforesaid out of the state at the time of authentication or probat and shall return as aforesaid; but letters of administration, after the expiration of the said six months, may be granted, without such proceeding by summons against the executor or executrix so returning.

6. If there shall be more than one executor or executrix named in a will containing any disposition relative to any personal estate, there may be the same proceedings with respect to each of them, as if he or she were the only executor or executrix named; and any circumstances, under which letters of administration may be granted, on failure of a sole named executor or executrix, shall authorise the granting letters testamentary to one or more of the executors, on the failure of one or more of the rest; and any circumstances under which letters of administration may be granted, on failure of a sole named executor or executrix, shall authorise the granting of such letters of administration on failure of all the executors; and in no case, where there are several executors named in a will, shall letters testamentary be granted to one only, or to any number of them less than the whole, or shall letters of administration be granted, until there shall be such proceedings