

Senate File 2497 - Introduced

SENATE FILE 2497

BY COMMITTEE ON WAYS AND MEANS

(SUCCESSOR TO SF 2213)

A BILL FOR

1 An Act providing for an assignment of assets for the benefit of
2 creditors, exempting the related tax on the transfer of real
3 estate, and including effective date provisions.
4 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

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DIVISION I

PRINCIPAL PROVISIONS

Section 1. NEW SECTION. 681A.1 Title.

This chapter may be cited as the *“Uniform Assignment for Benefit of Creditors Act”*.

Sec. 2. NEW SECTION. 681A.2 Definitions.

As used in this chapter, unless the context otherwise requires:

1. *“Affiliate”* means any of the following:

a. A person that directly or indirectly owns, controls, or holds, with power to vote, twenty percent or more of the outstanding voting interests of another person, other than a person that holds the interests as any of the following:

- (1) In a fiduciary or agency capacity without sole discretionary power to vote the interests.
- (2) Solely to secure a debt, if the person has not in fact exercised the power to vote.

b. A person with twenty percent or more of the person’s outstanding voting interests directly or indirectly owned, controlled, or held, with power to vote, by another person.

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

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

2. a. *“Asset”* means a legal or equitable interest in property of an assignor, regardless of the person holding or in possession, custody, or control of the property or where the property is located.

b. *“Asset”* does not include any of the following:

- (1) A legal or equitable interest in property restricted from assignment if the restriction is effective under other law, unless the other law permits assignment with the consent

1 of another person and the person consents to the assignment in
2 a manner permitted by the other law.

3 (2) If the assignor is an individual, a legal or equitable
4 interest in property to the extent it is exempt from legal
5 process under other law.

6 3. "*Assigned asset*" means an asset transferred under an
7 assignment.

8 4. "*Assignee*" means a person to which assets are transferred
9 under an assignment.

10 5. "*Assignment*" means a transfer by a person of all the
11 person's assets to another person for the benefit of the
12 transferor's creditors.

13 6. "*Assignment agreement*" means an agreement that transfers
14 or provides for a transfer of all the assignor's assets.

15 7. "*Assignment estate*" means the assets held at a given time
16 by the assignee under an assignment.

17 8. "*Assignor*" means a person whose assets are transferred
18 under an assignment.

19 9. "*Claim*" means a creditor's right to payment or to an
20 equitable remedy, regardless of whether the right is reduced to
21 judgment, liquidated, unliquidated, fixed, contingent, matured,
22 unmatured, disputed, undisputed, legal, equitable, secured, or
23 unsecured.

24 10. "*Cohabitant*" means each of two individuals not married
25 to each other who live together as a couple after each has
26 reached the age of majority or been emancipated.

27 11. "*Creditor*" means a person that has a claim against an
28 assigned asset or the assignor.

29 12. "*Electronic*" means relating to technology having
30 electrical, digital, magnetic, wireless, optical,
31 electromagnetic, or similar capabilities.

32 13. "*Good faith*" means honesty in fact and the observance of
33 reasonable commercial standards of fair dealing.

34 14. "*Insider*" includes any of the following:

35 a. In the case of an individual, any of the following:

1 (1) A relative of the individual.

2 (2) A partnership or limited liability company in which the
3 individual is a general partner or managing member.

4 (3) An organization of which the individual is a director,
5 officer, or person in control.

6 *b.* In the case of an organization, any of the following:

7 (1) A director, officer, manager, or other person in control
8 of or with controlling equity interest in the organization.

9 (2) A partnership or limited liability company in which the
10 organization is a general partner or managing member.

11 (3) A general partner or managing member of the
12 organization.

13 (4) A relative of a general partner, managing member,
14 director, officer, manager, or other person in control of or
15 with controlling equity interest in the organization.

16 *c.* An affiliate.

17 *d.* A managing agent of an organization.

18 15. "*Lien*" means an interest in an asset that secures
19 payment or performance of an obligation.

20 16. "*Organization*" means a person other than an individual.

21 17. "*Perfected lien*" means a lien on any of the following:

22 *a.* Real property other than fixtures on which a bona fide
23 purchaser of the property cannot acquire an interest superior
24 to the interest of the lienholder.

25 *b.* Fixtures or property other than real property on which a
26 creditor cannot acquire a lien by attachment, levy, or the like
27 that is superior to the interest of the lienholder.

28 18. *a.* "*Person*" means an individual, estate, business
29 or nonprofit entity, government or governmental subdivision,
30 agency, or instrumentality, or other legal entity.

