

CHAPTER 67.

AN ACT TO AMEND AN ACT ENTITLED "AN ACT TO PROTECT THE CREDITORS OF ASSIGNORS, AND TO REGULATE THE DUTIES OF ASSIGNEES," APPROVED MARCH FOURTH (4TH), 1876.

Be it enacted by the Legislature of the State of Minnesota :

SECTION 1. That section three (3) of an act entitled "An act to protect the creditors of assignors, and to regulate the regulate the duties of assignees," approved March fourth (4th), one thousand eight hundred and seventy-six (1876); be and the same is hereby amended so as to read as follows :

Sec. 3. Before any such assignee or assignees shall have power or authority to sell, dispose of, or convert to the purposes of the trust any part of such estate, and not later than five (5) days after the filing of the inventory, as provided for in section two (2) of this act, he or they shall execute and file with the clerk of the court where such assignment is filed, a good and sufficient bond to the State of Minnesota, to be approved by the judge of such district court, with two or more sureties, freeholders and residents of the State of Minnesota, in an amount at least double the value of the estate assigned, as shown by such inventory if made, or by the affidavit of the debtors, or one of them, if the bond be given before the inventory be made, conditioned on the faithful and just performance of all the duties of such assignee or assignees. And the judge may at any time thereafter, if he shall deem such bond insufficient in amount, or that the sureties are insufficient, require the assignee or assignees to give new or additional bonds, in his discretion.

SEC. 2. That section five (5) of said act be and the same is hereby amended so as to read as follows :

Sec. 5. No claim or demand, except for debts owing to the United States or the State of Minnesota, for or taxes or assessments against the debtor or debtors, shall be paid in whole or in part, unless the same be first verified by the oath or affirmation of one of the creditors making such claim or demand, or in case of a corporation creditor, or by some officer thereof. And after the payment by the assignee or assignees of the costs, charges and expenses of making and executing the assignment, and executing the trust, all debts of the debtor or debtors shall be paid in the order and precedence following, that is to say :

First.—All debts owing to the United States, and all debts owing to the State of Minnesota, and all taxes and assessments levied and unpaid, shall be paid in full before the payment of any other debts.

Assignee to give bond for performance of trust.

Claims to be verified before payment.

Order of payment.

Preferred claims.

Second.—All debts owing for the wages of servants, laborers, mechanics and clerks, for labor and services performed for the debtor or debtors within three months next preceding the date of the assignment, shall next be paid in full, to the exclusion of all other indebtedness, if there shall be sufficient wherewith to pay the same in full, if not, they shall be paid pro rata so far as they can be paid; but to entitle a creditor for wages to payment under this subdivision, the proof or verification of the claim must show the character of the labor or services, and that the same was performed within the time above mentioned.

Third.—All other debts of the debtor properly claimed and verified shall be paid in full, if there shall be sufficient left in the hands of the assignee or assignees wherewith to pay the same in full; if not, the moneys in the hands of the assignee or assignees applicable thereto, shall be paid upon the same pro rata, so far as it will extend. *Provided*, that no debts for which the creditor holds a mortgage, pledge or other security, shall be so paid until the creditor shall have first exhausted his security, or shall surrender and release the security to the assignee or assignees.

Pro rata payment to all claimants.

Debts secured, creditor to exhaust security first.

SEC. 3. That section six (6) of said act be and the same is hereby amended so as to read as follows:

Sec. 6. All proceedings under this act shall be subject to the order and supervision of the judge of the district court aforesaid; and such judge may from time to time, in his discretion, on [the] petition of one or more of the creditors, by order, citation, attachment or otherwise, require any assignee or assignees to render accounts and file reports of his or their proceedings, and of the condition of such trust estate; and may order or decree distribution thereof. And such judge may, in his discretion, for cause shown, remove any assignee or assignees and appoint another or others instead, who shall give such bonds as the judge may, in view of the condition and value of the estate, may direct; and such order of removal and appointment shall in terms transfer to such new assignee or assignees all the trust estate, and shall operate as a full transfer and conveyance to such new assignee or assignees of all the trust estate, real, personal, and mixed, and may be recorded in the deed records in the office of the register of deeds of any county wherein any real estate affected by the assignment may be situated.

Assignee subject to supervision of court.

May be removed—when.

And such judge may by order, which may be enforced as upon proceedings for contempt, compel the assignee or assignees so removed to deliver all property, money, choses in action, book accounts and vouchers to the assignee or assignees so appointed, and to make, execute and deliver to such new assignee or assignees such deeds, assignments and transfers as such judge may deem proper, and to render a full account and report of all matters connected with such trust estate. Whenever any assignee so removed shall have

Delivery of property may be enforced.

Proceedings by
assignee to
close his trust.

fully accounted for and turned over to the assignee or assignees appointed by the judge all the trust estate, and made full report of all his doings, and complied with all orders of the judge touching such estate; and also, whenever an assignee has fully completed his trust, he may, by the order of the judge, be fully discharged from all further duties, liabilities and responsibilities connected with the trust. In either case he shall give notice by publication in some newspaper of the county, if there be one printed and published therein, if not, in a newspaper printed at the capitol of the State, once in each week for at least three (3) weeks, that he will apply to such judge for such discharge at a time and place to be stated in such notice, which time shall be not more than three (3) weeks after the last publication of the notice. If upon the hearing the judge shall be satisfied that the assignee is entitled to be discharged, he shall make an order accordingly. or if, in the opinion of the judge, anything remains to be done by such assignee, he may require the performance thereof before making such order. Such order shall have the effect of discharging the assignee and his sureties from all further responsibility in respect to the trust; and such order shall not be refused on account of any failure on the part of the assignee to comply with the formal provision of law where no loss or damage to any one shall have occurred through such failure. Whenever the trust estate shall have been taken out of the hands of the assignee by proceedings in bankruptcy in the federal court, the assignee may in like manner be discharged upon showing that he has fully accounted with the assignee in bankruptcy and turned over to him the whole of the trust estate.

When act to
take effect.

SEC. 4. This act shall take effect and be in force from and after its passage.

Approved February 14, 1877.

CHAPTER 68.

AN ACT, TO AMEND SECTION FORTY (40) OF CHAPTER SIXTY SIX (66) OF THE GENERAL STATUTES, AS AMENDED BY CHAPTER FORTY-EIGHT (48) OF GENERAL LAWS OF ONE THOUSAND EIGHT HUNDRED AND SEVENTY-SIX (1876), RELATING TO CIVIL ACTIONS.

Be it enacted by the Legislature of the State of Minnesota:

SECTION 1. That section forty (40) of chapter sixty-six (66) of the General Statutes, be and the same are hereby amended so as to read as follows: