**This is an unofficial transcription of a 1910 amendment of the 1898 Act, prepared by Robert J. Pfister for ease of reading and copying/pasting. The authoritative text is the United States Statutes at Large.**

Sixty-First Congress, Session II
Chapter 412 — 36 Stat. 838 — Public, No. 294 (H.R. 20575)
June 25, 1910

AN ACT *To amend an Act entitled "An Act to establish a uniform system of bankruptcy throughout the United States," approved July first, eighteen hundred and ninety-eight, as amended by an Act approved February fifth, nineteen hundred and three, and as further amended by an Act approved June fifteenth, nineteen hundred and six.*

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That clause five of section two of the Act entitled "An Act to establish a uniform system of bankruptcy throughout the United States," approved July first, eighteen hundred and ninety-eight, as amended by an Act approved February fifth, nineteen hundred and three, and as further amended by an Act approved June fifteenth, nineteen hundred and six, be, and the same hereby is, amended so as to read as follows:

"Authorize the business of bankrupts to be conducted for limited periods by receivers, the marshals, or trustees, if necessary in the best interests of the estates, and allow such officers additional compensation for such services, as provided in section forty-eight of this Act."

SEC. 2. That section two of said Act as so amended be, and the same hereby is, amended by striking from clause nineteen thereof the word "and" and adding a new clause, to be known as clause twenty, so that said clauses shall read as follows:

"(19) Transfer cases to other courts of bankruptcy; and (20) exercise ancillary jurisdiction over persons or property within their respective territorial limits in aid of a

receiver or trustee appointed in any bankruptcy proceedings pending in any other court of bankruptcy."

SEC. 3. That section four, clause a, of said Act, as so amended, be, and the same hereby is, amended so as to read as follows:

"SEC. 4. WHO MAY BECOME BANKRUPTS.—a. Any person, except a municipal, railroad, insurance, or banking corporation, shall be entitled to the benefits of this Act as a voluntary bankrupt."

SEC. 4. That section four, clause b, of said Act, as so amended, be, and the same hereby is, amended so as to read as follows:

"Any natural person, except a wage-earner or a person engaged chiefly in farming or the tillage of the soil, any unincorporated company, and any moneyed, business, or commercial corporation, except a municipal, railroad, insurance, or banking corporation, owing debts to the amount of one thousand dollars or over, may be adjudged an involuntary bankrupt upon default or an impartial trial, and shall be subject to the provisions and entitled to the benefits of this Act.

"The bankruptcy of a corporation shall not release its officers, directors, or stockholders, as such, from any liability under the laws of a State or Territory or of the United States."

SEC. 5. That section twelve, subdivision a, of said Act as so amended be, and the same hereby is, amended so as to read as follows:

"A bankrupt may offer, either before or after adjudication, terms of composition to his creditors after, but not before, he has been examined in open court or at a meeting of his creditors, and has filed in court the schedule of his property and the list of his creditors required to be filed by bankrupts. In compositions before adjudication the

bankrupt shall file the required schedules, and thereupon the court shall call a meeting of creditors for the allowance of claims, examination of the bankrupt, and preservation or conduct of estates, at which meeting the judge or referee shall preside; and action upon the petition for adjudication shall be delayed until it shall be determined whether such composition shall be confirmed."

SEC. 6. That section fourteen, subdivision b, of said Act as so amended be, and the same hereby is, amended so as to read as follows:

"The judge shall hear the application for a discharge and such proofs and pleas as may be made in opposition thereto by the trustee or other parties in interest, at such time as will give the trustee or parties in interest a reasonable opportunity to be fully heard, and investigate the merits of the application and discharge the applicant unless he has (1) committed an offense punishable by imprisonment as herein provided; or (2) with intent to conceal his financial condition, destroyed, concealed, or failed to keep books of account or records from which such condition might be ascertained; or (3) obtained money or property on credit upon a materially false statement in writing, made by him to any person or his representative for the purpose of obtaining credit from such person; or (4) at any time subsequent to the first day of the four months immediately preceding the filing of the petition transferred, removed, destroyed, or concealed, or permitted to be removed, destroyed, or concealed, any of his property, with intent to hinder, delay, or defraud his creditors; or (5) in voluntary proceedings been granted a discharge in bankruptcy within six years; or (6) in the course of the proceedings in bankruptcy refused to obey any lawful order of, or to answer any material question approved by the court: *Provided,* That a trustee shall not interpose objections to a bankrupt's discharge until he shall be authorized so to do at a meeting of creditors called for that purpose."