31 *b.* "*Person*" includes a protected series, however
32 denominated, of an entity if the protected series is
33 established under law that limits, or limits if conditions
34 specified under law are satisfied, the ability of a creditor
35 of the entity or of any other protected series of the entity to

1 satisfy a claim from assets of the protected series.

2 19. "*Proof of claim*" means a record a creditor submits to an
3 assignee to evidence the creditor's claim.

4 20. "*Record*" means information that is any of the following:

5 a. Inscribed on a tangible medium.

6 b. Stored in an electronic or other medium and retrievable
7 in perceivable form.

8 21. "*Relative*" means an individual related by affinity or
9 consanguinity within the third degree or a cohabitant.

10 22. "*Security interest*" means a lien created by an
11 agreement.

12 23. "*Send*", in connection with a record or notification,
13 means any of the following:

14 a. To deposit in the mail, deliver for transmission, or
15 transmit by any other usual means of communication, with
16 postage or cost of transmission provided for, addressed to any
17 address reasonable under the circumstances.

18 b. To cause the record or notification to be received within
19 the time it would have been received if properly sent under
20 paragraph "a".

21 24. "*Sign*" means, with present intent to authenticate or
22 adopt a record by doing any of the following:

23 a. To execute or adopt a tangible symbol.

24 b. To attach to or logically associate with the record an
25 electronic symbol, sound, or process.

26 25. a. "*State*" means a state of the United States, the
27 District of Columbia, Puerto Rico, the United States Virgin
28 Islands, or any other territory or possession subject to the
29 jurisdiction of the United States.

30 b. "*State*" includes a federally recognized Indian tribe.

31 26. "*Transfer*" means disposing of or parting with an
32 asset or with an interest in an asset, regardless of whether
33 the disposition or parting is indirect, conditional, or
34 involuntary.

35 Sec. 3. NEW SECTION. 681A.3 Scope.

1 This chapter applies to an assignment made by an assignor
2 that is any of the following:

3 1. An organization whose principal place of business is in
4 this state.

5 2. An organization whose internal affairs are governed by
6 other law of this state.

7 3. An individual whose principal residence is in this state.

8 4. An organization wholly owned, directly or indirectly, by
9 an assignor that satisfies subsection 1, 2, or 3.

10 5. An organization, if all of the following apply:

11 a. It is partly owned, directly or indirectly, and
12 controlled by an assignor that satisfies subsection 1, 2, or 3.

13 b. It has no place of business or employees.

14 c. It relies on the services the organization receives from
15 an assignor that satisfies subsection 1, 2, or 3.

16 Sec. 4. NEW SECTION. **681A.4 Requirements for assignee and**
17 **assignment agreement.**

18 1. An assignee must be all of the following:

19 a. A person that is not a creditor, affiliate, or insider of
20 the assignor.

21 b. A person that is not an affiliate or insider of a
22 creditor of the assignor.

23 c. A person that does not have a claim against the
24 assignment estate, other than a claim for fees and expenses to
25 be paid under the assignment agreement.

26 d. A person that does not have a material financial interest
27 in the outcome of the assignment, other than a claim for fees
28 and expenses to be paid under the assignment agreement.

29 e. A person that does not hold an equity interest in the
30 assignor other than a noncontrolling interest in a publicly
31 traded company.

32 f. A person that is not an affiliate of a person that fails
33 to satisfy paragraph "a", "b", "c", "d", or "e".

34 2. A person that satisfies subsection 1 is not precluded
35 from being an assignee merely because the person performed

1 services for the assignor before the assignment.

2 3. An assignment agreement must be in a record signed by
3 the assignor and the assignee. The record must do all of the
4 following:

5 a. State the name and address of the assignor and of the
6 assignee.

7 b. Transfer or provide for a transfer of all the assignor's
8 assets.

9 c. Describe the assigned assets in sufficient detail to
10 identify the assets.

11 d. Provide for the distribution of the assignment estate.

12 e. Describe the fees to be charged by the assignee in
13 connection with the assignment, including the basis on which
14 they are to be calculated.

15 f. Include a representation by the assignor, under penalty
16 of perjury, that the assignor is assigning all the assignor's
17 assets.

18 4. If an assignee relies in good faith on the assignor's
19 representation made under subsection 3, paragraph "f", all
20 the assignor's assets are deemed to be assigned, even if the
21 representation is inaccurate.

