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Ninety-First Congress, Session II
Public Law 91-467 — 84 Stat. 990 (S. 4247)
October 19, 1970

AN ACT *To amend the Bankruptcy Act, sections 2, 14, 15, 17, 38, and 58, to permit the discharge of debts in a subsequent proceeding after denial of discharge for specified reasons in an earlier proceeding, to authorize courts of bankruptcy to determine the dischargeability or nondischargeability of provable debts, and to provide additional grounds for the revocation of discharges.*

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That clause (12) of subdivision a, section 2, of the Bankruptcy Act (11 U.S.C. 11(a)(12)) is amended to read as follows:

"(12) Discharge or refuse to discharge bankrupts, set aside discharges, determine the dischargeability of debts, and render judgments thereon;".

SEC. 2. Subdivision b of section 14 of the Bankruptcy Act (11 U.S.C. 32(b)) is amended to read as follows:

"b. (1) The court shall make an order fixing a time for the filing of objections to the bankrupt's discharge and a time for the filing of applications pursuant to paragraph (2) of subdivision c of section 17 of this Act to determine the dischargeability of debts, which time or times shall be not less than thirty days nor more than ninety days after the first date set for the first meeting of creditors. Notice of such order shall be given to all parties in interest as provided in section 58b of this Act. The Court may, upon its own motion or, for cause shown, upon motion of any party in interest, extend the time or times for filing such objections or applications.

"(2) Upon the expiration of the time fixed in the order for filing objections or of any extension of such time granted by the court, the court shall discharge the bankrupt if

no objection has been filed and if the filing fees required to be paid by this Act have been paid in full; otherwise, the court shall hear such proofs and pleas as may be made in opposition to the discharge, by the trustee, creditors, the United States attorney, or such other attorney as the Attorney General may designate, at such time as will give the bankrupt and the objecting parties a reasonable opportunity to be fully heard."

SEC. 3. Section 14 of the Bankruptcy Act (11 U.S.C. 32) is amended by adding at the end thereof the following new subdivisions:

"f. An order of discharge shall—

"(1) declare that any judgment theretofore or thereafter obtained in any other court is null and void as a determination of the personal liability of the bankrupt with respect to any of the following: (a) debts not excepted from the discharge under subdivision a of section 17 of this Act; (b) debts discharged under paragraph (2) of subdivision c of section 17 of this Act; and (c) debts determined to be discharged under paragraph (3) of subdivision c of section 17 of this Act; and

"(2) enjoin all creditors whose debts are discharged from thereafter instituting or continuing any action or employing any process to collect such debts as personal liabilities of the bankrupt.

"g. An order of discharge which has become final may be registered in any other district by filing therein a certified copy of such order and when so registered shall have the same effect as an order of the bankruptcy court of the district where registered and may be enforced in like manner.

"h. Within forty-five days after the order of discharge becomes final the court shall give notice of the entry thereof to all parties in interest as specified in subdivision b of section 58 of this Act. Such notice shall also specify the debts, if any, theretofore

determined by the court to be nondischargeable, the debts, if any, as to which applications to determine dischargeability are pending, and those contents of the order of discharge required by subdivision f of this section."

SEC. 4. Section 15 of the Bankruptcy Act (11 U.S.C. 33) is amended to read as follows:

"SEC. 15. DISCHARGES, WHEN REVOKED.—The court may revoke a discharge upon the application of a creditor, the trustee, the United States attorney, or any other party in interest, who has not been guilty of laches, filed at any time within one year after a discharge has been granted, if it shall appear (1) that the discharge was obtained through the fraud of the bankrupt, that the knowledge of the fraud has come to the applicant since the discharge was granted, and that the facts did not warrant the discharge; or (2) that the bankrupt, before or after discharge, received or became entitled to receive property of any kind which is or which became a part of the bankrupt estate and that he knowingly and fraudulently failed to report or to deliver such property to the trustee; or (3) that the bankrupt during the pendency of the proceeding refused to obey any lawful order of, or to answer any material question approved by, the court. The application to revoke for such refusal may be filed at any time during the pendency of the proceeding or within one year after the discharge was granted, whichever period is longer."

SEC. 5. Clauses (2), (5), and (6) of subdvision a of section 17 of the Bankruptcy Act (11 U.S.C. 35(a)(2), (5), (6)) are amended to read as follows:

"(2) are liabilities for obtaining money or property by false pretenses or false representations, or for obtaining money or property on credit or obtaining an extension or renewal of credit in reliance upon a materially false statement in writing respecting his financial condition made or published or caused to be made or

published in any manner whatsoever with intent to deceive, or for willful and malicious conversion of the property of another;"

"(5) are for wages and commissions to the extent they are entitled to priority under subdivision a of section 64 of this Act;"

"(6) are due for moneys of an employee received or retained by his employer to secure the faithful performance by such employee of the terms of a contract of employment;".