SEC. 7. That section twenty-three, subdivision b, of said Act as so amended be, and the same hereby is, amended so as to read as follows:

"Suits by the trustee shall only be brought or prosecuted in the courts where the bankrupt, whose estate is being administered by such trustee, might have brought or prosecuted them if proceedings in bankruptcy had not been instituted, unless by consent of the proposed defendant, except suits for the recovery of property under section sixty, subdivision b; section sixty-seven, subdivision e; and section seventy, subdivision e."

SEC. 8. That section forty-seven, clause two. of subdivision a, of said Act as so amended be, and the same hereby is, amended so as to read as follows:

"Collect and reduce to money the property of the estates for which they are trustees, under the direction of the court, and close up the estate as expeditiously as is compatible with the best interests of the parties in interest; and such trustees, as to all property in the custody or coming into the custody of the bankruptcy court, shall be deemed vested with all the rights, remedies, and powers of a creditor holding a lien by legal or equitable proceedings thereon; and also, as to all property not in the custody of the bankruptcy court, shall be deemed vested with all the rights, remedies, and powers of a judgment creditor holding an execution duly returned unsatisfied."

SEC. 9. That section forty-eight of said Act as so amended be, and the same hereby is, amended, so as to read as follows:

"SEC. 48. COMPENSATION OF TRUSTEES, RECEIVERS AND MARSHALS:

"(a) Trustees shall receive for their services, payable after they are rendered, a fee of five dollars deposited with the clerk at the time the petition is filed in each case, except when a fee is not required from a voluntary bankrupt, and such commissions

on all moneys disbursed or turned over to any person, including lien holders, by them, as may be allowed by the courts, not to exceed six per centum on the first five hundred dollars or less, four per centum on moneys in excess of five hundred dollars and less than fifteen hundred dollars, two per centum on moneys in excess of fifteen hundred dollars and less than ten thousand dollars, and one per centum on moneys in excess of ten thousand dollars. And in case of the confirmation of a composition after the trustee has qualified the court may allow him, as compensation, not to exceed one-half of one per centum of the amount to be paid the creditors on such composition.

"(b) In the event of an estate being administered by three trustees instead of one trustee or by successive trustees, the court shall apportion the fees and commissions between them according to the services actually rendered, so that there shall not be paid to trustees for the administering of any estate a greater amount than one trustee would be entitled to.

"(c) The court may, in its discretion, withhold all compensation from any trustee who has been removed for cause.

"(d) Receivers or marshals appointed pursuant to section two, subdivision three, of this Act shall receive for their services, payable after they are rendered, compensation by way of commissions upon the moneys disbursed or turned over to any person, including lien holders, by them, and also upon the moneys turned over by them or afterwards realized by the trustees from property turned over in kind by them to the trustees, as the court may allow, not to exceed six per centum on the first five hundred dollars or less, four per centum on moneys in excess of five hundred dollars and less than one thousand five hundred dollars, two per centum on moneys in excess of one thousand five hundred dollars and less than ten thousand dollars, and one per centum on moneys in excess of ten thousand dollars: *Provided,* That in case of the

confirmation of a composition such commissions shall not exceed one-half of one per centum of the amount to be paid creditors on such compositions: *Provided further,* That when the receiver or marshal acts as a mere custodian and does not carry on the business of the bankrupt as provided in clause five of section two of this Act, he shall not receive nor be allowed in any form or guise more than two per centum on the first thousand dollars or less, and one-half of one per centum on all above one thousand dollars on moneys disbursed by him or turned over by him to the trustee and on moneys subsequently realized from property turned over by him in kind to the trustee: *Provided further,* That before the allowance of compensation notice of application therefor, specifying the amount asked, shall be given to creditors in the manner indicated in section fifty-eight of this Act.

