

2621

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I N S E N A T E

January 27, 2011

Introduced by Sen. KRUGER -- read twice and ordered printed, and when printed to be committed to the Committee on Judiciary

AN ACT to amend the debtor and creditor law, in relation to an assignment for the benefit of creditors

THE PEOPLE OF THE STATE OF NEW YORK, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

- 1 Section 1. Section 13 of the debtor and creditor law, as amended by  
2 chapter 758 of the laws of 1950, is amended to read as follows:  
3 S 13. Debts which may be [proved] ALLOWED against the estate. Debts  
4 of the assignor may be [proved and] allowed against his OR HER estate  
5 [which are (a) a fixed liability, as evidenced by a judgment absolutely  
6 owing at the time of the assignment, or (b) a claim for taxable costs  
7 incurred before the assignment, in good faith, in an action to recover a  
8 provable debt; (c) or founded upon an open account, or upon a contract,  
9 express or implied whether due or not due; or (d) claims for anticipato-  
10 ry breach of contracts, executory in whole or in part, including unex-  
11 pired leases of real or personal property; provided, however, that the  
12 claim of a landlord for damages for injury resulting from the rejection  
13 of an unexpired lease of real estate or for damages or indemnity under a  
14 covenant contained in such lease shall in no event be allowed in an  
15 amount exceeding the rent reserved by the lease without acceleration,  
16 for the year next succeeding the date of the surrender of the premises  
17 to the landlord or the date of reentry of the landlord, whichever first  
18 occurs, whether before or after the assignment, plus an amount equal to  
19 the unpaid rent accrued, without acceleration up to such date.] EXCEPT  
20 TO THE EXTENT THAT:  
21 1. A DEBT IS UNENFORCEABLE AGAINST THE ASSIGNOR, AND UNENFORCEABLE  
22 AGAINST PROPERTY OF THE ASSIGNOR, UNDER ANY AGREEMENT OR APPLICABLE LAW  
23 FOR A REASON OTHER THAN BECAUSE THE DEBT IS CONTINGENT OR UNMATURED;  
24 2. THE DEBT IS FOR UNMATURED INTEREST;

EXPLANATION--Matter in ITALICS (underscored) is new; matter in brackets [ ] is old law to be omitted.

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1 3. IF THE DEBT IS FOR A TAX ASSESSED AGAINST PROPERTY ASSIGNED, THE  
2 DEBT EXCEEDS THE VALUE OF THE INTEREST OF THE ASSIGNEE IN SUCH PROPERTY;

3 4. IF THE DEBT IS FOR SERVICES OF AN INSIDER OR ATTORNEY OF THE ASSIG-  
4 NOR, THE DEBT EXCEEDS THE REASONABLE VALUE OF SUCH SERVICES;

5 5. IF THE DEBT IS OWED TO A LESSOR FOR DAMAGES RESULTING FROM THE  
6 TERMINATION OF A LEASE OF REAL PROPERTY, SUCH DEBT EXCEEDS:

7 (A) THE RENT RESERVED BY SUCH LEASE, WITHOUT ACCELERATION, FOR THE  
8 GREATER OF ONE YEAR, OR FIFTEEN PERCENT, NOT TO EXCEED THREE YEARS, OF  
9 THE REMAINING TERM OF SUCH LEASE, FOLLOWING THE EARLIER OF (1) THE DATE  
10 OF THE ASSIGNMENT; AND (2) THE DATE ON WHICH THE LESSOR REPOSSESSED, OR  
11 THE LESSEE SURRENDERED, THE LEASED PREMISES; PLUS

12 (B) ANY UNPAID RENT DUE UNDER THE LEASE, WITHOUT ACCELERATION, ON THE  
13 EARLIER OF SUCH DATES;

14 6. IF THE DEBT IS FOR DAMAGES RESULTING FROM THE TERMINATION OF AN  
15 EMPLOYMENT CONTRACT, SUCH DEBT EXCEEDS:

16 (A) THE COMPENSATION PROVIDED BY THE CONTRACT, WITHOUT ACCELERATION,  
17 FOR ONE YEAR FOLLOWING THE EARLIER OF (1) THE DATE OF THE ASSIGNMENT;  
18 AND (2) THE DATE ON WHICH THE EMPLOYER DIRECTED THE EMPLOYEE TO TERMI-  
19 NATE, OR SUCH EMPLOYEE TERMINATED, PERFORMANCE UNDER THE CONTRACT; PLUS

