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Sixty-Ninth Congress, Session I
Chapter 406 — 44 Stat. 662 — Public, No. 301 (S. 1039)
May 27, 1926

AN ACT *To amend an Act entitled "An Act to establish a uniform system of bankruptcy throughout the United States," approved July 1, 1898, and Acts amendatory thereof and supplementary thereto.*

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 1 (a), subdivisions 6, 8, and 24 of an Act entitled "An Act to establish a uniform system of bankruptcy throughout the United States," approved July 1, 1898, and Acts amendatory thereof and supplementary thereto, be, and the same hereby are, amended as follows:

"(6) 'Corporations' shall mean all bodies having any of the powers and privileges of private corporations not possessed by individuals or partnerships and shall include limited or other partnership associations organized under laws making the capital subscribed alone responsible for the debts of the association, joint stock companies, unincorporated companies and associations, and any business conducted by a trustee, or trustees, wherein beneficial interest or ownership is evidenced by certificate or other written instrument.

"(8) 'Courts of bankruptcy' shall include the district courts of the United States and of the Territories and possessions to which this Act is or may hereafter be applicable, the Supreme Court of the District of Columbia, and the United States Court of Alaska.

"(24) States shall include the Territories and possessions to which this Act is, or may hereafter be, applicable, Alaska, and the District of Columbia."

SEC. 2. That the introductory provision preceding subdivision 1 of section 2 of said Act, as so amended, be, and the same hereby is, amended to read as follows:

"That the courts of bankruptcy as hereinbefore defined, namely, the district courts of the United States in the several States, the Supreme Court of the District of Columbia, the district courts of the several Territories and possessions to which this Act is, or may hereafter be, applicable, and the United States Court in the District of Alaska, are hereby made courts of bankruptcy, and are hereby invested, within their respective territorial limits as now established, or as they may be hereafter changed, with such jurisdiction at law and in equity as will enable them to exercise original jurisdiction in bankruptcy proceedings, in vacation in chambers and during their respective terms, as they are now or may be hereafter held."

Sec. 3. That section 3 (a) of said Act, as so amended, be, and the same hereby is, amended to read as follows:

"(a) Acts of bankruptcy by a person shall consist of his having (1) conveyed, transferred, concealed, or removed, or permitted to be concealed or removed, any part of his property with intent to hinder, delay, or defraud his creditors, or any of them; or (2) transferred, while insolvent, any portion of his property to one or more of his creditors with intent to prefer such creditors over his other creditors; or (3) suffered or permitted, while insolvent, any creditor to obtain a preference through legal proceedings, and not having at least five days before a sale or other disposition of any property affected by such preference vacated or discharged such preference; or (4) suffered, or permitted, while insolvent, any creditor to obtain through legal proceedings any levy, attachment, judgment, or other lien, and not having vacated or discharged the same within thirty days from the date such levy, attachment, judgment, or other lien was obtained; or (5) made a general assignment for the benefit of his creditors; or, while insolvent, a receiver or a trustee has been appointed, or put in

charge of his property; or (6) admitted in writing his inability to pay his debts and his willingness to be adjudged a bankrupt on that ground."

Sec. 4. That section 7 (a), subdivision (8), of said Act, as so amended, be, and the same hereby is, amended to read as follows:

"(8) Prepare, make oath to, and file in court within ten days after adjudication, if an involuntary bankrupt, and within ten days after the filing of a petition, if a voluntary bankrupt (unless in either case further time is granted), a schedule of his property showing the amount and kind of property, the location thereof, its money value in detail, and a list of his creditors showing their residence, if known; if unknown, that fact to be stated, the amounts due each of them, the consideration thereof, the security held by them, if any, and a claim for such exemptions, as he may be entitled to, all in triplicate, one copy of each for the clerk, one for the referee, and one for the trustee."

Sec. 5. The section 12 (a) of said Act, as so amended, be, and the same hereby is, amended to read as follows:

"(a) 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 the estate, at which meeting the judge or referee shall preside; but action upon the petition for adjudication shall not be delayed, except that the court, for good cause shown, may in its discretion delay such action upon such

terms and conditions for the protection of and indemnity against loss by the bankrupt estate as may be proper."

