

MAINE STATE LEGISLATURE

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FIFTY-NINTH LEGISLATURE.

HOUSE.

No. 65.

STATE OF MAINE.

IN THE YEAR OF OUR LORD ONE THOUSAND EIGHT HUNDRED AND EIGHTY.

AN ACT to amend the insolvency laws of Maine.

Be it enacted by the Senate and House of Representatives in Legislature assembled, as follows :

SECTION 1. Section eighteen of chapter one hundred and fifty-four of the public laws of 1879, entitled "an act to amend chapter seventy-four of the public laws of 1878, entitled 'an act in relation to the insolvent laws of Maine,'" is hereby amended by inserting after the word "shall" in the eleventh line of said section the words "grant or," so that said section as amended shall read as follows:

11 *Sect. 18.* Section forty of said act is hereby
12 amended by striking out in the second line the
13 words, "issuing the warrant," and inserting instead
14 thereof the words, "commencement of proceed-
15 ings;" and also by adding after the last word of
16 said section the words, "If it shall appear to the
17 court that the insolvent has in all things conformed
18 to his duty under this act and all acts amendatory
19 thereof, and that he is entitled under the provisions
20 thereof to receive a discharge, the court shall grant
21 him a discharge from all his debts, except as here-
22 inafter provided, and shall give him a certificate
23 thereof under the seal of the court. In all cases
24 when the judge shall grant or refuse to grant a
25 discharge under the provisions of this act there
26 shall be an appeal to the supreme judicial court
27 next to be holden within and for the county where
28 the proceedings in insolvency are pending, to be
29 taken, heard and determined in the manner pro-
30 vided in section ten of this act as amended. The
31 party appealing shall file at the time of entering
32 his appeal in the supreme judicial court, a copy of
33 the specifications of the grounds of opposition to
34 the discharge, certified by the register. At the
35 request of the debtor or opposing creditor, the

36 presiding judge shall order the question of dis-
37 charge to be tried by the jury at the first or any
38 subsequent term of said court. Exceptions shall
39 be had as to matters of law, to be heard and
40 decided as provided by said section ten."

SECT. 2. Section thirty of chapter seventy-four
2 of the public laws of eighteen hundred and seventy-
3 eight, is hereby amended by inserting after the
4 word "debtor" in the seventeenth line thereof, the
5 words "or is claimed under any mortgage given
6 by the debtor to secure a debt to a prior existing
7 creditor, which has not been recorded at least three
8 months prior to commencement of insolvency pro-
9 ceedings," and after the word "months" in the
10 eighteenth line thereof, the words "and any such
11 mortgage not recorded at least three months," so
12 that said section as amended shall read as follows:

13 *Sect. 30.* The judge shall, by an instrument
14 under his hand, assign and convey to the assignee
15 all the estate, real and personal, of the debtor,
16 except such as is by law exempt from attachment
17 and seizure on execution, together with all deeds,
18 books of account, and papers relating thereto,
19 which assignment shall be recorded forthwith in
20 the registry of deeds for the county where such

21 proceedings in insolvency are pending, and in the
22 registry of deeds in each county in which there
23 may be real estate of the debtor, and such assignee
24 shall give such public notice of his election or ap-
25 pointment as the judge may order; such assignment
26 shall relate back to the commencement of proceed-
27 ings in insolvency, and by operation of law shall
28 vest the title to all the property and estate of the
29 debtor not exempt by law from attachment and seiz-
30 ure on execution, in the assignee, although the same
31 is then attached on mesne process as the property of
32 the debtor, or is claimed under any mortgage given
33 by the debtor to secure a debt to a prior existing
34 creditor, which has not been recorded at least three
35 months prior to commencement of insolvency pro-
36 ceedings, and such assignment shall dissolve any
37 such attachment made within four months, and
38 any such mortgage not recorded at least three
39 months next preceding the commencement of pro-
40 ceedings in insolvency. Such assignee may sue
41 for and recover by an action at law, or by a bill in
42 equity, any sums of money paid by the debtor to
43 any creditor upon any writ, judgment or execu-
44 tion, when such payment is made within two
45 months prior to the commencement of the proceed-

46 ings in insolvency, and is received by the creditor
47 as a preference, in violation of the provisions of
48 this act, and the creditor knows at the time such
49 payments are made that the debtor making the
50 same is insolvent.

SECT. 3. This act shall take effect when approved.

STATE OF MAINE.

In HOUSE OF REPRESENTATIVES, }
February 20, 1880. }

Reported by Mr. VERRILL, from the Committee on Legal
Affairs; and ordered printed under rule.

ORAMANDAL SMITH, *Clerk.*