20 (B) THE UNPAID COMPENSATION DUE UNDER THE CONTRACT WITHOUT ACCELER-  
21 ATION, ON THE EARLIER OF SUCH DATES. THERE SHALL BE ESTIMATED FOR  
22 PURPOSES OF ALLOWANCE UNDER THIS SECTION:

23 (1) ANY CONTINGENT OR UNLIQUIDATED CLAIM, FIXING OR LIQUIDATION OF  
24 WHICH, AS THE CASE MAY BE, WOULD UNDULY DELAY THE CLOSING OF THE CASE;  
25 OR

26 (2) ANY RIGHT TO AN EQUITABLE REMEDY FOR BREACH OF PERFORMANCE IF SUCH  
27 BREACH GIVES RISE TO A RIGHT TO PAYMENT.

28 In allowing the claims against the estate, in all cases of mutual  
29 debts or credits between the estate of the assignor and a creditor the  
30 amount shall be stated and one debt shall be set off against the other,  
31 and the balance only shall be allowed.

32 A set-off or counterclaim shall not be allowed in favor of any debtor  
33 of the assignor which (a) is not [provable] ALLOWABLE against the  
34 estate; or (b) was purchased by or transferred to him OR HER after the  
35 filing of the general assignment or with intent to such use and with  
36 knowledge or notice, or if he OR SHE had reasonable cause to believe,  
37 that such assignor was insolvent. A person shall be deemed insolvent  
38 whenever the aggregate of his OR HER property, exclusive of any property  
39 which he OR SHE may have conveyed, transferred, concealed, removed, or  
40 permitted to be concealed or removed, with intent to defraud, hinder or  
41 delay his OR HER creditors, shall not, at a fair valuation, be suffi-  
42 cient in amount to pay his OR HER debts.

43 EXCEPT WITH RESPECT TO A SET-OFF OF A KIND DESCRIBED IN PARAGRAPHS SIX  
44 AND SEVEN OF SUBDIVISION (B) OF SECTION THREE HUNDRED SIXTY-TWO AND IN  
45 PARAGRAPHS TWO OF SUBDIVISIONS (H) AND (I) OF SECTION THREE HUNDRED  
46 SIXTY-FIVE OF TITLE ELEVEN OF THE UNITED STATES CODE, IF A CREDITOR  
47 OFFSETS A MUTUAL DEBT OWING TO THE ASSIGNOR AGAINST A CLAIM AGAINST THE  
48 ASSIGNOR ON OR WITHIN NINETY DAYS BEFORE THE DATE OF THE ASSIGNMENT,  
49 THEN THE ASSIGNEE MAY RECOVER FROM SUCH CREDITOR THE AMOUNT SO OFFSET TO  
50 THE EXTENT THAT ANY INSUFFICIENCY ON THE DATE OF SUCH SET-OFF IS LESS  
51 THAN THE INSUFFICIENCY ON THE LATER OF:

52 (A) NINETY DAYS BEFORE THE DATE OF THE ASSIGNMENT; AND

53 (B) THE FIRST DAY DURING THE NINETY DAYS IMMEDIATELY PRECEDING THE  
54 DATE OF THE ASSIGNMENT ON WHICH THERE IS AN INSUFFICIENCY.

55 "INSUFFICIENCY" MEANS THE AMOUNT, IF ANY, BY WHICH A CLAIM AGAINST THE  
56 ASSIGNOR EXCEEDS A MUTUAL DEBT OWING TO THE ASSIGNOR BY THE CREDITOR.

1 S 2. Section 14 of the debtor and creditor law, as amended by chapter  
2 758 of the laws of 1950, is amended to read as follows:

3 S 14. Duties of assignee. It shall be the duty of the assignee to  
4 collect and reduce to money the property of the estate, under the direc-  
5 tion of the court; report promptly to the court any claims presented to  
6 him OR HER which are not [provable] ALLOWABLE, or are incorrect or false  
7 and shall also report promptly for allowance all claims presented to him  
8 OR HER which are not disputed; close up the estate as expeditiously as  
9 possible; furnish such information concerning the estate as may be  
10 requested by parties in interest; keep regular accounts; pay dividends  
11 as often as is compatible with the best interests of the estate; make  
12 appraisals or in his OR HER discretion employ an appraiser or  
13 appraisers; designate and employ auctioneers; file an interim report  
14 within six months of assuming his [dutes] OR HER DUTIES unless excused  
15 by the court or unless the estate has been sooner distributed; file a  
16 final report and account at least fifteen days before the final hearing  
17 to consider the judicial settlement of the account.

