

Commissions due salesmen on sales are preferred under this section. Who is a "salesman." Where the commissions do not fall due until after a receiver is appointed, there is no preference. Meaning of words "money due and owing * * * contracted not more than three months anterior to," etc. The lien of a mortgage recorded over three months before appointment of a receiver has priority over preferred claims for wages. Change in this section by act of 1896, ch. 184. *Balto. Trust Co. v. Rowe*, 141 Md. 160.

A representative of an insurance company in a large territory charged with duties and responsibilities different from those usually required of clerks, employees or salesmen, involving exercise of business judgment and executive ability, held not to come within either of classes designated in this section and not to be a preferred creditor. Relation of debtor and creditor held not to exist between claimant and insolvent corporation; former must show either performance, or lawful excuse for not performing contract before he can recover. *Perkins v. Barr*, 126 Md. 94.

The wages must be due within three months from adjudication, and not from filing of petition. Where an assignment for benefit of creditors is subsequently set aside by insolvency proceedings, the wages preferred are those contracted within three months from adjudication. *Roberts v. Edie*, 85 Md. 183; *Perkins v. Barr*, 126 Md. 94.

This section was designed to create a preference in behalf of certain creditors, and to that extent destroys that equality which is policy of insolvent system. This section held to give a priority over a claim for rent, and also over a judgment. *Hess v. Jewell*, 85 Md. 238.

Claims under this section cannot be paid out of a trust fund devoted to a special purpose. An insurance adjuster does not come under purview of this section. Term "employee" defined and object of this section discussed. Cases distinguished. *Casualty Ins. Company's Case*, 82 Md. 565. And see *Mowen v. Nitsch*, 103 Md. 687; *Wilmer v. Mann*, 121 Md. 247; *Perkins v. Barr*, 126 Md. 94.

An attorney-at-law does not come under the purview of this section. The terms "servant or employee" discussed. *Lewis v. Fisher*, 80 Md. 140; *Wilmer v. Mann*, 121 Md. 247; *Perkins v. Barr*, 126 Md. 94.

Prior to this section, corporations were not subject to our insolvent laws, and this section does not make them so. If this section were so construed, it would be in conflict with art. 3, sec. 29, of the state Constitution. *Ellicott, etc., Co. v. Speed*, 72 Md. 23.

Cited in *Pyrites Co. v. Davison Chemical Co.*, 4 F. Supp. 294.

This section referred to by way of illustration. *Parlett v. Dugan*, 85 Md. 410.

1933, ch. 48.

16. Whenever any person or corporation shall make an assignment for the benefit of his or its creditors, or shall be adjudicated insolvent, or shall be adjudicated bankrupt, or shall be dissolved as a corporation, or a receiver is appointed to take possession of his or its property or estate, in the distribution of the property or estate of such person or corporation, all the money owing from such person or corporation for rent of any real or leasehold property in this State due not more than three months, but not actually distrained for, before the execution of such assignment or the filing of the bill or petition for such receiver, dissolution or adjudication, shall constitute a lien on, and shall be paid in full out of, the distrainable property of such person or corporation, to the same extent but no further than if distress for said rent had been levied by the landlord before such execution or filing.

Statute of 8 Anne giving landlord lien for one year's rent on property of tenant on premises not superseded by this section. This section given effect in case of subsequent bankruptcy after notice by landlord to sheriff. *In Re Seward*, 8 F. Supp. 865.

1935, ch. 142.

17. All monies due and owing for advancements of monies for freight made by one common carrier to other previous common carriers on behalf of any consignor and/or consignee not more than three months anterior to the execution of such assignment, adjudication of insolvency or appointment of receiver, necessary in connection with the transportation of goods, wares and merchandise shall constitute a preferred claim and be paid in