

SB15 ENROLLED



1 SB15
2 FKG8J5C-3
3 By Senator Givhan
4 RFD: Fiscal Responsibility and Economic Development
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SB15 Enrolled

1 Enrolled, An Act,

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3 Relating to secured transactions; to create the Uniform
4 Assignment for Benefit of Creditors Act; to provide for
5 definitions and the scope of the act; to provide requirements
6 for assignee and assignment agreements and for the effect of
7 assignments; to provide requirements for filing, recording,
8 and title transfers; to provide for notification to creditors;
9 to provide for the duties and powers of assignors and
10 assignees; to provide for allowed, disallowed, and disputed
11 claims; to provide requirements for a proof of claim; to
12 specify the rights of transferees; to provide for
13 distributions, claim subordination, and the validity of
14 subordination agreements; to provide for the liability of
15 assignors and assignees, the removal of assignees, and the
16 appointment of successor assignees; to provide for the winding
17 up and final accounting; to provide for interstate matters,
18 potential court action, and ancillary assignees; and to
19 specify which provisions of an agreement may vary.

20 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

21 Section 1. Short title.

22 This act shall be known and may be cited as the Uniform
23 Assignment for Benefit of Creditors Act.

24 Section 2. Definitions.

25 For the purposes of this act, the following terms have
26 the following meanings:

27 (1) AFFILIATE. Includes:

28 a. A person that directly or indirectly owns, controls,



SB15 Enrolled

29 or holds, with power to vote, 20 percent or more of the
30 outstanding voting interests of another person, other than a
31 person that holds the interests:

32 1. In a fiduciary or agency capacity without sole
33 discretionary power to vote the interests; or

34 2. Solely to secure a debt, if the person has not in
35 fact exercised the power to vote;

36 b. A person with 20 percent or more of the person's
37 outstanding voting interests directly or indirectly owned,
38 controlled, or held, with power to vote, by another person;

39 c. A person whose business is operated under a lease or
40 operating agreement by another person, or a person
41 substantially all of whose assets are controlled by the other
42 person; or

43 d. A person that operates the business or substantially
44 all the assets of another person under a lease or operating
45 agreement.

46 (2) ASSET. A legal or equitable interest in property of
47 an assignor, regardless of the person holding or in
48 possession, custody, or control of the property or where the
49 property is located. The term does not include:

50 a. A legal or equitable interest in property restricted
51 from assignment if the restriction is effective under other
52 law, unless the other law permits assignment with the consent
53 of another person and the person consents to the assignment in
54 a manner permitted by the other law; or

55 b. If the assignor is an individual, a legal or
56 equitable interest in property to the extent the equitable



SB15 Enrolled

57 interest is exempt from legal process under other law.

58 (3) ASSIGNED ASSET. An asset transferred under an
59 assignment.

60 (4) ASSIGNEE. A person to which assets are transferred
61 under an assignment.

62 (5) ASSIGNMENT. A transfer by a person of all the
63 person's assets to another person for the benefit of the
64 transferor's creditors.

65 (6) ASSIGNMENT AGREEMENT. An agreement that transfers
66 or provides for a transfer of all the assignor's assets.

67 (7) ASSIGNMENT ESTATE. The assets held at a given time
68 by the assignee under an assignment.

69 (8) ASSIGNOR. A person whose assets are transferred
70 under an assignment.

71 (9) CLAIM. A creditor's right to payment or to an
72 equitable remedy, regardless of whether the right is reduced
73 to judgment, liquidated, unliquidated, fixed, contingent,
74 matured, unmatured, disputed, undisputed, legal, equitable,
75 secured, or unsecured.

76 (10) COHABITANT. Each of two individuals not married to
77 each other who live together as a couple after each has
78 reached the age of majority or been emancipated.

79 (11) CREDITOR. A person that has a claim against an
80 assigned asset or the assignor.

81 (12) ELECTRONIC. Relating to technology having
82 electrical, digital, magnetic, wireless, optical,
83 electromagnetic, or similar capabilities.

84 (13) GOOD FAITH. Honesty in fact and the observance of

SB15 Enrolled



85 reasonable commercial standards of fair dealing.

86 (14) INSIDER. Includes:

87 a. In the case of an individual:

88 1. A relative of the individual;

89 2. A partnership or limited liability company in which
90 the individual is a general partner or managing member; or

91 3. An organization of which the individual is a
92 director, officer, or person in control;

93 b. In the case of an organization:

94 1. A director, officer, manager, or other person in
95 control of or with controlling equity interest in the
96 organization;

97 2. A partnership or limited liability company in which
98 the organization is a general partner or managing member;

99 3. A general partner or managing member of the
100 organization; or

101 4. A relative of a general partner, managing member,
102 director, officer, manager, or other person in control of or
103 with controlling equity interest in the organization;

104 c. An affiliate; or

105 d. A managing agent of an organization.

106 (15) LIEN. An interest in an asset that secures payment
107 or performance of an obligation.

108 (16) ORGANIZATION. A person other than an individual.

109 (17) PERFECTED LIEN. Includes:

110 a. A lien on real property other than fixtures on which
111 a bona fide purchaser of the property cannot acquire an
112 interest superior to the interest of the lienholder; or



SB15 Enrolled

113 b. A lien on fixtures or property other than real
114 property on which a creditor cannot acquire a lien by
115 attachment, levy, or the like that is superior to the interest
116 of the lienholder.