18 S 3. Section 15 of the debtor and creditor law, as amended by chapter  
19 758 of the laws of 1950, subdivision 6 as amended by chapter 552 of the  
20 laws of 1962, is amended to read as follows:

21 S 15. Power of court. The court shall have power:

22 1. To allow claims, disallow claims, reconsider allowed or disallowed  
23 claims, and allow or disallow them against the estate.

24 2. To authorize the business of assignor to be conducted for limited  
25 periods by assignee, if necessary in the best interests of the estate,  
26 and allow additional compensation for such services.

27 3. To bring in and substitute additional persons or parties in the  
28 proceeding when necessary for the complete determination of a matter in  
29 controversy, by issuing a citation directed to such persons or parties  
30 and to be served as ordered by the court.

31 4. To reopen estates whenever it appears they were closed before  
32 being fully administered.

33 5. To determine all claims of assignors to their exemptions.

34 6. To authorize an assignee to bring an action or special proceeding,  
35 which he OR SHE is hereby empowered to maintain, against any person who  
36 has RECEIVED A TRANSFER OF THE ASSIGNOR'S PROPERTY OR AN OBLIGATION OF  
37 THE ASSIGNOR THAT IS AVOIDABLE BY AN ACTUAL UNSECURED CREDITOR OF THE  
38 ASSIGNOR, OR HAS received, taken or in any manner interfered with the  
39 estate, property or effects of the debtor in fraud of his OR HER credi-  
40 tors and which might have been avoided by a creditor of the assignor and  
41 the assignee may recover the property so transferred or its value.

42 6-a. To authorize an assignee to bring an action, which he OR SHE is  
43 hereby empowered to maintain, against any person, who [with reasonable  
44 cause to believe the assignor was insolvent as defined in section thir-  
45 teen of this act,] has within [four months] NINETY DAYS of the assign-  
46 ment, OR IN THE CASE OF AN INSIDER OF THE ASSIGNOR, WITHIN ONE YEAR OF  
47 THE ASSIGNMENT received a voluntary transfer from the assignor of money  
48 or property, OR OBTAINED A JUDICIAL LIEN ON MONEY OR PROPERTY OF THE  
49 ASSIGNOR, for or on account of an antecedent debt, the effect of which  
50 transfer is to enable the creditor to obtain [a greater percentage of  
51 his debt than some other creditor of the same class] MORE THAN HE OR SHE  
52 WOULD RECEIVE IF (A) THE ASSIGNOR'S ESTATE WAS LIQUIDATED; (B) THE  
53 TRANSFER HAD NOT BEEN MADE; AND (C) THE CREDITOR RECEIVED PAYMENT OF THE  
54 DEBT TO THE EXTENT PROVIDED BY THIS ARTICLE, and the assignee may  
55 recover the property so transferred or its value. For the purpose of  
56 this section a transfer shall be deemed to have been made [when it is so

1 far perfected that no creditor having a judgment on a simple contract  
2 without special priority (whether or not such a creditor exists) could  
3 have obtained an interest superior to that of the transferee therein. A  
4 transfer not so perfected prior to the assignment shall be deemed to  
5 have been made immediately before the assignment.]:

6 (A) AT THE TIME THE TRANSFER TAKES EFFECT BETWEEN THE TRANSFEROR AND  
7 THE TRANSFEE, IF THE TRANSFER IS PERFECTED AT, OR WITHIN TEN DAYS  
8 AFTER, THAT TIME;

9 (B) AT THE TIME THE TRANSFER IS PERFECTED, IF THE TRANSFER IS  
10 PERFECTED MORE THAN TEN DAYS AFTER IT TAKES EFFECT; OR

11 (C) IMMEDIATELY BEFORE THE DATE OF THE ASSIGNMENT, IF THE TRANSFER IS  
12 NOT PERFECTED AT THE LATER OF (I) THE ASSIGNMENT; AND (II) TEN DAYS  
13 AFTER THE TRANSFER TAKES EFFECT BETWEEN THE TRANSFEROR AND THE TRANSFER-  
14 EE.

