

# SENATE, No. 100

(2 *Comp. Stat.*, p. 1951)

## STATE OF NEW JERSEY

INTRODUCED JANUARY 30, 1933

By Mr. BARBOUR

Referred to Committee on Judiciary

AN ACT to amend an act entitled "An act concerning district courts" (Revision of 1898).

1 BE IT ENACTED *by the Senate and General Assembly of the State of New*  
2 *Jersey:*

1 1. Section two hundred and two of the act of which this is amendatory is  
2 hereby amended so as to read as follows:

3 202. Each of the judges of the several district courts of this State, in  
4 cases where the amount due on any judgment exclusive of costs shall be twen-  
5 ty-five dollars or more, shall have the same powers, jurisdiction and author-  
6 ity upon petition for discovery in aid of execution, [upon the return of any  
7 execution unsatisfied in whole or in part into any of said district courts,] to  
8 order the judgment debtor to appear before the court, or one of the Supreme  
9 Court commissioners of this State or a master in chancery of this State, and  
10 make discovery on oath concerning his property or things in action before said  
11 judge, commissioner or master; and to make order forbidding the payment  
12 of debts or transfer of moneys or property due or belonging to said debtor, to  
13 said debtor or any third person, and upon the taking of testimony by said  
14 judge, or the certification by the commissioner or master in chancery, of the  
15 testimony taken by him under the order, to appoint a receiver of the property  
16 and things in action belonging, or due to, or held in trust for such debtor at  
17 the time [of issuing the execution] judgment is recovered, or at any time

18 afterward, as is now vested in or exercised by any of the judges of the in-  
19 ferior courts of common pleas of this State, and such receiver shall thereby  
20 receive authority to possess, receive and, if need be, in his own name as such  
21 receiver, sue for such property or things in action, and shall have like power,  
22 authorities and duties as receivers appointed under similar proceedings by  
23 any of said judges of the inferior courts of common pleas, and such judge shall  
24 order such judgment debtor to convey and deliver to such receiver all such  
25 property and rights in action, and the evidence thereof; *provided, however,*  
26 that no receiver appointed by any district court judge shall become vested  
27 with the title to or have the right to demand and receive any of the real  
28 property of any such judgment debtor.

1        2. This act shall take effect immediately.

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#### STATEMENT

The purpose of this amendment is to do away with the present requirement that an execution issue before an order for discovery is granted by the court.

This is an unnecessary expense, for as a matter of practice; the order for discovery is procured for the very purpose of ascertaining what assets the defendant has so that an execution may issue and levy be made upon the assets discovered in such proceedings.

In the present practice it is necessary to apply for two executions, one before the order of discovery and one after the order has been obtained.