117 (18) PERSON. An individual, estate, for-profit or
118 nonprofit entity, government or governmental subdivision,
119 agency, instrumentality, or other legal entity. The term
120 includes a protected series, however denominated, of an entity
121 if the protected series is established under law that limits,
122 or limits if conditions specified under law are satisfied, the
123 ability of a creditor of the entity or of any other protected
124 series of the entity to satisfy a claim from assets of the
125 protected series.

126 (19) PROOF OF CLAIM. A record a creditor submits to an
127 assignee to evidence the creditor's claim.

128 (20) RECORD. Information:

129 a. Inscribed on a tangible medium; or

130 b. Stored in an electronic or other medium and
131 retrievable in perceivable form.

132 (21) RELATIVE. An individual related by affinity or
133 consanguinity within the third degree or a cohabitant.

134 (22) SECURITY INTEREST. A lien created by an agreement.

135 (23) SEND. In connection with a record or notification,
136 means:

137 a. To deposit in the mail, deliver for transmission, or
138 transmit by any other usual means of communication, with
139 postage or cost of transmission provided for, addressed to any
140 address reasonable under the circumstances; or



SB15 Enrolled

141 b. To cause the record or notification to be received
142 within the time the record or notification would have been
143 received if properly sent under paragraph a.

144 (24) SIGN. With present intent to authenticate or adopt
145 a record, means:

146 a. Execute or adopt a tangible symbol; or

147 b. Attach to or logically associate with the record an
148 electronic symbol, sound, or process.

149 (25) STATE. A state of the United States, the District
150 of Columbia, Puerto Rico, the United States Virgin Islands, or
151 any other territory or possession subject to the jurisdiction
152 of the United States. The term includes a federally recognized
153 Indian tribe.

154 (26) TRANSFER. Disposing of or parting with an asset or
155 with an interest in an asset, regardless of whether the
156 disposition or parting is indirect, conditional, or
157 involuntary.

158 Section 3. Scope.

159 This act applies to an assignment made by an assignor
160 that is:

161 (1) An organization whose principal place of business
162 is in this state;

163 (2) An organization whose internal affairs are governed
164 by the law of this state;

165 (3) An individual whose principal residence is in this
166 state;

167 (4) An organization wholly owned, directly or
168 indirectly, by an assignor that satisfies subdivision (1),

SB15 Enrolled



169 (2), or (3); or

170 (5) An organization that:

171 a. Is partly owned, directly or indirectly, and
172 controlled by an assignor that satisfies subdivision (1), (2),
173 or (3);

174 b. Has no place of business or employees; and

175 c. Relies on the services the organization receives
176 from an assignor that satisfies subdivision (1), (2), or (3).

177 Section 4. Requirements for assignee and assignment
178 agreement.

179 (a) An assignee must be a person that:

180 (1) Is not a creditor, affiliate, or insider of the
181 assignor;

182 (2) Is not an affiliate or insider of a creditor of the
183 assignor;

184 (3) Does not have a claim against the assignment
185 estate, other than a claim for fees and expenses to be paid
186 under the assignment agreement;

187 (4) Does not have a material financial interest in the
188 outcome of the assignment, other than fees and expenses to be
189 paid under the assignment agreement;

190 (5) Does not hold an equity interest in the assignor
191 other than a noncontrolling interest in a publicly traded
192 company; and

193 (6) Is not an affiliate of a person that fails to
194 satisfy subdivision (1), (2), (3), (4), or (5).

195 (b) A person that satisfies subsection (a) is not
196 precluded from being an assignee merely because the person



SB15 Enrolled

197 performed services for the assignor before the assignment.

198 (c) An assignment agreement must be in a record signed
199 by the assignee and the assignor. The record must:

200 (1) State the name and address of the assignor and of
201 the assignee;

202 (2) Transfer or provide for a transfer of all the
203 assignor's assets;

204 (3) Describe the assigned assets in sufficient detail
205 to identify the assets;

206 (4) Provide for the distribution of the assignment
207 estate;

208 (5) Describe the fees to be charged by the assignee in
209 connection with the assignment, including the basis on which
210 they are to be calculated; and

211 (6) Include a representation by the assignor, under
212 penalty of perjury, that the assignor is assigning all the
213 assignor's assets.

214 (d) If an assignee relies in good faith on the
215 assignor's representation made under subdivision (c)(6), all
216 the assignor's assets are deemed to be assigned, even if the
217 representation is inaccurate.

218 Section 5. Effect of assignment; when assignment
219 effective.

220 (a) An assignee obtains the rights, title, and
221 interests of the assignor in the assigned assets.

222 (b) Unless the assignor is an individual, an assignee
223 obtains the rights, title, and interests of the assignor in
224 assets acquired after the assignment.



SB15 Enrolled

225 (c) Except as provided in Section 10(b)(12), an
226 assignee takes each assigned asset subject to an existing
227 interest in the asset held by another person.

228 (d) An assignee holds the assigned assets subject to
229 the assignee's duties under Section 9.

230 (e) An assignment is subject to other law under which
231 the assignment may be fraudulent or otherwise voidable.

232 (f) The effective date of the assignment agreement is
233 the date the assignment agreement is signed by the last party
234 to the assignment agreement which is required to sign the
235 assignment agreement unless a later date is identified in the
236 assignment agreement as the effective date.

