

PAYMENT OF MONEY OR A PROMISSORY NOTE, OR THE ENDORSER OF A PROTESTED DRAFT, PAYS OR TENDERS THE MONEY DUE ON IT IN FULL, HE IS ENTITLED TO AN ASSIGNMENT OF IT AND, BY VIRTUE OF THE ASSIGNMENT, MAY MAINTAIN AN ACTION IN HIS NAME AGAINST THE PRINCIPAL DEBTOR.

REVISOR'S NOTE: This section presently appears as Art. 8, §3. This statute was originally enacted in 1763 and is merely declaratory of the common law. See Ch. 23, §§ 7 and 8, Acts of 1763 and Watkins v. Worthington, 2 Bland 509 (1828). The purpose of this section is to place the surety "in the shoes of the judgment creditor, and embraces all kinds of sureties so as to include within its operation the suretyship of an accommodation maker of a promissory note and an original payee of a note who subsequently indorsed it for transfer." See Wallace v. Jones, 110 Md. 143 (1909); Colegate v. Frederick Town Savings Inst., 11 Gill & J 114 (1840); and Fuhrman v. Fuhrman, 115 Md. 436 (1911).

The words "in full" are added to emphasize that the surety's right to subrogation depends on the payment of the entire debt. The surety cannot demand a pro tanto assignment. See Dinsmore v. Sachs, 133 Md. 437 (1918) and Nelson v. Close, 147 Md. 214 (1925).

The words "whether the whole be due or part has been previously paid" are deleted as unnecessary.

The word "draft" is substituted for "bill of exchange" for the purpose of uniformity. For a form of negotiable instruments, see §3-104 of this article.

The only other changes are in style.

For discussion on the equitable doctrine of subrogation, see 3 Md. Law Rev. 201 (1939).

15-402. ACTION BY ASSIGNEE ON OBLIGATION UNDER SEAL.

(A) ACTION AGAINST OBLIGOR.

SUBJECT TO THE PROVISIONS OF SUBSECTION (D) OF THIS SECTION, THE ASSIGNEE OF A BOND OR OTHER OBLIGATION UNDER SEAL WHICH WAS ASSIGNED UNDER THE ASSIGNOR'S SIGNATURE AND SEAL, MAY MAINTAIN AN ACTION IN HIS NAME AGAINST THE OBLIGOR NAMED IN THE BOND OR OTHER OBLIGATION.