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# Bankruptcy

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## BANKRUPTCY

Chapter 274 of the Acts of 1947 requires the county recorder to record those certified copies of Bankruptcy papers which Congress has required to be filed in the county where the bankrupt owns land. The place of recordation is the Miscellaneous file. The bankrupt is to be designated as grantor and the trustee or receiver as grantee.

9. Where a business has been subjected to regulation under the police power and penalties have been imposed for non-compliance, the person subject to the regulation must show compliance therewith before he can enforce a right based on the conduct of such business. *Sandage v. Studebaker Bros. Mfg. Co.*, 142 Ind. 148, 41 N.E. 380 (1890); *Wells v. Indianapolis Co.*, 88 Ind. App. 231, 161 N.E. 687 (1928); *Becker v. Peru Trust Co.*, 49 Ind. App. 184, 97 N.E. 23 (1912); See *Maddox v. Yokum*, 109 Ind. App. 416, 422, 31 N.E. (2d) 652, 654 (1941); see notes 30 A.L.R. 834 (1924), 118 A.L.R. 646 (1939). A purchaser who has failed to procure a license cannot assert this fact as a defense against the seller in an action for the purchase price. *Ind. Stat. Ann. (Burns, 1933) §42-101.*
10. *Ind. Acts 1947, c. 365, discussed herein p. 319.*
11. *Ind. Stat. Ann. (Burns, 1933) §16-203.*
12. *Blieden v. Gleason*, 65 N.E. (2d) 245 (Ind., 1946). *But cf. County Dept. of Public Welfare v. Nichols Estate*, 223 Ind. 467, 474, 62 N.E. (2d) 146, 148 (1945); 1 *Sutherland*, "Statutory Construction" (3rd ed. 1943) §§1922, 2012.

The trustee in bankruptcy is under a statutory duty to record the order approving his bond.<sup>1</sup> The purpose of such recordation is to constitute constructive notice of the commencement of bankruptcy proceedings.<sup>2</sup> However, the recordation does not constitute constructive notice unless state laws authorize the recording.<sup>3</sup> Under the Indiana enabling act, the bankrupt is divested of his power to convey real estate during the pendency of bankruptcy proceedings providing the trustee obeys his Congressional mandate to record.<sup>4</sup> Comparable legislation has been enacted in Kansas, Ohio, and Virginia.<sup>5</sup>

### CONSERVANCY DISTRICTS

Chapter 239 of the acts of 1947 provides for the organization of conservancy districts within the state.<sup>1</sup> Although the provision is original legislation in Indiana, similar laws have been in force in sister states for some time.<sup>2</sup>

1. 52 Stat. 860 (1938), 11 U.S.C. §75 (c) (1943).
  2. "A certified copy of the petition with the schedules omitted, of the decree of adjudication or of the order approving the trustee's bond may be recorded at any time in the office where conveyances of real property are recorded in every county where the bankrupt owns or has an interest in real property. Such certified copy may be recorded by the bankrupt, trustee, receiver, custodian, referee or any creditor . . . unless a certified copy of the petition, decree, or order has been recorded in such office, in any county wherein the bankrupt owns or has an interest in real property in any state whose laws authorize such recording, the commencement of a proceeding under this act shall not be constructive notice to affect the title of any bona fide purchaser . . . ." 52 Stat. 852 (1938) 11 U.S.C. §44 (g) (Supp. 1946).
  3. Observe supra n. 2, the express Congressional recognition of state authorization of recordation.
  4. See *Vombrack v. Wavra*, 331 Ill. 508, 163 N.E. 340 (1928) where the bona fide vendee was protected in such a situation. In construing 52 Stat. 852 (1938), 11 U.S.C. §44(g) (Supp. 1946), Collier says, "Its purpose is apparent. Where real estate of the bankrupt or in which the bankrupt has an interest is located outside the county where the bankruptcy proceeding is pending, it is possible for a fraudulent bankrupt to sell the real estate, or his interest therein to an innocent purchaser who has no knowledge or reasonable means of knowledge of the pendency of bankruptcy proceeding." 2 Collier, "Bankruptcy" (14th ed., 1940) §21.30.
  5. Kansas Laws 1945, c. 244; Ohio Laws 1943, p. 705; Va. Code (Michie, 1942) §5216(c) and (d).
1. The law provides a comprehensive scheme for the reclamation, irrigation, or drainage of lands and the prevention of floods. The nine specific purposes for which a conservancy district may be organized are set out in §3.
  2. Colo. Stat. Ann. (Michie, et al., 1935) c. 138 §126; Minn. Stat. (Henderson, 1941) §111.01 et seq.; Ohio Gen. Code Ann. (Page,