237 Section 6. Filing, recording, and title transfer
238 requirements.

239 (a) In this section, "financing statement" has the
240 meaning in Section 7-9A-102(a)(39).

241 (b) An assignee of a legal or equitable interest in
242 personal property may file a financing statement in the filing
243 office of:

244 (1) This state established for purposes of Section
245 7-9A-501(a)(2);

246 (2) Any other state in which:

247 a. The assignor would be located under Section 7-9A-307
248 if the assignor were a debtor for the purpose of that section;
249 or

250 b. An asset of the assignment estate may be located.

251 (c) A financing statement filed under subsection (b)
252 must indicate that the financing statement is filed in

SB15 Enrolled



253 connection with an assignment.

254 (d) When filing a financing statement under subsection
255 (b), the assignee must:

256 (1) Attach a copy of the assignment agreement to each
257 financing statement filed; or

258 (2) State on the financing statement that a copy of the
259 assignment agreement is available on request to the assignee.

260 (e) A financing statement filed under subsection (b)
261 may:

262 (1) Designate the assignor as "debtor" and the assignee
263 as "secured party"; or

264 (2) Use the terms "assignor" and "assignee" or words of
265 similar import.

266 (f) The filing of a financing statement under
267 subsection (b) is not itself a factor in determining whether
268 an asset secures an obligation. The rights of the assignee
269 under the assignment are not affected if the assignee does not
270 file a financing statement under subsection (b).

271 (g) An assignee of an estate that includes a legal or
272 equitable interest in real property shall record the
273 assignment of the interest or notice of the assignment under
274 the real estate recording law of the jurisdiction where the
275 property is located.

276 (h) An assignee shall comply with other law governing
277 the transfer of title to an asset.

278 (i) By signing an assignment agreement, the assignor
279 authorizes the assignee to take the actions required by this
280 section.



SB15 Enrolled

281 Section 7. Notification to creditors.

282 (a) Unless a creditor waives the right to notification
283 in a signed record, an assignee shall send a notification of
284 the assignment to each creditor known to the assignee within a
285 reasonable time not to exceed 30 days after the effective date
286 of the assignment agreement.

287 (b) The notification must:

288 (1) Be in a record signed by the assignee;

289 (2) Include the assignee's name, address, and other
290 contact information reasonably necessary to communicate with
291 the assignee;

292 (3) Provide reasonable instructions for submitting a
293 proof of claim using the method established by the assignee
294 under Section 9(b)(5); and

295 (4) Identify the date established under Section 9(b)(6)
296 by which each creditor whose claim is not otherwise allowed
297 without a timely proof of claim under this act must submit a
298 proof of claim to the assignee.

299 (c) An assignee shall use reasonable means to provide
300 the information in subsection (b) to unknown creditors,
301 including by any means the assignor regularly used to:

302 (1) Provide information to the assignor's creditors; or

303 (2) Communicate information about the assignor, other
304 than advertising, to the public.

305 Section 8. Duties of assignor.

306 (a) Subject to Section 23, an assignor has a duty to
307 take all reasonable actions necessary for the assignee to
308 administer the assignment, the assigned assets, and the



SB15 Enrolled

309 assignment estate.

310 (b) In furtherance of the duty under subsection (a),
311 the assignor shall:

312 (1) Preserve and turn over to the assignee the assigned
313 assets in the assignor's possession or control;

314 (2) Identify and provide to the assignee information
315 reasonably necessary to administer the assignment and the
316 assigned assets;

317 (3) Sign, and comply with any notarization required
318 under other law, any record reasonably necessary to transfer
319 an assigned asset;

320 (4) Provide the assignee with the name, address, and
321 other contact information reasonably necessary to communicate
322 with an appropriate person willing and able to act as a
323 representative on behalf of the assignor as may be reasonably
324 necessary to administer the assignment, the assigned assets,
325 and the assignment estate;

326 (5) If the assignment includes a legal or equitable
327 interest in real property or titled personal property,
328 cooperate with the assignee in taking actions under Section 6;

329 (6) On or as soon as practicable after the effective
330 date of the assignment agreement, provide the assignee a list
331 of all assets, a list of all the assignor's employees
332 including those whose employment is terminated in connection
333 with the assignment, and a list of all the assignor's known
334 creditors including, for each creditor, the creditor's address
335 and other contact information reasonably necessary to
336 communicate with the creditor;



SB15 Enrolled

337 (7) Verify under penalty of perjury the accuracy of the
338 lists required under subdivision (6);

339 (8) With respect to a legal or equitable interest in
340 property restricted from assignment, cooperate with the
341 assignee to obtain consent from a person whose consent to
342 assign the interest is necessary under other law; and

343 (9) Provide assistance to the assignee as required by
344 the assignment agreement.

345 (c) The duties in this section also apply to a
346 representative identified in subdivision (b) (4).

347 Section 9. Duties of assignee.

348 (a) Subject to Section 23, an assignee has a fiduciary
349 duty to the assignment estate for the benefit of creditors:

350 (1) Of loyalty, including the duty to manage the
351 assignment in good faith;

352 (2) To use reasonable care to maximize distributions
353 under Section 15; and

354 (3) To wind up the assignment under Section 19 in a
355 manner compatible with the best interests of the assignment
356 estate and creditors.