SEC. 6. Subdivision a of section 17 of the Bankruptcy Act (11 U.S.C. 35(a)) is amended by adding at the end thereof the following new clauses:

"(7) are for alimony due or to become due, or for maintenance or support of wife or child, or for seduction of an unmarried female or for breach of promise of marriage accompanied by seduction, or for criminal conversation; or

"(8) are liabilities for willful and malicious injuries to the person or property of another other than conversion as excepted under clause (2) of this subdivision."

SEC. 7. Section 17 of the Bankruptcy Act (11 U.S.C. 35) is amended by adding at the end thereof the following new subdivisions:

"b. The failure of a bankrupt or debtor to obtain a discharge in a prior proceeding under this Act for any of the following reasons shall not bar the release by discharge in a subsequent proceeding under the Act of debts that were dischargeable under subdivision a of this section in the prior proceeding: (1) discharge was denied in the prior proceeding solely under clause (5) or clause (8) of subdivision c of section 14 of this Act; (2) the prior proceeding was dismissed without prejudice for failure to pay filing fees or to secure costs. If a bankrupt or debtor fails to obtain a discharge in a proceeding under this Act by reason of a waiver filed pursuant to section 14a of this

Act or by reason of a denial on any ground under section 14c of this Act other than clause (5) or clause (8) thereof, the debts provable in such proceeding shall not be released by a discharge granted in any subsequent proceeding under this Act. A debt not released by a discharge in a proceeding under this Act by reason of clause (3) of subdivision a of this section 17 may nevertheless be dischargeable in a subsequent bankruptcy proceeding.

"c. (1) The bankrupt or any creditor may file an application with the court for the determination of the dischargeability of any debt.

"(2) A creditor who contends that his debt is not discharged under clause (2), (4), or (8) of subdivision a of this section must file an application for a determination of dischargeability within the time fixed by the court pursuant to paragraph (1) of subdivision b of section 14 of this Act and, unless an application is timely filed, the debt shall be discharged. Notwithstanding the preceding sentence, no application need be filed for a debt excepted by clause (8) if a right to trial by jury exists and any party to a pending action on such debt has timely demanded a trial by jury or if either the bankrupt or a creditor submits a signed statement of an intention to do so.

"(3) After hearing upon notice, the court shall determine the dischargeability of any debt for which an application for such determination has been filed, shall make such orders as are necessary to protect or effectuate a determination that any debt is dischargeable and, if any debt is determined to be nondischargeable, shall determine the remaining issues, render judgment, and make all orders necessary for the enforcement thereof. A creditor who files such application does not submit himself to the jurisdiction of the court for any purposes other than those specified in this subdivision c.

"(4) The provisions of this subdivision c shall apply whether or not an action on a debt is then pending in another court and any party may be enjoined from instituting or continuing such action prior to or during the pendency of a proceeding to determine its dischargeability under this subdivision c.

"(5) Nothing in this subdivision c shall be deemed to affect the right of any party, upon timely demand, to a trial by jury where such right exists.

"(6) If a bankruptcy case is reopened for the purpose of obtaining the orders and judgments authorized by this subdivision c, no additional filing fee shall be required."

SEC. 8. Clause (4) of section 38 of the Bankruptcy Act (11 U.S.C. 66) is amended by adding at the end thereof the following: ", determine the dischargeability of debts, and render judgments thereon".

SEC. 9. Subdivision b of section 58 of the Bankruptcy Act (11 U.S.C. 94(b)) is amended to read as follows:

"b. The court shall give at least thirty days' notice by mail of the last day fixed by its order for the filing of objections to a bankrupt's discharge and for the filing of applications pursuant to paragraph (2) of subdivision c of section 17 of this Act to determine the dischargeability of debts (1) to the creditors in the manner prescribed in subdivision a of this section; (2) to the trustee, if any, and his attorney, if any, at their respective addresses as filed by them with the court; and (3) to the United States attorney of the judicial district wherein the proceeding is pending. The court shall also give at least thirty days' notice by mail of the time and place of a hearing upon objections to a bankrupt's discharge (1) to the bankrupt, at his last known address as appears in his petition, schedules, list of creditors, or statement of affairs, or, if no address so appears, to his last known address as furnished by the trustee or other party after inquiry; (2) to the bankrupt's attorney, if any, at his address as filed by him

with the court; and (3) to the objecting parties and their attorneys, at their respective addresses as filed by them with the court."

SEC. 10. The provisions of this amendatory Act shall take effect on and after sixty days from the date of its approval and shall govern proceedings in all cases filed after such date.

APPROVED October 19, 1970.