State of Misconsin 2017 - 2018 LEGISLATURE

LRB-4814/1 ARG:kjf

2017 SENATE BILL 862

March 7, 2018 - Introduced by Senator Hansen, cosponsored by Representatives Stuck and Sinicki. Referred to Committee on Insurance, Financial Services, Constitution and Federalism.

- 1 AN ACT to repeal 128.001 and 128.02, 128.03, 128.05, 128.06, 128.07, 128.08,
- 2 128.09, 128.10, 128.11, 128.12, 128.13, 128.14, 128.15, 128.16, 128.17, 128.18,
- 3 128.19, 128.20 and 128.25; and *to amend* 108.02 (4m) (f), chapter 128 (title),
- 4 128.01 and 972.085 of the statutes; **relating to:** creditors' actions.

Analysis by the Legislative Reference Bureau

This bill eliminates certain legal proceedings governing the distribution of a debtor's assets to creditors.

Under current law, a debtor may make a voluntary assignment for the benefit of creditors and, if accepted, the assignee must file this assignment with the court where the debtor lives or has its principal place of business. This assignment and filing initiates a legal proceeding through which the assignee takes control of the debtor's property and is responsible for distributing the debtor's assets to creditors. Also under current law, a creditor may petition the court to sequestrate a debtor's property and appoint a receiver if the execution of the creditor's judgment against the debtor is returned unsatisfied or if a debtor corporation is insolvent or has been dissolved. If the court appoints a receiver or an assignment is filed, the receiver or assignee is vested with title to the debtor's property and the debtor must file with the court an inventory of the debtor's assets and a list of the debtor's creditors along with the amount due each. The receiver or assignee must give notice of the proceeding to the debtor's creditors and these creditors have three months to file their claims. At the expiration of this three-month period, the receiver or assignee must file certain information with the court, including a list of creditors and claims filed. The receiver

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or assignee or a creditor may object to any claim and obtain a court hearing as to the objection. As part of the proceeding, the court orders distribution of the debtor's assets in a specified order of priority and, during the proceeding, the court may also enjoin other proceedings by creditors against the debtor. Within six months after the expiration of the three-month period for filing claims, a receiver or assignee must file with the court a report containing a full and itemized statement of certain information relating to the receivership or assignment, including the property received by the receiver or assignee and the manner in which the receiver or assignee dealt with the property; the names of the debtor's creditors; the amount of money realized by the receiver or assignee; and the receiver's or assignee's receipts and disbursements, including amounts paid to the debtor's creditors. After filing this report and giving notice to the creditors, the receiver or assignee may apply to the court for a final settlement of accounts, which occurs by order of the court after an opportunity for hearing.

Current law also includes additional provisions relating to a secured creditor's claims against a debtor's assets in a liquidation proceeding and disclosure of the nature of the creditor's security interest.

This bill repeals all of these provisions.

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

1	SECTION 1. 108.02 (4m) (f) of the statutes is amended to read:
2	108.02 (4m) (f) All wages that an employer was legally obligated to pay in an
3	employee's base period but failed to pay, or was prohibited from paying as a result
4	of an insolvency proceeding under ch. 128 or as a result of a bankruptcy proceeding
5	under 11 USC 101 et seq.
6	Section 2. Chapter 128 (title) of the statutes is amended to read:
7	CHAPTER 128
8	CREDITORS' DEBTORS' ACTIONS
9	FOR AMORTIZATION OF DEBTS
10	SECTION 3. 128.001 of the statutes is repealed.
11	SECTION 4. 128.01 of the statutes is amended to read:

SECTION 1 108 02 (4m) (f) of the statutes is amended to read:

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128.01 Jurisdiction. The circuit courts shall have supervision of proceedings under this chapter and may make all necessary orders and judgments therefor; and all assignments for the benefit of creditors shall be subject to this chapter.

SECTION 5. 128.02, 128.03, 128.05, 128.06, 128.07, 128.08, 128.09, 128.10, 128.11, 128.12, 128.13, 128.14, 128.15, 128.16, 128.17, 128.18, 128.19, 128.20 and 128.25 of the statutes are repealed.

Section 6. 972.085 of the statutes is amended to read:

972.085 Immunity; use standard. Immunity from criminal or forfeiture prosecution under ss. 13.35, 17.16 (7), 77.61 (12), 93.17, 111.07 (2) (b), 128.16, 133.15, 139.20, 139.39 (5), 195.048, 196.48, 551.602 (5), 553.55 (3), 601.62 (5), 767.87 (4), 885.15, 885.24, 885.25 (2), 891.39 (2), 968.26, 972.08 (1) and 979.07 (1) and ch. 769, provides immunity only from the use of the compelled testimony or evidence in subsequent criminal or forfeiture proceedings, as well as immunity from the use of evidence derived from that compelled testimony or evidence.

Section 7. Nonstatutory provisions.

(1) Any proceeding commenced as provided in sections 128.02, 128.03, 128.05, 128.06, 128.07, 128.08, 128.09, 128.10, 128.11, 128.12, 128.13, 128.14, 128.15, 128.16, 128.17, 128.18, 128.19, 128.20, and 128.25, 2015 stats., prior to the effective date of this subsection may be continued until completion of the proceeding and may be appealed as provided in section 128.20 (2), 2015 stats.

21 (END)