SEC. 6. That section 14 (a) and (b) of said Act, as so amended, be, and the same hereby is, amended to read as follows:

"(a) Any person may, after the expiration of one month and within twelve months, subsequent to being adjudged a bankrupt, file an application for a discharge in the court of bankruptcy in which the proceedings are pending, if it shall be made to appear to the judge that the bankrupt was unavoidably prevented from filing it within such time, it may be filed within but not after the expiration of the next six months.

"(b) 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) destroyed, mutilated, falsified, concealed, or failed to keep books of account, or records, from which his financial condition and business transactions might be ascertained; unless the court deem such failure or acts to have been justified, under all the circumstances of the case; or (3) obtained money or property on credit, or obtained an extension or renewal of credit, by making or publishing, or causing to be made or published, in any manner whatsoever, a materially false statement in writing respecting his financial condition; or (4) at any time subsequent to the first day of the twelve 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) has been granted a discharge in bankruptcy within six years; or (6) in the course of proceedings in bankruptcy, refused to obey any lawful order of or to answer any material question

approved by the court; or (7) has failed to explain satisfactorily any losses of assets or deficiency of assets to meet his liabilities: *Provided,* That if, upon the hearing of an objection to a discharge, the objector shall show to the satisfaction of the court that there are reasonable grounds for believing that the bankrupt has committed any of the acts which, under this paragraph (b), would prevent his discharge in bankruptcy, then the burden of proving that he has not committed any of such acts shall be upon the bankrupt: *And provided further,* That the trustee shall not interpose objections to a bankrupt's discharge until he shall be authorized so to do by the creditors at a meeting of creditors called for that purpose on the application of any creditor."

SEC. 7. That section 21 of said Act, as so amended, be, and the same hereby is, amended by adding after paragraph (g) thereof a new paragraph (h), to read as follows:

"(h) A communication by a creditor, receiver, or trustee of one by or against whom a bankruptcy petition is filed, or who has been adjudicated a bankrupt, to another creditor, uttered in good faith and with reasonable grounds for belief in its truth, concerning the conduct, acts, or property of such bankrupt, shall be privileged, and the creditor receiver, or trustee so uttering the same shall not be held liable therefor."

Sec. 8. That section 23 of said Act, as so amended, be, and the same hereby is, amended to read as follows:

"(a) The United States district courts shall have jurisdiction of all controversies at law and in equity, as distinguished from proceedings in bankruptcy, between trustees as such and adverse claimants concerning the property acquired or claimed by the trustees, in the same manner and to the same extent only as though bankruptcy proceedings had not been instituted and such controversies had been between the bankrupts and such adverse claimants.

"(b) Suits by the trustee shall be brought or prosecuted only 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 60, subdivision b; section 67, subdivision e; and section 70, subdivision e."

Sec. 9. That section 24 (a) and (b) of said Act, as so amended, be, and the same hereby is, amended to read as follows, and by adding at the end thereof, a new subdivision (c), to read as follows:

"(a) The Supreme Court of the United States, the circuit courts of appeal of the United States, the Court of Appeals of the District of Columbia, and the supreme courts of the Territories, in vacation, in chambers and during their respective terms, as now or as they may be hereafter held, are hereby invested with appellate jurisdiction of controversies arising in bankruptcy proceedings from the courts of bankruptcy from which they have appellate jurisdiction in other cases.

"(b) The several circuit courts of appeal and the Court of Appeals of the District of Columbia shall have jurisdiction in equity, either interlocutory or final, to superintend and revise in matter of law (and in matter of law and fact the matters specified in section 25) the proceedings of the several inferior courts of bankruptcy within their jurisdiction. Such power shall be exercised by appeal and in the form and manner of an appeal, except in the cases mentioned in said section 25 to be allowed in the discretion of the appellate court.

"(c) All appeals under this section shall be taken within thirty days after the judgment, or order, or other matter complained of, has been rendered or entered."

Sec. 10. That section 25 (a) of said Act, as so amended, be, and the same is, amended to read as follows:

"(a) That appeals, as in equity cases, may be taken in bankruptcy proceedings from the courts of bankruptcy to the circuit courts of appeal of the United States and the Court of Appeals of the District of Columbia and to the supreme courts of the Territories in the following cases, to wit: (1) From a judgment adjudging or refusing to adjudge the defendant a bankrupt; (2) from a judgment granting or denying a discharge; and (3) from a judgment allowing or rejecting a debt or claim of $500 or over. Such appeal shall be taken within thirty days after the judgment appealed from has been rendered, and may be heard and determined by the appellate court in term or vacation, as the case may be."

