

No. 146, S.]

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CHAPTER 334.

AN ACT to amend chapter 80, of the revised statutes of the state of Wisconsin for the year 1878, entitled, "Of voluntary assignments."

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

Amendment;
preference pro-
hibited; ex-
ceptions.

SECTION 1. Section 1693a, (chapter 349, 1883, as amended by chapter 415, 1897), is hereby amended by adding to section 1 thereof, the following, to-wit: "As to such preferences, but valid for all other purposes. Such void preferences shall be invalid as well in respect to creditors proving under the assignment, as to all others objecting thereto." And by adding to section 2 thereof, the following, to-wit: "A judgment obtained, an attachment levied, or a garnishment made in collusion with a debtor, shall be deemed a security given by him within the meaning of this section."

Amendment.

SECTION 2. Section 1694, of the revised statutes of Wisconsin for the year 1878, is hereby amended by adding thereto the following, to-wit: "But no assignment shall be void because of any defect, informality or mistake therein, or in the bond, inventory or list of creditors, accompanying the same; and the court or judge may direct the amendment of the assignment, or of any other such paper to effect the intention of the assignor or assignee, and any such amendment shall relate back to the time of the execution of the paper to which it is made. No creditor shall, in any case, where a debtor has made or attempted to make an assignment for the benefit of creditors, or in case of insolvency of any debtor by attachment, garnishment or otherwise, obtain priority over other creditors

Assignments
when void.

upon such assignments being for any reason adjudged void, or in consequence of any sale, lien or security being adjudged void under the provisions of this act. And in all such cases the property of such insolvent debtor shall be administered for the ratable benefit of all creditors of such insolvent debtor under the direction of the court, by the assignee or by any receiver of said property and estate, appointed as hereinafter provided."

SECTION 3. Said section 1694 is hereby further amended by adding thereto the following sections to be known and designated as follows, to-wit: "Section 1694a. Whenever the property of an insolvent debtor is attached or levied upon by virtue of any process in favor of a creditor, or a garnishment is made against such a debtor, such debtor may, within ten days thereafter, make an assignment of all his property and estate not exempt by law, for the equal benefit of all his creditors as provided by law, whereupon all such attachments, levies, garnishments, or other process shall be dissolved and the property attached or levied upon shall be turned over to such assignee or receiver." "Section 1694b. When any debtor, being insolvent, shall confess judgment or do any act or make any conveyance whereby any one or more of his creditors shall obtain a preference over any other of his creditors, or shall omit to do any act which he might lawfully do to prevent any of his creditors from obtaining preference over his other creditors, contrary to the intent of this act, or if he shall not, within ten days after any levy by attachment, execution or garnishment made against him, make an assignment of all his property as provided in the next foregoing section of this act, or within such time in good faith institute proceedings to vacate the attachment, execution or garnishment, or secure a release of such levy, or defend against the said levy, then, or within thirty days thereafter, any two or more of his cred-

When debtor may make an assignment.

When debtor confesses judgment.

itors holding and owing debts or claims of not less than two hundred dollars in the aggregate amount, may make a petition to the circuit court, or a judge thereof, in the county or circuit where such debtor resides, setting forth therein such matters and facts as may be pertinent, and after notice given in such manner as the court or judge may direct, to the debtor and creditors sought to be preferred, or to their attorney of record, of the time and place of hearing, the court in the term time, or a judge in vacation, shall proceed summarily upon such petition to hear the parties and receive such evidence as may be proper, and if it shall appear to the court or judge that the debtor is insolvent, or has been giving or is about to give a preference to any of his creditors over other of his creditors, or any of them, or has refused or neglected to make an assignment of his property as hereinbefore provided, the court or judge shall appoint a receiver who shall take possession of all the debtor's property, evidences of property or indebtedness, books, papers, debts, choses in action, and estates of every kind of the debtor, including property attached or levied upon or garnisheed in the manner and subject to the limitations herein provided, and of all property conveyed in violation of the provisions of this act, and have charge and control of the same, and of all debts or property garnisheed, except property exempt by law, and convert the same into money and distribute the same pro rata among the creditors having valid claims due or to become due, who shall prove their claims within such time and manner as the court or judge shall direct, and the court or judge shall order the debtor to file a correct inventory of his assets and a list of his creditors as provided in section 1697, of the revised statutes of the state of Wisconsin for the year 1878; such receiver shall be appointed and all proceedings shall be had under the provisions of the laws of this state relating to receivers, and the court or judge may

order or direct such debtor to do or refrain from doing whatsoever is necessary and proper to carry this act into effect. The provisions of this act shall not apply to any payment or satisfaction, in whole or in part, of a past due debt made in the usual course of business without any intent on the part of the creditor to evade the provisions of this act. The same proceedings may be taken, and with like effect, under the provisions of this section by such insolvent debtor for a discharge from his indebtedness as if said insolvent debtor had made a voluntary assignment pursuant to the provisions of chapter 80, of the revised statutes of Wisconsin for the year 1878."

SECTION 4. An insolvent person, within the meaning of this act, is one whose non exempt property is insufficient in amount, at a fair valuation, to pay his debts; and when insolvency is to be inquired into, with reference to this act, it shall be determined as of the date of the making or attempting to make an assignment or of the giving or attempting any preference prohibited by this act, the issuing of an execution or attachment, or garnishment against the debtor's property.

Insolvent person; meaning of the term.

SECTION 5. In all actions authorized by this act, appropriate provisional remedies may be had, and final relief administered to the equal distribution of all assets recovered among the creditors of the debtor, and the court may make such orders for the payment of costs and expenses, as may be just. An action or proceeding authorized by this act for the benefit of all creditors, may be taken by a creditor, although his demand is not due at the commencement thereof.

Provisional remedies.

SECTION 6. Acts or parts of acts inconsistent herewith, are hereby repealed.

SECTION 7. This act shall take effect and be in force from and after its passage and publication.

Approved April 24, 1897.