

1969 Assembly Bill 8

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**CHAPTER 289, LAWS OF 1969**

AN ACT to repeal 128.21 (9); to amend 128.21 (1) and (3); and to create 128.07 (3) and (4) of the statutes, relating to creditors' actions.

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

SECTION 3. 128.07 (3) and (4) of the statutes are created to read:  
128.07 (3) "Transfer" means the sale or other disposal of or of parting

with property or with an interest therein or with the possession thereof or the fixing of a lien upon property or upon an interest therein, absolutely or conditionally, voluntarily or involuntarily, by or without judicial proceedings, as a conveyance, sale, assignment, payment, pledge, mortgage, lien, encumbrance, gift, security or otherwise. The retention of a security title to property delivered to a debtor shall be deemed a transfer suffered by such debtor.

(4) A transfer of property other than real property shall be deemed to have been made or suffered at the time when it became so far perfected that no subsequent lien upon such property obtainable by legal or equitable proceedings on a simple contract could become superior to the rights of the transferee. A transfer of real property shall be deemed to have been made or suffered when it became so far perfected that no subsequent bona fide purchase from the debtor could create rights in such property superior to the rights of the transferee. If any transfer of real property is not so perfected against a bona fide purchase, or if any transfer of other property is not so perfected against such liens by legal or equitable proceedings prior to the filing of a petition initiating a proceeding in insolvency, it shall be deemed to have been made immediately before the filing of the petition.

SECTION 13. 128.21 (1) of the statutes is amended to read:

128.21 (1) Any person whose principal source of income consists of wages or salary ~~aggregating not over \$7,500 a year,~~ may file a verified petition with the circuit court in the county of his residence stating that he is unable to meet his current debts as they mature, but is able to make regular future payments on account sufficient to amortize said debts over a period of not more than 2 3 years, and that he desires the aid of the court to effectuate the amortization. The petition shall also set forth the names and addresses of any creditors who have levied any executions, attachments or garnishments, and of any garnishees, and the court shall forthwith, by order, require that proceedings for the enforcement of such executions, attachments or garnishments be stayed during the pendency of proceedings under this section. The petition shall be accompanied by a filing fee of \$10; which fee shall be applied as sub. (6) directs. ~~No~~ A state suit tax ~~to~~ shall not be collected on these proceedings.

SECTION 14. 128.21 (3) of the statutes is amended to read:

128.21 (3) On the filing of the petition the court shall appoint a disinterested trustee. The trustee shall forthwith meet with the debtor; make up a list of his creditors, with their addresses and the amounts owing to each, which the debtor shall sign and verify; and send notices to each of the amount claimed to be due him, and of a meeting to be held in the trustee's office not less than ~~five~~ 5 nor more than ~~ten~~ 10 days thereafter, for the purpose of considering an amortization plan and of determining the claims to be covered by the plan. Upon conclusion of the meeting the trustee shall either (a) report to the court that no equitable plan of amortization is feasible or needed in which case the court may forthwith dismiss the proceedings, or (b) recommend to the court a plan of amortization calculated by weekly or monthly payments, to discharge in full the claims of the creditors listed in the plan within a period of not exceeding ~~two~~ 3 years. The trustee shall attach to said plan the written consents and objections, if any, of the creditors present or represented at the meeting, and an analysis, with his recommendations regarding the disposition, of any claim whose amount is in dispute or appears to be uncertain. The court shall forthwith enter an order approving the plan and determining, for the purposes of the plan, the amounts of the claims, unless in any such written objection a creditor ~~shall ask~~ asks for a hearing respecting the plan or the amount of his claim, or the person to be trustee, in which case the court shall set a date for a hearing as soon as may be, on

notice of the debtor, the trustee and creditors. At such hearing the court shall enter an order either approving the plan, if satisfied that it is feasible and equitable, and determining, for the purposes of the plan, the amounts of the claims, or dismissing the proceedings, or making and approving such modification of the plan as the court deems just; and the court may appoint a different trustee if the one appointed is objected to.

SECTION 15. 128.21 (9) of the statutes is repealed.

Approved December 10, 1969.

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