15 FOR THE PURPOSES OF THIS SECTION:

16 (A) A TRANSFER OF REAL PROPERTY OTHER THAN FIXTURES, BUT INCLUDING THE  
17 INTEREST OF A SELLER OR PURCHASER UNDER A CONTRACT FOR THE SALE OF REAL  
18 PROPERTY, IS PERFECTED WHEN A BONA FIDE PURCHASER OF SUCH PROPERTY FROM  
19 THE ASSIGNOR AGAINST WHOM APPLICABLE LAW PERMITS SUCH TRANSFER TO BE  
20 PERFECTED CANNOT ACQUIRE AN INTEREST THAT IS SUPERIOR TO THE INTEREST OF  
21 THE TRANSFEE; AND

22 (B) A TRANSFER OF A FIXTURE OR PROPERTY OTHER THAN REAL PROPERTY IS  
23 PERFECTED WHEN A CREDITOR ON A SIMPLE CONTRACT CANNOT ACQUIRE A JUDICIAL  
24 LIEN THAT IS SUPERIOR TO THE INTEREST OF THE TRANSFEE.

25 THE ASSIGNEE MAY NOT AVOID A TRANSFER OR JUDICIAL LIEN UNDER THIS  
26 SECTION TO THE EXTENT THAT:

27 (A) THE TRANSFER WAS INTENDED BY THE PARTIES TO BE A CONTEMPORANEOUS  
28 EXCHANGE FOR NEW VALUE GIVEN TO THE ASSIGNOR AND WAS IN FACT A SUBSTAN-  
29 Tially CONTEMPORANEOUS EXCHANGE;

30 (B) THE TRANSFER WAS IN PAYMENT OF A DEBT INCURRED IN THE ORDINARY  
31 COURSE OF BUSINESS OR FINANCIAL AFFAIRS OF THE ASSIGNOR AND THE TRANS-  
32 FEE, AND MADE IN THE ORDINARY COURSE OF BUSINESS AND FINANCIAL AFFAIRS  
33 OF THE PARTIES, ACCORDING TO ORDINARY BUSINESS TERMS.

34 FOR THE PURPOSES OF THIS SECTION, AN ASSIGNOR IS PRESUMED TO HAVE BEEN  
35 INSOLVENT ON AND DURING THE NINETY DAYS IMMEDIATELY PRECEDING THE DATE  
36 OF THE ASSIGNMENT.

37 FOR THE PURPOSES OF THIS SECTION, A JUDICIAL LIEN IS A LIEN ACQUIRED  
38 THROUGH A JUDICIAL PROCEEDING BY ATTACHMENT, LEVY OR THE LIKE AND  
39 INCLUDES A JUDGMENT LIEN OBTAINED UNDER SECTION FIFTY-TWO HUNDRED THREE  
40 OF THE CIVIL PRACTICE LAW AND RULES.

41 FOR THE PURPOSES OF THIS SECTION "INSIDER" INCLUDES:

42 (A) IF THE ASSIGNOR IS AN INDIVIDUAL (I) RELATIVE OF THE ASSIGNOR OR  
43 OF A GENERAL PARTNER OF THE ASSIGNOR; (II) PARTNERSHIP IN WHICH THE  
44 ASSIGNOR IS A GENERAL PARTNER; (III) GENERAL PARTNER OF THE ASSIGNOR; OR  
45 (IV) CORPORATION OF WHICH THE ASSIGNOR IS A DIRECTOR, OFFICER, OR PERSON  
46 IN CONTROL;

47 (B) IF THE ASSIGNOR IS A CORPORATION (I) DIRECTOR OF THE ASSIGNOR;  
48 (II) OFFICER OF THE ASSIGNOR; (III) PERSON IN CONTROL OF THE ASSIGNOR;  
49 (IV) PARTNERSHIP IN WHICH THE ASSIGNOR IS A GENERAL PARTNER; (V) GENERAL  
50 PARTNER OF THE ASSIGNOR; OR (VI) RELATIVE OF A GENERAL PARTNER, DIREC-  
51 TOR, OFFICER, OR PERSON IN CONTROL OF THE ASSIGNOR;

52 (C) IF THE ASSIGNOR IS A PARTNERSHIP (I) GENERAL PARTNER IN THE ASSIG-  
53 NOR; (II) RELATIVE OF A GENERAL PARTNER IN, GENERAL PARTNER OF, OR  
54 PERSON IN CONTROL OF THE ASSIGNOR; (III) PARTNERSHIP IN WHICH THE ASSIG-  
55 NOR IS A GENERAL PARTNER; (IV) GENERAL PARTNER OF THE ASSIGNOR; OR (V)  
56 PERSON IN CONTROL OF THE ASSIGNOR;

1 (D) IF THE ASSIGNOR IS A MUNICIPALITY, ELECTED OFFICIAL OF THE ASSIG-  
2 NOR OR RELATIVE OF AN ELECTED OFFICIAL OF THE ASSIGNOR;

3 (E) AFFILIATE, OR INSIDER OF AN AFFILIATE AS IF SUCH AFFILIATE WERE  
4 THE ASSIGNOR; AND

5 (F) MANAGING AGENT OF THE ASSIGNOR.