357 (b) Without limitation on the duties under subsection
358 (a), and subject to Section 23, the assignee shall also have a
359 duty to:

360 (1) Maintain a separate deposit account for funds
361 related to the assignment;

362 (2) Collect on or dispose of each assigned asset,
363 unless the assignee determines it is more economically
364 efficient to abandon the asset;



SB15 Enrolled

365 (3) Prepare and retain appropriate business records,
366 including a record of each receipt, disbursement, and
367 collection on or disposition of an assigned asset;

368 (4) Pay administrative expenses of the assignment
369 estate, to the extent the assignment estate has sufficient
370 unencumbered assets;

371 (5) Establish a method that is reasonably designed to
372 permit a creditor to submit a proof of claim;

373 (6) Establish a single date by which creditors whose
374 claims are not otherwise allowed without timely proofs of
375 claim under this act must submit proofs of claim, which must
376 be not less than 90 and not more than 210 days after the
377 effective date of the assignment agreement;

378 (7) Unless a claim would receive minimal or no
379 distribution without regard to its validity or asserted
380 priority, examine the validity and priority of claims against
381 the assignment estate and, if necessary, consult with the
382 assignor's representative designated under Section 8(b)(4), if
383 any;

384 (8) At least every six months, provide to each creditor
385 a summary of the assets, liabilities, and expenses of the
386 assignment estate, and a status report that provides in
387 summary form actions taken to liquidate assets and plans of
388 distribution;

389 (9) Comply with all requirements of the Internal
390 Revenue Service and state and local taxing authorities;

391 (10) Send a notification to each creditor of the
392 assignee's compensation and any change in the method of



SB15 Enrolled

393 determining the assignee's compensation from the method
394 provided in the assignment agreement;

395 (11) Send a final accounting under Section 19(a); and

396 (12) Comply with the other requirements imposed on the
397 assignee under this act.

398 Section 10. Powers of assignee.

399 (a) An assignee has the powers necessary or appropriate
400 to perform the assignee's duties.

401 (b) Unless the assignment agreement expressly provides
402 otherwise, the assignee has power to:

403 (1) Operate an existing business that uses an assigned
404 asset, including preservation of the asset and collection on
405 or the sale, lease, license, or other disposition of the
406 asset;

407 (2) Incur secured or unsecured debt and pay expenses
408 incidental to the exercise of the power under subdivision (1);

409 (3) Assert a right, claim, cause of action, or defense
410 the assignor could have asserted that relates to the
411 assignment estate;

412 (4) Engage professionals, including a professional
413 previously engaged by the assignor, to give advice, to
414 prosecute or defend litigation, or for other purposes as the
415 assignee considers appropriate, and pay the professional a
416 reasonable fee for services from the assignment estate;

417 (5) Collect on or sell, lease, license, or otherwise
418 dispose of an asset of the assignment estate whether or not
419 subject to a lien or other encumbrance;

420 (6) Exercise a right to redeem an asset of the



SB15 Enrolled

421 assignment estate which is subject to a mortgage, deed of
422 trust, security interest, or other encumbrance;

423 (7) Settle a matter involving a debtor of the assignor;

424 (8) Prosecute or defend a litigation pending on the
425 effective date of the assignment agreement in favor of or
426 against the assignor in the manner and with the same effect as
427 the assignor could have done if an assignment had not been
428 made;

429 (9) Recover an asset in the manner and with the same
430 effect as the assignor might or could have done if an
431 assignment had not been made;

432 (10) Settle claims against the assignment estate;

433 (11) Abandon an assigned asset;

434 (12) Subject to subsections (c) and (e), avoid a
435 transfer or the incurrence of an obligation a creditor that
436 has filed a proof of claim could have avoided under other law
437 if the assignment had not occurred; and

438 (13) Invest funds, subject to applicable prudent
439 investor standards under other law.

440 (c) The power under subdivision (b) (12) is exclusive to
441 the assignee with respect to a creditor that submits a proof
442 of claim. A recovery by the assignee in the exercise of this
443 power must be for the benefit of the assignment estate but may
444 not exceed the amount, asset, or other value the creditor
445 could have obtained by the avoidance.

446 (d) For the purpose of exercising the assignee's power
447 under subdivision (b) (12), exercising a voidable-transaction
448 remedy, or otherwise establishing the priority of the



SB15 Enrolled

449 assignee's interest, an assignee has a lien on the assignment
450 estate and the status of:

451 (1) A lien creditor under Section 7-9A-102(a)(52)(B) as
452 to an asset that is a legal or equitable interest in personal
453 property or fixtures;

454 (2) A bona fide purchaser under Section 35-4-90, Code
455 of Alabama 1975, as to an asset that is a legal or equitable
456 interest in non-fixture real property located in this state;
457 and

458 (3) A bona fide purchaser under the law of another
459 state as to an asset that is a legal or equitable interest in
460 non-fixture real property located in the other state.

461 (e) An assignee's power under subdivision (b)(12) to
462 avoid a transfer made before the effective date of the
463 assignment agreement, under or in connection with a swap
464 agreement, securities contract, commodity contract, forward
465 contract, repurchase agreement, or master netting agreement is
466 limited to the extent a trustee would not have the power to
467 avoid the transfer under the Bankruptcy Code, 11 U.S.C. § 101
468 et seq.

469 (f) An assignee shall exercise the powers under this
470 section consistent with the assignee's fiduciary duty under
471 Section 9(a).

