

terest may, within 30 days of any such grant, petition the commission for a public hearing thereon and such petition shall be granted by the commission as a matter of course, and the commission may in its discretion suspend such license or amendment until further order of the commission.

SECTION 2. This act shall take effect upon passage and publication.

Approved June 23, 1941.

No. 658, A.]

[Published June 25, 1941.

### CHAPTER 282.

AN ACT to create 128.25 of the statutes, relating to the basis of distribution to creditors having security upon assets of insolvent estates, and to make uniform the laws of the states with reference thereto.

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

SECTION 1. A section of the statutes is created to be numbered and to read:

128.25 UNIFORM ACT GOVERNING SECURED CREDITOR'S DIVIDENDS IN LIQUIDATION PROCEEDINGS. (1) DEFINITIONS. As used in this section, unless the context or subject matter requires otherwise:

(a) "Liquidation proceeding" includes all assignments for the benefit of creditors, whether voluntary or by operation of law; administration of insolvent decedents' estates; liquidations of insolvent banks; equity receiverships where the subject under receivership is insolvent; and any other proceedings for distribution of assets of any insolvent debtor, whether a person, decedent's estate, partnership, corporation or business association.

(b) "Liquidator" means any person administering assets in any liquidation proceeding as defined in this section.

(c) "Insolvent debtor" means any insolvent person, decedent's estate, partnership, corporation or business association involved in a liquidation proceeding as defined in this section.

(d) "Secured creditor" means a creditor who has either legal or equitable security for his debt upon any property of the insolvent debtor of a nature to be liquidated and distributed

in a liquidation proceeding, or a creditor to whom is owed a debt for which such security is possessed by some indorser, surety, or other person secondarily liable.

(e) "Creditor's sale" includes any sale effected by the secured creditor by judicial process or otherwise under the terms of his contract or the applicable law for the purpose of realizing upon his security.

(2) SECURED CREDITOR'S CLAIM MUST DISCLOSE SECURITY. In a liquidation proceeding every secured creditor's claim against the general assets shall disclose the nature of the security. When a decedent's estate already in the course of administration is judicially declared insolvent or when in an equity receivership it is determined that the subject under receivership is insolvent, secured creditors having claims on file which do not comply with this subsection shall make disclosure within a time to be fixed by the court.

(3) EFFECT OF CONCEALMENT. Any secured creditor who with intent to evade the provisions of this section fails to disclose the existence of the security shall not be entitled to receive or retain dividends out of the general assets, unless he thereafter releases or surrenders to the liquidator the security which he has failed to disclose, or unless he procures such release or surrender if the security is in the possession of an indorser, surety, or other person secondarily liable for the insolvent debtor.

(4) VALUE OF SECURITY CREDITED UPON CLAIMS. Dividends paid to secured creditors shall be computed only upon the balance due after the value of all security not exempt from the claims of unsecured creditors and not released or surrendered to the liquidator, is determined and credited upon the claim secured by it.

(5) DETERMINATION OF VALUE BY SECURED CREDITOR. (a) *By collection.* When the asset constituting the security is an obligation for the payment of money, the secured creditor may determine its value by collection or by exhausting his remedies thereon and then surrendering the obligation to the liquidator.

(b) *By creditor's sale.* When the asset constituting the security is something other than an obligation for the payment

of money, the secured creditor may determine its value by creditor's sale.

(6) ALTERNATIVE DETERMINATIONS OF VALUE. Where valuation under the provisions of subsection (5) is impracticable or would cause undue delay, the court, upon petition by either the secured creditor or the liquidator, may order the value of the security determined by any of the following methods:

(a) By compromise, if the secured creditor and the liquidator agree upon a value. The liquidator may redeem such assets by payment of the agreed value, if authorized by the court.

(b) By litigation, through proceedings in the liquidation proceeding. The liquidator may redeem such assets by paying the value so determined, if authorized by the court.

(c) By liquidator's sale of the assets which, when completed and approved by the court, shall pass to the purchaser good title, free and clear of all liens of the secured creditor, such liens to be transferred to the proceeds of the sale. The order of sale may be either conditional, requiring the sale to be made by the liquidator only if the secured creditor does not complete a determination by collection or creditor's sale as set forth in subsection (5) within a time fixed by the court; or absolute, requiring the sale to be made by the liquidator within a time fixed by the court. This paragraph shall not apply to security upon real estate of insolvent decedents' estates administered by the probate court.

(7) EXEMPT SECURITY NOT CREDITED. When any creditor has legal or equitable security upon assets which are exempt from process for the satisfaction of unsecured debt and are duly claimed as exempt by the insolvent debtor, the value of such security shall not be credited upon the claim. Amounts realized by the creditor from such security after liquidation proceedings are begun shall be disregarded in computing dividends, unless the dividend so computed exceeds the sum actually owing upon the claim, in which event only the amount owing shall be paid.

(8) SEVERABILITY. If any provision of this section or the application thereof to any person or circumstances is held invalid, the invalidity shall not affect other provisions or applications of the section which can be given effect without the

invalid provision or application, and to this end the provisions of this section are declared to be severable.

(9) UNIFORMITY OF INTERPRETATION. This section shall be so construed as to make uniform the law of those states which enact it.

(10) SHORT TITLE. This section may be cited as Uniform Act Governing Secured Creditors' Dividends in Liquidation Proceedings.

SECTION 2. This act shall take effect January 1, 1942, but shall not apply to contracts and transactions already existing upon that date.

Approved June 23, 1941.

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No. 661, A.]

[Published June 25, 1941.

### CHAPTER 283.

AN ACT to create 235.72 of the statutes, relating to the risk of the vendor and purchaser under a land contract and to make uniform the law with reference thereto.

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

SECTION 1. A section of the statutes is created to be numbered and to read:

235.72 UNIFORM VENDOR AND PURCHASER RISK ACT.

(1) RISK OF LOSS AS BETWEEN VENDOR AND PURCHASER OF LAND. Any contract hereafter made in this state for the purchase and sale of realty shall be interpreted as including an agreement that the parties shall have the following rights and duties, unless the contract expressly provides otherwise:

(a) If, when neither the legal title nor the possession of the subject matter of the contract has been transferred, all or a material part thereof is destroyed without fault of the purchaser or is taken by eminent domain, the vendor cannot enforce the contract, and the purchaser is entitled to recover any portion of the price that he has paid.

(b) If, when either the legal title or the possession of the subject matter of the contract has been transferred, all or any