

CHAPTER 121 LAWS OF N. J. 1967

APPROVED 7-10-67

ASSEMBLY, No. 225

STATE OF NEW JERSEY

INTRODUCED JANUARY 23, 1967

By Assemblymen OWENS, DODD, BIANCARDI, POLICASTRO, MANDEL-  
BAUM, ADDONIZIO, VOHDIN, LEMBO and CRYAN

Referred to Committee on Judiciary

AN ACT concerning the cancellation and discharge of record of judgments, when  
the judgment or debt upon which it was recovered has been discharged in  
bankruptcy, in certain cases.

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

1 1. At any time after 1 year has elapsed, since a bankrupt was discharged  
2 from his debts, pursuant to the acts of Congress relating to bankruptcy, he  
3 may apply, upon proof of his discharge, to the court in which a judgment was  
4 rendered against him, or to the court of which it has become a judgment by  
5 docketing it, or filing a transcript thereof, for an order directing the judg-  
6 ment to be canceled and discharged of record. If it appears upon the hear-  
7 ing that he has been discharged from the payment of that judgment or the  
8 debt upon which such judgment was recovered, an order shall be made di-  
9 recting said judgment to be canceled and discharged of record; and there-  
10 upon the clerk of said court shall cancel and discharge the same by entering  
11 on the record or in the margin of the record of judgment, that the same is  
12 canceled and discharged by order of the court, giving the date of entry of  
13 the order of discharge. Where the judgment was a lien on real property  
14 owned by the bankrupt prior to the time he was adjudged a bankrupt, and  
15 not subject to be discharged or released under the provisions of the Bank-  
16 ruptcy Act, the lien thereof upon said real estate shall not be affected by said  
17 order and may be enforced, but in all other respects the judgment shall be  
18 of no force or validity, nor shall the same be a lien on real property acquired  
19 by him subsequent to his discharge in bankruptcy. Notice of the application,  
20 accompanied with copies of the papers upon which it is made, must be served  
21 upon the judgment creditor, or his attorney of record in said judgment, in  
22 the manner prescribed in R. R. 4:5-1, et cetera, of The Revision of the Rules

23 Governing the Courts of the State of New Jersey (1953); provided, however,  
24 nothing herein contained shall prevent said judgment notwithstanding such  
25 discharge of record from being used as a set-off in any action in which it  
26 otherwise could be used.

1      2. This act shall take effect immediately.

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STATEMENT

The purpose of this bill is to carry through the intention of the Bankruptcy Act, i.e. to give the bankrupt a fresh start in life. If judgments that have been discharged in bankruptcy are allowed to remain of record, the practical effect may be to require payment at sometime in the future, thereby negating the intended benefits of the bankruptcy proceedings.