

CHAPTER 103.

[S. B. 181.]

INSOLVENT CORPORATIONS.

AN ACT relating to insolvent corporations; defining preferences to creditors, providing for offsets, limiting the time in which actions for preferences may be commenced, modifying the trust fund doctrine, and amending section 57 of chapter 185 of the Laws of 1933 (section 3803-57, Remington's Revised Statutes), and repealing chapter 47 of the Laws of 1931 (sections 5831-1, 5831-2 and 5831-3, Remington's Revised Statutes).

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

SECTION 1. Words and terms used in this act shall be defined as follows: Definitions.

(a) "Receiver" means any receiver, trustee, common law assignee, or other liquidating officer of an insolvent corporation.

(b) "Date of application" means the date of filing with the Clerk of the Court of the petition or other application for the appointment of a receiver, pursuant to which application such appointment is made; or in case the appointment of a receiver is lawfully made without court proceedings, then it means the date on which the receiver is designated, elected or otherwise authorized to act as such.

(c) "Preference" means a judgment procured or suffered against itself by an insolvent corporation or a transfer of any of the property of such corporation, the effect of the enforcement of which judgment or transfer at the time it was procured, suffered, or made, would be to enable any one of the creditors of such corporation to obtain a greater percentage of his debt than any other creditor of the same class.

SEC. 2. If not otherwise limited by law, actions in the courts of this state by a receiver to recover preferences may be commenced at any time within but Limitation of actions by receiver.

not after six (6) months, from the date of application for the appointment of such receiver.

Preferences
avoided.

SEC. 3. Any preference made or suffered within four (4) months before the date of application for the appointment of a receiver may be avoided and the property or its value recovered by such receiver.

Limitations.

No preferences made or suffered prior to such four (4) months' period may be recovered, and all provisions of law or of the trust fund doctrine permitting recovery of any preference made beyond such four (4) months' period are hereby specifically superseded.

Set-off
against
preference.

SEC. 4. In any action by a receiver against a creditor to avoid and recover a preference such creditor may set off against the amount of such preference an amount equal to any credit or credits given by such creditor to the corporation within four (4) months prior to the date of application for the appointment of the receiver when such credit or credits were given in good faith without security of any kind for property which became a part of the assets of the corporation.

Preference to
attorney to
be examined.

SEC. 5. If a corporation shall directly or indirectly in contemplation of the appointment of a receiver of such corporation pay money or transfer property to an attorney or counselor at law, solicitor in equity, or proctor in admiralty for services to be rendered, the transaction shall be re-examined by the court on petition of the receiver of such corporation or any creditor and shall be held valid only to the extent of a reasonable amount to be determined by the court and any excess may be recovered by the receiver for the benefit of the creditors of such corporation.

Balance of
account
allowed.

SEC. 6. (a) In all cases of mutual debts or mutual credits between the corporation and a creditor the account shall be stated and one debt shall be

set off against the other, and the balance only shall be allowed or paid: *Provided*, That as against voidable preferences the only offsets shall be the credits specified in section 5 above. Proviso.

(b) A set-off or counter-claim shall not be allowed in favor of any debtor of the corporation which (1) is not provable against the corporation, or (2) was purchased by or transferred to him after the appointment of a receiver for such corporation, or within four (4) months before the date of application for the appointment of such receiver, with a view to such use and with knowledge or notice that such corporation was insolvent. Set-off must be provable.
Conditions.

SEC. 7. Section 57 of chapter 185 of the Laws of 1933 (section 3803-57, Remington's Revised Statutes) is amended to read as follows: Amendments.

Section 57. In a proceeding for dissolution subject to the supervision of the court, all questions in respect to proof, allowance, payment and priority of claims shall be governed by the same rules as are applicable in bankruptcy proceedings under the national bankruptcy act as in force at the time of the dissolution proceedings. Proceeding same as Federal act.

SEC. 8. Chapter 47 of the Laws of 1931 (sections 5831-1, 5831-2 and 5831-3, Remington's Revised Statutes) is hereby repealed. Statutes repealed.

Passed the Senate February 20, 1941.

Passed the House March 10, 1941.

Approved by the Governor March 19, 1941.