6 7. To direct upon the final settlement of the estate that the assign-  
7 nee pay to the lawful creditors their proportionate dividend notwith-  
8 standing their claim has not been presented in accordance with the  
9 notice sent out by the assignee. If a final dividend is ordered and  
10 paid not less than six months after notice to creditors to present their  
11 claims, the assignee shall have no liability to creditors whose claims  
12 have not been presented prior to entry of the order directing payment of  
13 the final dividend and which were unknown to him OR HER at that time.  
14 The court shall have no power to allow claims not presented within one  
15 year from the date of the recording of the assignment.

16 8. To allow secured creditors such sum only as to the court seems to  
17 be owing over and above the value of their securities.

18 9. To examine the parties and witnesses on oath in relation to the  
19 assignment and accounting and all matters connected therewith and to  
20 compel their attendance for that purpose and their answers to questions,  
21 and the production of books and papers;

22 10. To require the assignee to render and file an interim account of  
23 his OR HER proceedings within six months of assuming his OR HER duties  
24 unless the estate is sooner distributed and to require the assignee to  
25 render and file a final account of his OR HER proceedings, and to  
26 enforce the same in the manner provided by law for compelling an execu-  
27 tor or administrator to comply with a surrogate's order for an account;

28 11. To take and state an interim and a final account as submitted by  
29 the assignee, or, as to the final account, to appoint a referee to take  
30 and state it if demanded, within ten days after the date has been fixed  
31 for the final hearing to consider the judicial settlement of the  
32 account, by a creditor or creditors whose claim or claims represent  
33 one-fourth or more in amount of all claims scheduled or filed. The  
34 referee shall be an official referee if such a referee is available and  
35 shall have the powers enumerated in subdivision nine of this section;

36 12. To settle and adjudicate upon the account and the claims  
37 presented, and to decree payment of any creditor's just proportional  
38 part of the fund, or, in case of a partial accounting, so much thereof  
39 as the circumstances of the case render just and proper;

40 13. To discharge the assignee and his OR HER surety at any time, upon  
41 performance of the decree, from all further liability upon matters  
42 included in the accounting, to creditors appearing and to creditors not  
43 having appeared after due citation, or not having presented their claims  
44 after due advertisement;

45 14. On proof of a composition between the assignor and his OR HER  
46 creditors, to discharge the assignee and his OR HER sureties from all  
47 further liability to the compounding creditors appearing or duly cited,  
48 and to authorize the assignee to release the assets to the assignor;  
49 provided, however, that if there be any creditors not assenting to the  
50 composition, the court shall determine what proportion of the fund shall  
51 be paid to or reserved for creditors not assenting, which shall not be  
52 less than the sum or share to which they would be entitled if no compo-  
53 sition had been made, and may decree distribution accordingly;

54 15. To adjourn the proceedings from time to time, grant further  
55 orders if necessary, and amend the petition and proceedings thereon  
56 before decree in furtherance of justice;

1 16. To punish as for a contempt any disobedience or violation of any  
2 order made or process issued in pursuance of this article, and to  
3 restrain by arrest and imprisonment any party or witness when it shall  
4 satisfactorily appear that such party or witness is about to leave the  
5 jurisdiction of the court, and to take bail to secure the attendance of  
6 such party or witness, to be prosecuted under the order of the court in  
7 case of forfeiture by and for the benefit of the party in whose interest  
8 such examination shall be ordered;

9 17. To exercise such other or further powers in respect to the  
10 proceedings and the accounting therein as a surrogate may by law exer-  
11 cise in reference to an accounting by an executor or administrator.

12 S 4. Section 17 of the debtor and creditor law, as added by chapter  
13 360 of the laws of 1914, is amended to read as follows:

14 S 17. Invalid claims. Claims which for want of record or for other  
15 reasons would not have been valid as against the [claims] CLAIM of  
16 [creditors] A LIEN CREDITOR of the assignor shall not be liens against  
17 his OR HER estate, WHETHER OR NOT SUCH A LIEN CREDITOR ACTUALLY EXISTS.

