

CHAPTER 701

ACTIONS BY OR AGAINST BANKRUPTS AND INSOLVENTS

§5801. When action maintainable

A person who has been declared a bankrupt or an insolvent may maintain an action respecting his former property in his own name, unless objection is made, if before final judgment the assent of his trustee or assignee is filed in the office of the clerk of the court in which the action is pending.

§5802. Attachments 4 months preceding

Actions in which an actual attachment of property was made 4 months prior to the filing of a petition in bankruptcy or insolvency by any defendant therein shall be disposed of under the ordinary rules of proceedings in court.

§5803. Recovery of provable debts

All other actions for recovery of a debt provable in bankruptcy or insolvency, when it appears that any defendant therein has filed his petition in bankruptcy or insolvency or has been adjudged a bankrupt or an insolvent, on petition of his creditors before or after the commencement of the action, shall be continued until the bankrupt or insolvent proceedings are closed unless the plaintiff strikes such defendant's name from the action, which he may do without costs; but when such defendant does not use diligence in the prosecution of his bankrupt or insolvent proceedings, after 30 days' notice to him in writing from the plaintiff, the court may refuse further delay.

§5804. Plea of discharge in bankruptcy

A discharge in bankruptcy may be pleaded by a simple averment that on the day of its date such discharge was granted to the bankrupt and a certificate of such discharge under seal of the court granting the same shall be conclusive evidence in favor of such bankrupt of the fact and regularity of such discharge.

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