SEC. 11. That section 29 (a), (b), and (d) of said Act, as so amended, be, and the same hereby is, amended to read as follows, and that section 29 be further amended by adding after paragraph (d) thereof a new paragraph (e) to read as follows:

"(a) A person shall be punished by imprisonment for a period of not to exceed five years upon conviction of the offense of having knowingly and fraudulently appropriated to his own use, embezzled, spent, or unlawfully transferred any property or secreted or destroyed any document belonging to a bankrupt estate which came into his charge as trustee, receiver, custodian, or other officer of the court.

"(b) A person shall be punished by imprisonment for a period of not to exceed five years upon conviction of the offense of having knowingly and fraudulently (1) concealed from the receiver, trustee, United States marshal, or other officer of the court charged with the control or custody of property, or from creditors in composition cases, any property belonging to the estate of a bankrupt; or (2) made a false oath or account in, or in relation to any proceeding in bankruptcy; or (3) presented under oath any false claim for proof against the estate of a bankrupt, or used any such claim in composition, personally, or by agent, proxy, or attorney, or as agent, proxy, or attorney; or (4) received any material amount of property from a

bankrupt after the filing of the petition with intent to defeat this Act; or (5) received or attempted to obtain any money or property, remuneration, compensation, reward, advantage, or promise thereof from any person, for acting or forbearing to act in bankruptcy proceedings; or (6) having been an officer or agent of any person or corporation, and in contemplation of the bankruptcy of such person or corporation, or with intent to defeat the operation of this Act, concealed or transferred any of the property of the debtor; or (7) after the filing of the petition, or, in contemplation of bankruptcy, concealed, destroyed, mutilated, or falsified any book, document, or record affecting or relating to the property or affairs of a bankrupt; or (8) after the filing of the petition, withheld from the receiver or trustee any book, document, or paper affecting or relating to the property or affairs of a bankrupt, to the possession of which he is entitled.

"(d) A person shall not be prosecuted for any offense arising under this Act unless the indictment is found or the information is filed in court within three years after the commission of the offense.

"(e) (1) Whenever any referee, receiver, or trustee shall have grounds for believing that any offense under this Act has been committed, or from facts or circumstances brought out in the course of administration or otherwise brought to his attention, that there is reasonable ground to believe that such an offense has been committed, or for special reason, an investigation should be had in connection therewith, it shall be the duty of such referee, receiver, or trustee to report such matter to the United States attorney for the district in which it is believed such an offense has been committed, including in such report a statement of all the facts and circumstances of the case within his knowledge, with the names of the witnesses, and a statement as to the offense or offenses believed to have been committed.

"(2) It shall be the duty of every United States attorney immediately to inquire into the fact so reported to him by any referee, receiver, or trustee, and the law applicable thereto, and if it appears probable that any offense under this Act has been committed, in a proper case and without delay, to present the matter to the grand jury, unless upon inquiry and examination such district attorney decides that the ends of public justice do not require that the alleged offense should be investigated or prosecuted, in which case he shall report the facts to the Attorney General for his direction in the premises."

SEC. 12. That section 38 (a), subdivision 5, of said Act, as so amended, be, and the same hereby is, amended to read as follows:

"(5) During the examination of the bankrupt, or other proceedings, authorize the employment of stenographers for reporting and transcribing the proceedings at such reasonable expense to the estate as the court may fix."

SEC. 13. That section 57 (n), of said Act, as so amended, be, and the same hereby is, amended to read as follows:

"(n) Claims shall not be proved against a bankrupt estate subsequent to six months after the adjudication; or if they are liquidated by litigation and the final judgment therein is rendered within thirty days before or after the expiration of such time, then within sixty days after the rendition of such judgment: *Provided,* That the right of infants and insane persons without guardians, without notice of the proceedings, may continue six months longer."