18 CLAIMS WHICH FOR WANT OF RECORD OR FOR OTHER REASONS WOULD NOT HAVE  
19 BEEN VALID AS AGAINST THE CLAIM OF A BONA FIDE PURCHASER OF REAL PROPER-  
20 TY OF THE ASSIGNOR SHALL NOT BE VALID AGAINST ANY REAL PROPERTY IN THE  
21 ASSIGNOR'S ESTATE, WHETHER OR NOT SUCH A BONA FIDE PURCHASER OF REAL  
22 PROPERTY ACTUALLY EXISTS.

23 S 5. The debtor and creditor law is amended by adding a new section  
24 17-a to read as follows:

25 S 17-A. PRESERVATION OF AVOIDED TRANSFERS AND LIENS. ANY TRANSFER OR  
26 LIEN AVOIDED BY THE ASSIGNEE IS PRESERVED FOR THE BENEFIT OF THE ESTATE  
27 BUT ONLY WITH RESPECT TO PROPERTY OF THE ESTATE.

28 S 6. Section 22 of the debtor and creditor law, as amended by chapter  
29 97 of the laws of 1963, is amended to read as follows:

30 S 22. Wages and commissions and preferred claims. 1. In all  
31 distribution of assets under all assignments made in pursuance of this  
32 article, the wages or salaries actually owing to the employees of the  
33 assignor or assignors at the time of the execution of the assignment for  
34 services rendered within [three months] NINETY DAYS prior to the  
35 execution of the assignment, not exceeding [one] TWO thousand dollars to  
36 each employee, and after payment of the foregoing, all claims for cash  
37 deposits not exceeding [three] NINE hundred dollars made and left with  
38 an assignor or assignors on account of purchases at retail of merchan-  
39 dise or services, where such deposits were made [within six months  
40 before the execution of the assignment] and such merchandise has not  
41 been delivered or the services performed, shall be preferred before any  
42 other debt except wages or salaries as aforesaid; and should the assets  
43 of the assignor or assignors not be sufficient to pay in full all the  
44 claims preferred, pursuant to this section, they shall be applied to the  
45 payment first of wages or salaries to the full amount of each such wage  
46 or salary, and thereafter pro rata to payment of such cash deposits.

47 2. For the purposes of this section, wages or salaries shall mean;  
48 (a) all compensation and benefits payable by an employer to or for the  
49 account of the employee for personal services rendered by such employee.  
50 These shall specifically include but not be limited to salaries, over-  
51 time, vacation, holiday and severance pay; employer contributions to or  
52 payments of insurance or welfare benefits; employer contributions to  
53 pension or annuity funds; and any other moneys properly due or payable  
54 for services rendered by such employee. CONTRIBUTIONS TO BENEFIT PLANS  
55 AND FUNDS WHICH CONTRIBUTIONS ARE NOT MADE DIRECTLY TO AN EMPLOYEE SHALL  
56 RECEIVE PRIORITY IF THEY ARE OWED FOR SERVICES RENDERED WITHIN ONE

1 HUNDRED EIGHTY DAYS BEFORE THE ASSIGNMENT, BUT THEY SHALL BE PAID ONLY  
2 AFTER AMOUNTS OWING DIRECTLY TO EMPLOYEES UNDER THIS SECTION HAVE BEEN  
3 PAID. THE TOTAL AMOUNT PAID UNDER THIS SECTION TO OR ON BEHALF OF  
4 EMPLOYEES OF THE ASSIGNOR SHALL NOT EXCEED TWO THOUSAND DOLLARS, TIMES  
5 THE TOTAL NUMBER OF EMPLOYEES. Vacation and severance pay due and owing  
6 at the time of the filing of an assignment, or which became due and  
7 owing after the filing of an assignment, but prior to the closing of the  
8 estate, shall be considered as wages or salaries owed for services  
9 rendered within [three months] NINETY DAYS prior to the execution of the  
10 assignment, or (b) commissions due traveling or city [salesmen] SALES-  
11 PERSONS on salaries or commission basis, whole or part-time, whether or  
12 not selling exclusively for the assignor or assignors, and for the  
13 purpose of this section, traveling or city [salesmen] SALESPERSONS,  
14 shall include all such [salesmen] SALESPERSONS whether or not they are  
15 independent contractors selling products or services of the bankrupt  
16 with or without a drawing account or formal contract.  
17 S 7. This act shall take effect immediately.