22 **Sec. 5. NEW SECTION. 681A.5 Effect of assignment — when**
23 **assignment agreement effective.**

24 1. An assignee obtains the rights, title, and interests of
25 the assignor in the assigned assets.

26 2. If the assignor is an organization, an assignee obtains
27 the rights, title, and interests of the assignor in assets
28 acquired after the assignment.

29 3. Except as provided in section 681A.10, subsection 2,
30 paragraph "1", an assignee takes each assigned asset subject to
31 an existing interest in the asset held by another person.

32 4. An assignee holds the assigned assets subject to the
33 assignee's duties under section 681A.9.

34 5. An assignment is subject to other law under which the
35 assignment may be fraudulent or otherwise voidable.

1 6. The effective date of an assignment agreement is the
2 date the agreement is signed by the last party to the agreement
3 that is required to sign the agreement unless a later date is
4 identified in the agreement as the effective date.

5 Sec. 6. NEW SECTION. 681A.6 Filing, recording, and title
6 transfer requirements.

7 1. In this section, "*financing statement*" has the same
8 meaning as defined in section 554.9102, subsection 1.

9 2. An assignee of a legal or equitable interest in personal
10 property may file a financing statement in the filing office
11 of any of the following:

12 a. This state established for purposes of section 554.9501,
13 subsection 1, paragraph "b".

14 b. Any other state in which any of the following apply:

15 (1) The assignor would be located under section 554.9307 if
16 the assignor were a debtor for the purpose of that section.

17 (2) An asset of the assignment estate may be located.

18 3. A financing statement filed under subsection 2 must
19 indicate that it is filed in connection with an assignment.

20 4. When filing a financing statement under subsection 2, the
21 assignee must do any of the following:

22 a. Attach a copy of the assignment agreement to the
23 financing statement.

24 b. State on the financing statement that a copy of the
25 assignment agreement is available on request to the assignee.

26 5. A financing statement filed under subsection 2 may do any
27 of the following:

28 a. Designate the assignor as "debtor" and the assignee as
29 "secured party".

30 b. Use the terms "assignor" and "assignee" or words of
31 similar import.

32 6. The filing of a financing statement under subsection 2 is
33 not itself a factor in determining whether an asset secures an
34 obligation. The rights of the assignee under the assignment
35 are not affected if the assignee does not file a financing

1 statement under subsection 2.

2 7. An assignee of a legal or equitable interest in real
3 property shall record the assignment of the interest or notice
4 of the assignment under the real estate recording law of the
5 jurisdiction where the property is located.

6 8. An assignee shall comply with other law governing the
7 transfer of title to an asset.

8 9. By signing an assignment agreement, the assignor
9 authorizes the assignee to take the actions required by this
10 section.

11 **Sec. 7. NEW SECTION. 681A.7 Notification to creditors.**

12 1. Unless a creditor waives in a signed record the right
13 to notification, an assignee shall send a notification of the
14 assignment to each creditor known to the assignee within a
15 reasonable time not to exceed thirty days after the effective
16 date of the assignment agreement.

17 2. The notification must satisfy all of the following
18 requirements:

19 *a.* Be in a record signed by the assignee.

20 *b.* Include the assignee's name, address, and other contact
21 information reasonably necessary to communicate with the
22 assignee.

23 *c.* Provide reasonable instructions for submitting a proof
24 of claim using the method established by the assignee under
25 section 681A.9, subsection 2, paragraph "e".

26 *d.* Identify the date established under section 681A.9,
27 subsection 2, paragraph "f", by which each creditor whose claim
28 is not otherwise allowed without a timely proof of claim under
29 this chapter must submit a proof of claim.

30 3. An assignee shall use reasonable means to provide the
31 information in subsection 2 to unknown creditors, including
32 by any means the assignor regularly used to do any of the
33 following:

34 *a.* Provide information to the assignor's creditors.

35 *b.* Communicate information about the assignor, other than

1 advertising, to the public.

2 Sec. 8. NEW SECTION. 681A.8 Duties of assignor.

3 1. Subject to section 681A.23, an assignor has a duty
4 to take all reasonable actions necessary for the assignee
5 to administer the assignment, the assigned assets, and the
6 assignment estate.

7 2. In furtherance of the duty under subsection 1, the
8 assignor shall do all of the following:

9 a. Preserve and turn over to the assignee the assigned
10 assets in the assignor's possession or control.

11 b. Provide to the assignee information reasonably necessary
12 to administer the assignment, the assigned assets, and the
13 assignment estate.