472 Section 11. Allowed claim.

473 (a) An assignee shall allow a creditor's claim if:

474 (1) The creditor submits a proof of claim in compliance
475 with Section 13; and

476 (2) The assignee does not dispute the claim under



SB15 Enrolled

477 Section 12 before final distribution.

478 (b) An assignee may:

479 (1) Allow a claim, pay a known liquidated claim, or
480 accept a notice to the assignee of a claim received by the
481 date established by the assignee under Section 9(b)(6) even if
482 the creditor does not submit a proof of claim; or

483 (2) Allow and pay a claim evidenced by a late-filed
484 proof of claim, if the assignee determines there is a
485 reasonable basis for excusing the late filing.

486 (c) Any unsecured portion of an allowed claim shall be
487 valued as of the effective date of the assignment agreement.

488 (d) A creditor's claim is allowed if the creditor
489 succeeds in a dispute under Section 12(b).

490 (e) Subject to subsection (f), after expiration of the
491 time for submitting a proof of claim, the assignee shall
492 create a complete list of creditors that have submitted a
493 proof of claim in compliance with Section 13. For each
494 creditor's claim, the list must:

495 (1) State the amount of the claim, if the amount is
496 known to the assignee; and

497 (2) State whether the claim is secured or unsecured
498 and, if secured, describe the collateral for the claim.

499 (f) If a class of creditors will receive no
500 distribution on account of allowed claims, the assignee shall
501 send a notice in a record to each creditor in that class that
502 the creditor will receive no distribution instead of the list
503 required in subsection (e).

504 (g) Upon request, the assignee shall provide the list



SB15 Enrolled

505 created under subsection (e) to a creditor or other party with
506 an interest in the assignment estate to the extent permitted
507 by privacy laws and subject to any privacy safeguards the
508 assignee determines in the assignee's business judgment are
509 reasonably necessary.

510 Section 12. Disputed and disallowed claims.

511 (a) An assignee may dispute a creditor's claim before
512 final distribution by sending notice in a record stating the
513 nature of the assignee's dispute to the creditor.

514 (b) If a dispute cannot be resolved consensually, the
515 assignee may commence a proceeding to disallow the claim under
516 Section 21. The assignee must commence the proceeding before
517 final distribution under Section 15. If the proceeding is not
518 filed before final distribution, the assignee shall allow the
519 claim under Section 11.

520 (c) An assignee shall create a dollar-for-dollar
521 reserve for the estimated amount of the potential distribution
522 on a disputed claim.

523 (d) Subject to subsection (b), an assignee shall
524 disallow a claim for reimbursement or contribution of a person
525 that is liable with the assignor on, or that has secured, the
526 claim, to the extent:

527 (1) The claim against the assignment estate is
528 disallowed;

529 (2) The claim for reimbursement or contribution is
530 contingent as of the time of allowance or disallowance; or

531 (3) The person asserts a right of subrogation to the
532 rights of a creditor.



SB15 Enrolled

533 (e) A claim for reimbursement or contribution of a
534 person liable with the assignor on, or that has secured, the
535 claim that becomes fixed after the effective date of the
536 assignment agreement shall be determined, and shall be allowed
537 or disallowed, subject to subsection (b), as if the claim had
538 become fixed before the effective date of the assignment
539 agreement.

540 (f) An assignee may reconsider the assignee's decision
541 to allow or disallow a claim for cause. If a reconsidered
542 claim is allowed under Section 11, before the assignee makes
543 additional payments or transfers to other creditors that are
544 equal or junior in priority under Section 15 to the
545 reconsidered claim, the creditor with the reconsidered claim
546 shall receive a payment or transfer in an amount proportionate
547 in value to the payments or transfers already received by the
548 other creditors. This subsection does not modify the
549 assignee's right under other law to recover from a creditor an
550 excess payment or transfer made to the creditor. If a
551 reconsidered claim is disallowed, the assignee must comply
552 with subsections (b) and (c).

553 Section 13. Proof of claim.

554 (a) A proof of claim must:

- 555 (1) State the name, address, and other contact
556 information reasonably necessary to communicate with the
557 creditor;
- 558 (2) State the amount of the claim;
- 559 (3) Briefly state the nature of the claim;
- 560 (4) Identify any asset of the assignment estate



SB15 Enrolled

561 securing the claim;

562 (5) Be signed by the creditor under penalty of perjury;

563 (6) Include a copy of a record, if any, on which the
564 claim is based;

565 (7) Be submitted using the method established under
566 Section 9(b)(5); and

567 (8) Be submitted by the date established by the
568 assignee under Section 9(b)(6).

569 (b) A proof of claim submitted in compliance with this
570 section is prima facie evidence of the validity and amount of
571 the claim.

572 (c) The submission by a creditor of a proof of claim in
573 compliance with this section constitutes the creditor's:

574 (1) Consent to the jurisdiction of the court specified
575 in Section 21; and

576 (2) Assignment to the assignee of any right of the
577 creditor to bring a voidable transaction action relating to
578 the creditor's claim.

579 Section 14. Rights of transferees.

580 (a) An assignee's disposition of assets:

581 (1) Transfers to a transferee for value all of the
582 assignee's rights in the assets;

583 (2) Discharges the assignee's lien as a lien creditor
584 and, to the extent the assignment creates a security interest
585 in favor of the assignee, the assignee's security interest;
586 and

587 (3) Discharges any subordinate security interest or
588 other lien subordinate to the assignee's lien.



