

MAINE STATE LEGISLATURE

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ACTS AND RESOLVES

OF THE

FIFTY-NINTH LEGISLATURE

OF THE

STATE OF MAINE.

1880.

Published by the Secretary of State, agreeably to Resolves of June 28, 1820,
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1880.

PUBLIC LAWS
OF THE
STATE OF MAINE.
1880.

Chapter 199.

An act to amend the Insolvency Laws of Maine.

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

SECT. 1. Section eighteen of chapter one hundred and fifty-four of the public laws of eighteen hundred and seventy-nine, entitled "An act to amend chapter seventy-four of the Public Laws of eighteen hundred and seventy-eight, 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 :

Sec. 18, ch. 154, public laws 1879, amended.

'SECT. 18. Section forty of said act is hereby amended by striking out, in the second line, the words "issuing the warrant," and inserting instead thereof the words 'commencement of proceedings,' and also by adding after the last word of said section the words, 'if it shall appear to the court that the insolvent has in all things conformed to his duty under this act, and all acts amendatory thereof, and that he is entitled under the provisions thereof to receive a discharge, the court shall grant him a discharge from all his debts, except as hereinafter provided, and shall give him a certificate thereof under the seal of the court. In all cases when the judge shall grant or refuse to grant a discharge under the provisions of this act, there shall be an appeal to the supreme judicial court, next to be holden within and for the county where the proceedings in insolvency are pending, to be taken, heard and determined in the manuer provided in section ten of this act as amended. The party appealing shall file, at the time of entering his appeal in the supreme judicial court, a copy of the specifications of the grounds of opposition to the discharge, certified by the register. At the request of the debtor or opposing creditor, the presiding judge shall order the question of discharge to be tried by the jury at the first or any subsequent term of said court. Exceptions shall be had as to matters of law, to be heard and decided as provided by said section ten.'

Sec. 40 amended.

If insolvent has conformed to provisions of act, court shall grant discharge.

--exception.

Appeal may be taken to S. J. C.

--proceedings.

Question of discharge to be tried by jury.

--exceptions.

SECT. 2. Section thirty of chapter seventy-four of the public laws of eighteen hundred and seventy-eight is hereby amended by inserting after the word "debtor," in the seventeenth line thereof, the words 'or is claimed under any mort-

Sec. 30, ch. 74, public laws 1878, amended.

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gage given by the debtor to secure a debt to a prior existing creditor, which has not been recorded at least three months prior to commencement of insolvency proceedings,' and after the word "months," in the eighteenth line thereof, the words 'and any such mortgage not recorded at least three months,' so that said section as amended shall read as follows :

Judge shall assign and convey property to assignee.

'SECT. 30. The judge shall, by an instrument under his hand, assign and convey to the assignee, all the estate, real and personal, of the debtor, except such as is by law exempt from attachment and seizure on execution, together with all deeds, books of account, and papers relating thereto, which assignment shall be recorded forthwith in the registry of deeds for the county where such proceedings in insolvency are pending, and in the registry of deeds in each county in which there may be real estate of the debtor, and such assignee shall give such public notice of his election or appointment as the judge may order ; such assignment shall relate back to the commencement of proceedings in insolvency, and by operation of law, shall vest the title to all the property and estate of the debtor not exempt by law from attachment and seizure on execution, in the assignee, although the same is then attached on mesne process as the property of the debtor, or is claimed under any mortgage given by the debtor to secure a debt to a prior existing creditor, which has not been recorded at least three months prior to commencement of insolvency proceedings, and such assignment shall dissolve any such attachment made within four months, and any such mortgage not recorded at least three months next preceding the commencement of proceedings in insolvency. Such assignee may sue for and recover, by an action at law, or by a bill in equity, any sums of money paid by the debtor to any creditor upon any writ, judgment or execution, when such payment is made within two months prior to the commencement of the proceedings in insolvency, and is received by the creditor as a preference, in violation of the provisions of this act, and the creditor knows, at the time such payments are made, that the debtor making the same is insolvent.'

Assignee to give notice of election.

Attachments made within four month, dissolved.

Money paid by debtor upon writ, judgment or execution, within two months, may be recovered in certain cases.

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

Approved March 6, 1880.