14 c. Sign any record reasonably necessary to transfer an
15 assigned asset and comply with any notarization required under
16 other law.

17 d. Designate, and provide the assignee with the name,
18 address, and other contact information reasonably necessary to
19 communicate with, an appropriate person willing and able to
20 act as a representative on behalf of the assignor as may be
21 reasonably necessary to administer the assignment, the assigned
22 assets, and the assignment estate.

23 e. If the assignment includes a legal or equitable interest
24 in real property or titled personal property, cooperate with
25 the assignee in taking actions under section 681A.6.

26 f. On or as soon as practicable after the effective date of
27 the assignment agreement, provide the assignee with all of the
28 following:

29 (1) A list of all assets.

30 (2) A list of all the assignor's employees, including
31 those whose employment is terminated in connection with the
32 assignment.

33 (3) A list of all the assignor's known creditors, including,
34 for each creditor, the creditor's address and other contact
35 information reasonably necessary to communicate with the

1 creditor.

2 *g.* A verification under penalty of perjury the accuracy of
3 the lists required under paragraph "f".

4 *h.* With respect to a legal or equitable interest in property
5 restricted from assignment, cooperate with the assignee to
6 obtain consent from a person whose consent to assign the
7 interest is necessary under other law.

8 *i.* Provide assistance to the assignee as required by the
9 assignment agreement.

10 3. The duties in this section also apply to a representative
11 designated under subsection 2, paragraph "d".

12 Sec. 9. NEW SECTION. **681A.9 Duties of assignee.**

13 1. Subject to section 681A.23, an assignee has a fiduciary
14 duty to the assignment estate for the benefit of creditors to
15 do all of the following:

16 *a.* Provide a duty of loyalty, including the duty to manage
17 the assignment in good faith.

18 *b.* Use reasonable care to maximize distributions under
19 section 681A.15.

20 *c.* Wind up the assignment under section 681A.19 in a manner
21 compatible with the best interests of the assignment estate and
22 creditors.

23 2. Without limitation on the duties under subsection 1, and
24 subject to section 681A.23, the assignee also has a duty to do
25 all of the following:

26 *a.* Maintain a separate deposit account for funds related to
27 the assignment.

28 *b.* Collect on or dispose of each assigned asset, unless
29 the assignee determines it is more economically efficient to
30 abandon the asset.

31 *c.* Prepare and retain appropriate business records,
32 including a record of each receipt, disbursement, and
33 collection on or disposition of an assigned asset.

34 *d.* Pay administrative expenses of the assignment estate, to
35 the extent the assignment estate has sufficient unencumbered

1 assets.

2 *e.* Establish a method that is reasonably designed to permit
3 a creditor to submit a proof of claim.

4 *f.* Establish a single date by which creditors whose claims
5 are not otherwise allowed without timely proofs of claim under
6 this chapter must submit proofs of claim, which must be one
7 hundred twenty days after the effective date of the assignment
8 agreement.

9 *g.* Unless a claim would receive minimal or no distribution
10 without regard to the claim's validity or asserted priority,
11 examine the validity and priority of claims against the
12 assignment estate and, if necessary, consult with the
13 representative designated by the assignor under section 681A.8,
14 subsection 2, paragraph "d".

15 *h.* At least every six months, provide to each creditor
16 a summary of the assets, liabilities, and expenses of the
17 assignment estate.

18 *i.* Comply with all requirements of the United States
19 internal revenue service and state and local taxing
20 authorities.

21 *j.* Send a notification to each creditor of the assignee's
22 compensation and any change in the method of determining
23 the assignee's compensation from the method provided in the
24 assignment agreement.

25 *k.* Send a final accounting under section 681A.19, subsection
26 1.

27 *l.* Comply with the other requirements imposed on the
28 assignee under this chapter.

29 **Sec. 10. NEW SECTION. 681A.10 Powers of assignee.**

30 1. An assignee has the powers necessary or appropriate to
31 perform the assignee's duties.

32 2. Unless the assignment agreement expressly provides
33 otherwise, the assignee has power to do any of the following:

34 *a.* Operate an existing business that uses an assigned asset,
35 including preservation of the asset and collection on, or the

1 sale, lease, license, or other disposition of, the asset.

2 *b.* Incur secured or unsecured debt and pay expenses
3 incidental to the exercise of the power under subsection 1.

4 *c.* Assert a right, claim, cause of action, or defense the
5 assignor could have asserted that relates to the assignment
6 estate.