SB15 Enrolled

589 (b) A transferee that acts in good faith takes free of
590 the rights and interests described in subsection (a), even if
591 the assignee fails to comply with this act or the requirements
592 of a judicial proceeding.

593 (c) If a transferee does not take free of the rights
594 and interests described in subsection (a), the transferee
595 takes the asset subject to:

596 (1) The assignee's rights in the assets of the
597 assignment estate;

598 (2) The assignee's lien and, if applicable, security
599 interest; and

600 (3) Any other security interest or other lien.

601 (d) Unless otherwise provided in a record, any warranty
602 arising by operation of other law is disclaimed to the extent
603 permitted by other law.

604 (e) If a subordinate security interest or other lien is
605 discharged under this section, the assignee may file a record
606 with the official or office responsible for maintaining an
607 official filing, recording, registration, or
608 certificate-of-title system covering the collateral secured by
609 the security interest or other lien. The record must state
610 that the security interest or other lien is discharged as a
611 subordinate security interest or other lien in connection with
612 a disposition under an assignment for the benefit of creditors
613 of the debtor whose property is subject to the security
614 interest or other lien.

615 Section 15. Distributions.

616 (a) In this section, "protected secured creditor" means



SB15 Enrolled

617 a secured creditor whose lien:

618 (1) Is a perfected lien;

619 (2) Cannot be avoided by the assignee under Section
620 10(b)(12); and

621 (3) Is not subordinate to the lien of the assignee.

622 (b) Except as provided in Section 16, the assignee
623 shall pay claims from the assignment estate allowed under
624 Section 11 in the order of priority stated in this section.

625 (c) Unless otherwise agreed between the assignee and a
626 protected secured creditor, before distributions are made
627 under subsections (d), (e), (f), and (g), and in accordance
628 with the priorities of creditors with liens under other law,
629 the protected secured creditor shall receive the asset or the
630 proceeds from the collection on or disposition of the asset to
631 the extent of the value of the protected secured creditor's
632 interest in the asset, less the assignee's reasonable and
633 necessary expenses of preserving or disposing of the asset to
634 the extent the expenses benefit the protected secured creditor
635 and are incurred with the protected secured creditor's consent
636 or acquiescence. The protected secured creditor has an
637 unsecured claim under subdivision (g)(2) for the amount of the
638 claim that remains after deducting the amount or value of an
639 asset the protected secured creditor receives under this
640 subsection. To the extent a claim is secured by property the
641 value of which, after the deductions provided under this
642 subsection, is greater than the amount of the claim, the
643 protected secured creditor may receive interest on the claim
644 and any reasonable fees, costs, or charges provided for under



SB15 Enrolled

645 the assignment agreement or other law under which the claim
646 arose.

647 (d) After the distributions under subsection (c), the
648 assignee shall pay the necessary costs of the administration
649 of the assignment estate. The costs include:

650 (1) Fees and reimbursements of the expenses of the
651 assignee and any professionals employed by the assignee;

652 (2) Post-assignment taxes incurred by the assignee;

653 (3) Post-assignment rent incurred by the assignee in
654 occupying premises on which assets of the assignment estate
655 are located or the business of the assignor is conducted;

656 (4) Post-assignment lease payments incurred by the
657 assignee in renting personal property used in the business of
658 the assignor; and

659 (5) Amounts required to be paid under the assignment
660 agreement for expenses of winding up the assignment under
661 Section 19.

662 (e) After the distributions under subsections (c) and
663 (d), the assignee shall pay claims entitled to priority under
664 federal law including under 31 U.S.C. § 3713, from the
665 assignment estate.

666 (f) After the distributions under subsections (c), (d),
667 and (e), the assignee shall pay claims from the assignment
668 estate for wages, salaries, or commissions earned not more
669 than 180 days before the earlier of the effective date of the
670 assignment agreement or the cessation of the assignor's
671 business. Payment shall be limited to the greater of:

672 (1) The amount of the claim allowed as a priority claim



673 ahead of claims of other unsecured creditors under the
674 Bankruptcy Code, 11 U.S.C. § 101 et seq.; or

675 (2) The amount allowed as a priority claim ahead of
676 claims of other unsecured creditors under applicable
677 non-bankruptcy law.

678 (g) After the distributions under subsections (c), (d),
679 (e), and (f), each creditor shall receive a distribution of
680 the assets of the assignment estate in the following order of
681 priority:

682 (1) Unsecured claims entitled to priority ahead of
683 claims of other unsecured creditors under other law; and

684 (2) Unsecured claims not entitled to priority.

685 (h) If the assets available for distribution to claims
686 with equal priority under subsection (g) are insufficient to
687 pay the total amount of the claims with that priority, each
688 creditor with a claim with that priority shall receive a pro
689 rata distribution of the available assets based on the
690 proportion the amount of the creditor's claim bears to the
691 total amount of the claims with that priority.

692 (i) If the claims entitled to the distribution under
693 subsections (c), (d), (e), (f), and (g) are paid in full, the
694 residue shall be distributed to allowed claims evidenced by a
695 late-filed proof of claim, other than a late-filed claim
696 allowed by the assignee under Section 11(b)(2), and, after the
697 allowed claims evidenced by a late-filed proof of claim have
698 been paid in full, as provided in the assignment agreement.

