PARTNERS AND JOINT DEBTORS; SETTLEMENTS OR COMPROMISES WITH CREDITORS

Act 181 of 1859

AN ACT to provide for settlement and compromises by partners and joint debtors with their creditor or creditors.

History: 1859, Act 181, Eff. May 18, 1859

The People of the State of Michigan enact:

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449.151 Copartnerships; settlements with creditors; discharge of partner not party.

Sec. 1.

That whenever any firm or copartnership shall be dissolved by mutual consent or otherwise it shall and may be lawful for any 1 or more of the individuals composing such firm or copartnership to make a separate settlement or compromise with any 1 or all of the creditors of such firm or copartnership and such settlement or compromise shall be a full and complete discharge both in law and in equity to the debtor or debtors making such settlement or compromise and to such debtor or debtors only of and from all and every liability to the creditor or creditors with whom the same is made or incurred by reason of his or their connection with such firm or copartnership: Provided however, that in case of such settlement or compromise the copartner or copartners who are not parties to the same shall be discharged from all liability to the creditor or creditors except for their joint ratable portion of such copartnership debt.

History: CL 1871, 6199 ;-- How. 7783 ;-- CL 1897, 10449 ;-- CL 1915, 14581 ;-- CL 1929, 9935 ;-- CL 1948, 449.151
Compiler's Notes: This act was expressly excepted from the repeal of Ch. 288, CL 1897, by Act 314 of 1915.

449.152 Settlements with creditors; written discharge by creditors, bar to recovery.

Sec. 2.

Every such debtor or debtors making such settlement or compromise shall take from the creditor or creditors or their attorney with whom he may make the same a receipt or memorandum in writing exonerating and discharging him or them from all and every individual liability incurred by reason of such connection with such firm or copartnership whether such liability was incurred as endorsee acceptors or otherwise which receipt or memorandum shall refer to the instrument as evidence of the indebtedness and may be given in evidence by such debtor or debtors under the general issue in bar of any creditors right or of recovery against him or them or any indebtedness or liability so settled or compromised and if such liability shall be by judgment in any court of this state then on production to and filing in such court a receipt or memorandum signed by such creditor agent or attorney entitled in such cause describing such judgment then the justice before whom such judgment may remain or if in a court of record then the clerk of such court shall discharge such judgment of record so far as such debtor or debtors so settling or compromising shall be concerned.

History: 1859, Act 181, Eff. May 18, 1859 ;-- CL 1871, 6200 ;-- How. 7784 ;-- CL 1897, 10450 ;-- CL 1915, 14582 ;-- CL 1929, 9936 ;-- CL 1948, 449.152

449.153 Settlements with creditors; rights against undischarged partners not impaired; right to set off and defense.

Sec. 3.

Such settlement or compromise with the individual member of a firm or copartnership shall not be so construed as to discharge the other copartners except as provided in the first section of this act nor shall it impair the right of the creditors to proceed in law or in equity against the members of such firm or copartnership as have not been discharged and it shall not be necessary to make such person or persons as have been discharged by such settlement or compromise parties to any suit with the other copartners who have not been discharged, and the member or members of such firm or copartnership so proceeded against shall be entitled to set off any demand against said creditor or creditors which could have been set off had such suit been brought against all the individuals comprising such firm or copartnership nor shall such settlement, compromise or discharge of an individual of a firm or copartnership prevent the other members of such firm or copartnership from availing themselves of any defense at law or equity that would have been available had not this act been passed except that they shall not set up the discharge of 1 or more partners as the discharge of the other copartners unless it shall expressly appear in the receipt or memorandum that all were intended to be discharged.

History: 1859, Act 181, Eff. May 18, 1859 ;-- CL 1871, 6201 ;-- How. 7785 ;-- CL 1897, 10451 ;-- CL 1915, 14583 ;-- CL 1929, 9937 ;-- CL 1948, 449.153

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449.154 Settlements with creditors; contribution between partners.

Sec. 4.

Such settlement or compromise of 1 or more members of such firm or copartnership with a creditor of such firm or copartnership shall in no wise affect the right of the other partners to demand and recover from their copartners making such settlement or compromise their ratable portions of such firm or copartnership debt in the same manner and to the same extent as if this act had not been passed.

History: 1859, Act 181, Eff. May 18, 1859 ;-- CL 1871, 6202 ;-- How. 7786 ;-- CL 1897, 10452 ;-- CL 1915, 14584 ;-- CL 1929, 9938 ;-- CL 1948, 449.154

449.155 Extension of act to joint debtors.

Sec. 5.

The provisions of this act shall extend to joint debtors in the same manner as it now extends to copartners and such joint debtors are hereby authorized individually to settle or compromise and be discharged from their joint indebtedness in the same manner as is herein provided for the settlement and compromise of copartners.

History: 1859, Act 181, Eff. May 18, 1859 ;-- CL 1871, 6203 ;-- How. 7787 ;-- CL 1897, 10453 ;-- CL 1915, 14585 ;-- CL 1929, 9939 ;-- CL 1948, 449.155