7 *d.* Engage professionals, including a professional previously
8 engaged by the assignor, to give advice, to prosecute or defend
9 litigation, or for other purposes as the assignee considers
10 appropriate, and pay professionals reasonable fees for services
11 from the assignment estate.

12 *e.* Collect on, or sell, lease, license, or otherwise dispose
13 of, an asset of the assignment estate regardless of whether the
14 asset is subject to a lien or other encumbrance.

15 *f.* Exercise a right to redeem an asset of the assignment
16 estate that is subject to a mortgage, deed of trust, security
17 interest, or other encumbrance.

18 *g.* Settle a matter involving a debtor of the assignor.

19 *h.* Prosecute or defend a litigation pending on the effective
20 date of the assignment agreement in favor of or against the
21 assignor in the manner and with the same effect as the assignor
22 could have done if the assignment had not been made.

23 *i.* Recover an asset in the manner and with the same effect
24 as the assignor could have done if the assignment had not been
25 made.

26 *j.* Settle claims against the assignment estate.

27 *k.* Abandon an assigned asset.

28 *l.* Subject to subsections 3 and 5, avoid a transfer or the
29 incurrence of an obligation which a creditor that has filed
30 a proof of claim could have avoided under other law if the
31 assignment had not been made.

32 *m.* Invest funds, subject to applicable prudent investor
33 standards under other law.

34 3. The power under subsection 2, paragraph "l", is exclusive
35 to the assignee with respect to a creditor that submits a proof

1 of claim. A recovery by the assignee in the exercise of this
2 power must be for the benefit of the assignment estate but may
3 not exceed the amount, asset, or other value the creditor could
4 have obtained by the avoidance.

5 4. For the purpose of exercising the assignee's power under
6 subsection 2, paragraph "1", exercising a voidable-transaction
7 remedy, or otherwise establishing the priority of the
8 assignee's interest, an assignee has a lien on the assignment
9 estate and the status of all of the following:

10 a. A lien creditor under section 554.9102, subsection 1,
11 paragraph "be", subparagraph (2), as to an asset that is a legal
12 or equitable interest in personal property or fixtures.

13 b. A bona fide purchaser as to an asset that is a legal
14 or equitable interest in real property, other than fixtures,
15 located in this state.

16 c. A bona fide purchaser under the law of another state
17 as to an asset that is a legal or equitable interest in real
18 property, other than fixtures, located in the other state.

19 5. An assignee's power under subsection 2, paragraph
20 "1", to avoid a transfer made before the effective date of
21 the assignment agreement, under or in connection with a swap
22 agreement, securities contract, commodity contract, forward
23 contract, repurchase agreement, or master netting agreement,
24 is limited to the extent a trustee would not have the power to
25 avoid the transfer under the federal bankruptcy code, 11 U.S.C.
26 §101 et seq., as amended.

27 6. An assignee shall exercise the powers under this section
28 consistent with the assignee's fiduciary duty under section
29 681A.9, subsection 1.

30 Sec. 11. NEW SECTION. 681A.11 Allowed claim.

31 1. An assignee shall allow a creditor's claim if all of the
32 following apply:

33 a. The creditor submits a proof of claim in compliance with
34 section 681A.13.

35 b. The assignee does not dispute the claim under section

1 681A.12 before final distribution.

2 2. An assignee may do any of the following:

3 a. Allow a claim, pay a known liquidated claim, or accept
4 a notice to the assignee of a claim received by the date
5 established by the assignee under section 681A.9, subsection 2,
6 paragraph "f", even if the creditor does not submit a proof of
7 claim.

8 b. Allow and pay a claim evidenced by a late-filed proof of
9 claim, if the assignee determines there is a reasonable basis
10 for excusing the late filing.

11 3. Any unsecured portion of an allowed claim shall be valued
12 as of the effective date of the assignment agreement.

13 4. A creditor's claim is allowed if the creditor succeeds in
14 a dispute under section 681A.12, subsection 2.

15 5. Subject to subsection 6, after expiration of the time
16 for submitting a proof of claim, the assignee shall create a
17 complete list of creditors that have submitted a proof of claim
18 in compliance with section 681A.13. For each creditor's claim,
19 the list must state all of the following:

20 a. The amount of the claim, if the amount is known to the
21 assignee.

22 b. Whether the claim is secured or unsecured and, if
23 secured, describe the collateral for the claim.

24 6. If a class of creditors will receive no distribution on
25 account of allowed claims, the assignee shall send a notice
26 in a record to each creditor in that class that the creditor
27 will receive no distribution instead of the list required in
28 subsection 5.