699 (j) An assignee may make interim distributions after
700 considering future expenses and the reserves for disputed



SB15 Enrolled

701 claims established under Section 12(c).

702 Section 16. Claim subordination.

703 (a) A subordination agreement is enforceable under this
704 act to the same extent the agreement is enforceable under
705 other law.

706 (b) Subject to subsection (c), the following claims are
707 subordinate to a claim or interest that is senior or equal in
708 priority to a claim or interest represented by a security or
709 other equity interest in the assignor or an affiliate of the
710 assignor:

711 (1) A claim arising from rescission of a purchase or
712 sale of the security or other equity interest; and

713 (2) A claim for damages arising from the purchase or
714 sale of the security or other equity interest or for
715 reimbursement or contribution on the claim.

716 (c) If the security is common stock or another common
717 equity interest, a claim subject to subordination under
718 subsection (b) has the same priority as common stock or
719 another common equity interest.

720 Section 17. Liability.

721 (a) An assignor is not personally liable for an act or
722 omission by the assignee.

723 (b) An assignee is not personally liable for an act or
724 omission by the assignor.

725 (c) If an assignor designates a representative that may
726 act on behalf of the assignor under Section 8(b)(4), the
727 representative is exculpated to the same extent as a person
728 acting on behalf of the assignor under other law had there



SB15 Enrolled

729 been no assignment, except for an act or omission resulting
730 from the representative's gross negligence or willful
731 misconduct.

732 (d) A term of an assignment agreement relieving the
733 assignee of liability is unenforceable to the extent the
734 agreement relieves the assignee of liability for an act or
735 omission committed in bad faith or with reckless indifference
736 to the purposes of the assignment or the interests of the
737 creditors of the assignment estate.

738 (e) Subject to subsection (f), an assignee is
739 personally liable for breach of a fiduciary duty under Section
740 9(a). If the assignee is liable:

741 (1) The assignee is personally liable to a creditor for
742 an individualized harm to the creditor, if the harm is not
743 shared by all creditors or a class of creditors; and

744 (2) The assignee is personally liable to the assignment
745 estate for a harm shared by all creditors or a class of
746 creditors.

747 (f) An assignee is not liable if, in the performance of
748 the assignee's duties and exercise of the assignee's powers,
749 the assignee relies in good faith on:

750 (1) A record of the assignor;

751 (2) Information, an opinion, a report, or a statement
752 presented to the assignee by the assignor's officer or
753 employee, a committee of the assignor's board of directors, an
754 independent director or manager of the assignor, or another
755 representative of the assignor; or

756 (3) Information, an opinion, a report, or a statement



SB15 Enrolled

757 presented to the assignee by another person that has been
758 selected with reasonable care by or on behalf of the assignee
759 as to a matter the assignee reasonably believes is within the
760 other person's professional or expert competence.

761 Section 18. Assignee removal; successor assignee.

762 (a) The assignor or a creditor may request the circuit
763 court to remove the assignee if the assignor or creditor has a
764 reasonable belief grounds for removal exist under subsection
765 (b).

766 (b) After a request under subsection (a) or on the
767 court's initiative in an action pending before the court under
768 Section 21, the court may remove an assignee:

769 (1) For cause, including the assignee's fraud,
770 dishonesty, incompetence, gross mismanagement, or failure to
771 comply with this act; or

772 (2) If removal of the assignee best serves the
773 interests of the creditors.

774 (c) After an assignee resigns, or is removed, dies, or
775 becomes incapacitated, a successor assignee provided for in
776 the assignment agreement becomes the assignee unless the
777 successor assignee is not eligible to be an assignee under
778 Section 4(a) or is subject to removal under subsection (b). A
779 court shall appoint a successor assignee if:

780 (1) The assignment agreement does not provide for a
781 successor assignee; or

782 (2) The successor assignee provided for in the
783 assignment agreement is ineligible to be an assignee under
784 Section 4(a) or is subject to removal under subsection (b).



SB15 Enrolled

785 (d) Subject to Section 17, an assignee that resigns, or
786 is removed, dies, or becomes incapacitated, is discharged from
787 the assignee's duties under this act when the assignee, or a
788 representative of a deceased or incapacitated assignee:

789 (1) Accounts for and turns over to the successor
790 assignee all assets of the assignment estate; and

791 (2) Submits to creditors a report summarizing the
792 receipts and disbursements made during the service of the
793 assignee.

794 (e) Subject to an applicable privilege, a court may
795 order an attorney, accountant, or other person that has
796 information in a record relating to the assignment estate or
797 the assignor's financial affairs to turn over or disclose the
798 record to the successor assignee.

799 Section 19. Winding up.

800 (a) On completion of an assignee's duties, the assignee
801 shall send a creditor whose claim is allowed under Section 11,
802 and not satisfied in full, a final accounting sufficient to
803 inform the creditor of all material aspects of the assignment,
804 including:

805 (1) A description of the actions taken by the assignee
806 under the assignment;

807 (2) A summary of the assets received by the assignee at
808 the commencement of the assignment and the assets received by
809 the assignee during the assignment;

810 (3) A summary of disbursements made by the assignee
811 during the assignment for the purpose of administering the
812 assignment estate, including the fees charged by the assignee,



SB15 Enrolled

813 and payments to professionals, for rent, and for business
814 purchases;

815 (4) A summary of collections and dispositions of assets
816 by the assignee;

817 (5) A summary of distributions made or proposed to be
818 made by the assignee for creditor claims;

819 (6) A description of additional work to be done by the
820 assignee to complete the administration of the assignment
821 estate and the distributions under Section 15; and

822 (7) Other information considered reasonably necessary
823 by the assignee.