"(e) Where the business is conducted by trustees, marshals, or receivers, as provided in clause five of section two of this Act, the court may allow such officers additional compensation for such services by way of commissions upon the moneys disbursed or turned over to any person, including lien holders, by them, and, in cases of receivers or marshals, also upon the moneys turned over by them or afterwards realized by the trustees from property turned over in kind by them to the trustees; such commissions not to exceed six per centum on the first five hundred dollars or less, four per centum on moneys in excess of five hundred dollars and less than one thousand five hundred dollars, two per centum on moneys in excess of one thousand five hundred dollars and less than ten thousand dollars, and one per centum on moneys in excess of ten thousand dollars: *Provided,* That in case of the confirmation of a composition such commissions shall not exceed one-half of one per centum of the amount to be paid creditors on such composition: *Provided further,* That before the allowance of compensation notice of application therefor, specifying the amount asked, shall be given to creditors in the manner indicated in section fifty-eight of this Act."

SEC. 9½. That section fifty-eight, subdivision a, of said Act as so amended be, and the same is hereby, amended so as to read as follows:

SEC. 58. NOTICES TO CREDITORS. (a) Creditors shall have at least ten days' notice by mail, to their respective addresses as they appear in the list of creditors of the bankrupt, or as afterwards filed with the papers in the case by the creditors, unless they waive notice in writing, of (1) all examinations of the bankrupt; (2) all hearings upon applications for the confirmation of compositions; (3) all meetings of creditors; (4) all proposed sales of property; (5) the declaration and time of payment of dividends; (6) the filing of the final accounts of the trustee, and the time when and the place where they will be examined and passed upon; (7) the proposed compromise of any controversy; (8) the proposed dismissal of the proceedings, and (9) there shall be thirty days' notice of all applications for the discharge of bankrupts.

SEC. 10. That section fifty-nine, subdivision g, of said Act as so amended be, and the same hereby is, amended so as to read as follows:

"A voluntary or involuntary petition shall not be dismissed by the petitioner or petitioners or for want of prosecution or by consent of parties until after notice to the creditors, and to that end the court shall, before entertaining an application for dismissal, require the bankrupt to file a list, under oath, of all his creditors, with their addresses, and shall cause notice to be sent to all such creditors of the pendency of such application, and shall delay the hearing thereon for a reasonable time to allow all creditors and parties in interest opportunity to be heard."

SEC. 11. That section sixty, subdivision b, of said Act as so amended be, and the same hereby is, amended so as to read as follows:

"If a bankrupt shall have procured or suffered a judgment to be entered against him in favor of any person or have made a transfer of any of his property, and if, at the

time of the transfer, or of the entry of the judgment, or of the recording or registering of the transfer if by law recording or registering thereof is required, and being within four months before the filing of the petition in bankruptcy or after the filing thereof and before the adjudication, the bankrupt be insolvent and the judgment or transfer then operate as a preference, and the person receiving it or to be benefited thereby, or his agent acting therein, shall then have reasonable cause to believe that the enforcement of such judgment or transfer would effect a preference, it shall be voidable by the trustee and he may recover the property or its value from such person. And for the purpose of such recovery any court of bankruptcy, as hereinbefore defined, and any state court which would have had jurisdiction if bankruptcy had not intervened, shall have concurrent jurisdiction."

SEC. 12. That section sixty-seven, subdivision d, of said Act as so amended be, and the same hereby is, amended so as to read as follows:

"Liens given or accepted in good faith and not in contemplation of or in fraud upon this Act, and for a present consideration, which have been recorded according to law, if record thereof was necessary in order to impart notice, shall, to the extent of such present consideration only, not be affected by this Act."

SEC. 13. That section seventy-two of said Act amended as aforesaid is hereby amended to read as follows:

"SEC. 72. That neither the referee, receiver, marshal, nor trustee shall in any form or guise receive, nor shall the court allow him, any other or further compensation for his services than that expressly authorized and prescribed in this Act."

SEC. 14. That the provisions of this amendatory Act shall not apply to bankruptcy cases pending when this Act takes effect, but such cases shall be adjudicated and disposed of conformably to the provisions of said Act approved July first, eighteen

hundred and ninety-eight, as amended by said Act approved February fifth, nineteen hundred and three, and as further amended by said Act approved June fifteenth, nineteen hundred and six.

APPROVED, June 25, 1910.