SEC. 14. That section 60 (a), of said Act as so amended, be, and the same hereby is, amended to read as follows:

"(a) A person shall be deemed to have given a preference if, being insolvent, he has, within four months before the filing of the petition, or after the filing of the petition and before the adjudication, procured or suffered a judgment to be entered against himself in favor of any person, or made a transfer to any of his property, and the effect of the enforcement of such judgment or transfer will be to enable any one of his creditors to obtain a greater percentage of his debt than any other of such creditors of the same class. Where the preference consists in a transfer, such period of four months shall not expire until four months after the date of recording or registering of the transfer, if by law such recording or registering is required or permitted."

SEC. 15. That section 64, subdivisions (a) and (b), of said Act, as so amended, be, and the same hereby are, amended to read as follows:

"(a) The court shall order the trustee to pay all taxes legally due and owing by the bankrupt to the United States, State, county, district, or municipality, in the order of priority as set forth in paragraph (b) hereof: *Provided,* That no order shall be made for the payment of a tax assessed against real estate of a bankrupt in excess of the value of the interest of the bankrupt estate therein as determined by the court. Upon filing the receipts of the proper public officers for such payments the trustee shall be credited with the amounts thereof, and in case any question arises as to the amount or legality of any such tax the same shall be heard and determined by the court.

"(b) The debts to have priority, in advance of the payment of dividends to creditors, and to be paid in full out of bankrupt estates, and the order of payment shall be (1) the actual and necessary cost of preserving the estate subsequent to filing the petition; (2) the filing fees paid by creditors in involuntary cases, and, where property of the bankrupt, transferred or concealed by him either before or after the filing of the petition, shall have been recovered for the benefit of the estate of the bankrupt by

the efforts and at the expense of one or more creditors, the reasonable expense of such recovery; (3) the cost of administration, including the fees and mileage payable to witnesses as now or hereafter provided by the laws of the United States, and one reasonable attorney's fee, for the professional services actually rendered, irrespective of the number of attorneys employed, to the petitioning creditors in involuntary cases while performing the duties herein prescribed, and to the bankrupt in voluntary and involuntary cases, as the court may allow; (4) where the confirmation of composition terms has been refused or set aside upon the objection and through the efforts and at the expense of one or more creditors, in the discretion of the court, the reasonable expenses of such creditors in opposing such composition; (5) wages due to workmen, clerks, traveling or city salesmen, or servants, which have been earned within three months before the date of the commencement of the proceeding, not to exceed $600 to each claimant; (6) taxes payable under paragraph (a) hereof and (7) debts owing to any person who by the laws of the States or the United States is entitled to priority: *Provided,* That the term 'person' as used in this section shall include corporations, the United States and the several States and Territories of the United States."

SEC. 16. That section 70, subdivision (a) 2, of said Act as so amended, be, and the same hereby is, amended to read as follows:

"(2) Interests in patents, patent rights, copyrights, and trade-marks, and in applications for patents, copyrights, and trade-marks: *Provided,* That in case the trustee, within thirty days after appointment, does not notify the applicant for a patent, copyright, or trade-mark of his election to prosecute the application to allowance or rejection, the bankrupt may apply to the court for an order revesting him with the title thereto, which petition shall be granted, unless, for cause shown by the trustee, the court grants further time to the trustee for making such selection; and such applicant may, in any event, at any time petition the court to be revested with such title in case the

trustee shall fail to prosecute such application with reasonable diligence; and the court, upon revesting the bankrupt with such title, shall direct the trustee to execute proper instruments of transfer to make the same effective in law and upon the records."

SEC. 17. Nothing herein contained shall have the effect to release or extinguish any penalty, forfeiture, or liability incurred under any Act or Acts of which this Act is amendatory.

SEC. 18. The provisions of this amendatory Act shall govern proceedings, so far as practicable and applicable, in bankruptcy cases pending when it takes effect; but as to proceedings in cases pending when this Act takes effect, to which the provisions of this amendatory Act are not applicable, such proceedings shall be disposed of conformably to the provisions of said Act approved July 1, 1898, and the Acts amendatory thereof and supplementary thereto.

SEC. 19. All Acts or parts of Acts inconsistent with any provisions of this Act are hereby repealed.

SEC. 20. This Act shall take effect and be in force on and after three months from the date of its approval.

APPROVED, May 27, 1926.