824 (b) Except as otherwise provided in the final
825 accounting or if the assignee has not fulfilled the assignee's
826 duties under this act, the assignee is discharged from the
827 assignee's duties under this act when the assignee sends the
828 final accounting and distributes all the assets of the
829 assignment estate.

830 (c) If the final accounting describes additional work
831 under subdivision (a)(6), the assignee shall exercise the
832 powers appropriate to complete the work.

833 Section 20. Interstate matters.

834 (a) Subject to subsection (b), an assignment made under
835 the law of another state must be recognized and enforced on an
836 issue if the result for the issue would be substantially
837 similar to the result for the issue if the assignment had been
838 made under this act.

839 (b) If a claim for wages, salaries, or commissions or a
840 governmental claim exists in another state, for the purpose of



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841 determining the priority of the claim under Section 15(f)(2),
842 the assignee shall use the amount asserted or determined under
843 the law of the other state.

844 (c) If an assignee determines that a creditor should
845 receive the treatment the creditor would receive under an
846 assignment made under the law of another state, the assignee
847 may treat the creditor as the creditor would be treated in the
848 other state.

849 Section 21. Court action.

850 (a) The circuit court may hear and resolve a matter
851 involving the administration of an assignment or the exercise
852 of an assignee's powers and duties, including a request for
853 instructions or approval or to declare rights.

854 (b) Without limiting the rights of the assignee or a
855 creditor or other interested person to request the court to
856 hear or resolve a matter under subsection (a), on request of
857 the assignee, the court may issue an order relating to the
858 administration of the assignment or the exercise of the
859 assignee's powers and duties, including an order for
860 disposition of an asset or the incurrence of an obligation.

861 (c) Acceptance of the assignment by the assignee
862 constitutes the assignee's consent to the jurisdiction of the
863 court.

864 Section 22. Ancillary assignee.

865 (a) Subject to other law of this state governing a
866 person from another state serving as a fiduciary in this
867 state, the circuit court may appoint a person serving as an
868 assignee in an assignment in another state, or the person's



SB15 Enrolled

869 nominee, as an ancillary assignee relating to assigned assets
870 located in this state or subject to the jurisdiction of a
871 court in this state, if:

872 (1) The person or nominee would be eligible to serve as
873 an assignee under Section 4; and

874 (2) The appointment furthers the person's possession,
875 custody, control, or disposition of an assigned asset under
876 the assignment in the other state.

877 (b) The court may issue an order that implements an
878 order entered in another state appointing or directing an
879 assignee or otherwise concerning an assignment in the other
880 state.

881 (c) Unless the court orders otherwise, an ancillary
882 assignee appointed under subsection (a) has the rights,
883 powers, and duties of an assignee appointed under this act.

884 (d) A person in possession, custody, or control of an
885 assigned asset in this state, other than a creditor holding a
886 lien or a right of setoff or recoupment relating to the asset,
887 on notification in a record by an ancillary assignee appointed
888 under subsection (a), shall turn the asset over to the
889 ancillary assignee.

890 Section 23. Provisions variable by agreement.

891 (a) Except as provided in this section and Section
892 10(b), this act may not be varied by agreement.

893 (b) The duties under Sections 8(a) and 9(a) may not be
894 disclaimed by agreement. An assignor and the assignee may
895 determine by agreement the standards measuring the fulfillment
896 of the duties of the assignor under Section 8 and the assignee



SB15 Enrolled

897 under Section 9 if the standards are not manifestly
898 unreasonable.

899 (c) Except as provided in Section 17(d), the assignment
900 agreement may limit the assignee's liability under Section 17
901 and may require the assignee be indemnified by the assignment
902 estate.

903 (d) Except as provided under Section 7(a), whenever
904 this act requires an action to be taken within a reasonable
905 time, a time not manifestly unreasonable may be fixed by
906 agreement.

907 (e) The assignment agreement may provide for duties of
908 the assignee in addition to those in this act.

909 Section 24. Uniformity of application and construction.

910 In applying and construing the Uniform Assignment for
911 Benefit of Creditors Act, a court shall consider the promotion
912 of uniformity of the law among states that enact this uniform
913 act.

914 Section 25. Relation to electronic signatures in global
915 and national commerce act.

916 This act modifies, limits, or supersedes the Electronic
917 Signatures in Global and National Commerce Act, 15 U.S.C. §
918 7001 et seq., but does not modify, limit, or supersede 15
919 U.S.C. § 7001(c), or authorize electronic delivery of any of
920 the notices described in 15 U.S.C. § 7003(b).

921 Section 26. Transitional provision.

922 This act applies to an assignment made on or after
923 October 1, 2026.

924 Section 27. This act shall become effective on October

SB15 Enrolled



925 1, 2026.



SB15 Enrolled

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President and Presiding Officer of the Senate

Speaker of the House of Representatives

SB15

Senate 10-Feb-26

I hereby certify that the within Act originated in and passed the Senate, as amended.

Patrick Harris,
Secretary.

House of Representatives

Passed: 07-Apr-26

By: Senator Givhan