29 7. If requested by a creditor or other party with an
30 interest in the assignment estate, the assignee shall provide
31 the list created under subsection 5 to the person making the
32 request to the extent permitted by privacy laws and subject
33 to any privacy safeguards the assignee determines in the
34 assignee's business judgment are reasonably necessary.

35 Sec. 12. NEW SECTION. 681A.12 Disputed and disallowed

1 **claims.**

2 1. An assignee may dispute a creditor's claim before final
3 distribution by sending notification in a record stating the
4 nature of the assignee's dispute to the creditor.

5 2. If a dispute cannot be resolved consensually, the
6 assignee may commence a proceeding under section 681A.21 to
7 disallow the claim. The assignee must commence the proceeding
8 before final distribution under section 681A.15. If the
9 proceeding is not filed before final distribution, the assignee
10 shall allow the claim under section 681A.11.

11 3. An assignee shall create a dollar-for-dollar reserve
12 for the estimated amount of the potential distribution on a
13 disputed claim.

14 4. Subject to subsection 2, an assignee shall disallow a
15 claim for reimbursement or contribution of a person that is
16 liable with the assignor on, or that has secured, the claim,
17 to the extent:

18 a. The claim against the assignment estate is disallowed.

19 b. The claim for reimbursement or contribution is contingent
20 as of the time of allowance or disallowance.

21 c. The person asserts a right of subrogation to the rights
22 of a creditor.

23 5. A claim for reimbursement or contribution of a person
24 liable with the assignor on, or that has secured, the claim
25 that becomes fixed after the effective date of the assignment
26 agreement shall be determined, and shall be allowed or
27 disallowed, subject to subsection 2, as if the claim had become
28 fixed before the effective date of the assignment agreement.

29 6. An assignee may reconsider the assignee's decision
30 to allow or disallow a claim for cause. If a reconsidered
31 claim is allowed under section 681A.11, before the assignee
32 makes additional payments or transfers to other creditors that
33 are equal or junior in priority under section 681A.15 to the
34 reconsidered claim, the creditor with the reconsidered claim
35 shall receive a payment or transfer in an amount proportionate

1 in value to the payments or transfers already received by
2 the other creditors. This subsection does not modify the
3 assignee's right under other law to recover from a creditor
4 an excess payment or transfer made to the creditor. If a
5 reconsidered claim is disallowed, the assignee shall comply
6 with subsections 2 and 3.

7 Sec. 13. NEW SECTION. **681A.13 Proof of claim.**

8 1. A proof of claim must do all of the following:

9 a. State the name, address, and other contact information
10 reasonably necessary to communicate with the creditor.

11 b. State the amount of the claim.

12 c. Briefly state the nature of the claim.

13 d. Identify any asset of the assignment estate securing the
14 claim.

15 e. Be signed by the creditor under penalty of perjury.

16 f. Include a copy of a record, if any, on which the claim is
17 based.

18 g. Be submitted using the method established under section
19 681A.9, subsection 2, paragraph "e".

20 h. Be submitted by the date established by the assignee
21 under section 681A.9, subsection 2, paragraph "f".

22 2. A proof of claim submitted in compliance with this
23 section is prima facie evidence of the validity and amount of
24 the claim.

25 3. The submission by a creditor of a proof of claim in
26 compliance with this section constitutes all of the following:

27 a. The creditor's consent to the jurisdiction of the court
28 under section 681A.21.

29 b. Assignment to the assignee of any right of the creditor
30 to bring a voidable transaction action relating to the
31 creditor's claim.

32 Sec. 14. NEW SECTION. **681A.14 Rights of transferees.**

33 1. An assignee's disposition of an asset does all of the
34 following:

35 a. Transfers to a transferee for value all of the assignee's

1 rights in the asset.

2 **b.** Discharges the assignee's lien and, to the extent
3 the assignment creates a security interest in favor of the
4 assignee, the assignee's security interest.

5 **c.** Discharges any subordinate security interest or other
6 lien subordinate to the assignee's lien.

7 **2.** A transferee that acts in good faith takes free of the
8 rights and interests described in subsection 1, even if the
9 assignee fails to comply with this chapter or the requirements
10 of a judicial proceeding.

11 **3.** If a transferee does not take free of the rights and
12 interests described in subsection 1, the transferee takes the
13 asset subject to all of the following:

14 **a.** The assignee's rights in the assets of the assignment
15 estate.

16 **b.** The assignee's lien and, if applicable, security
17 interest.

18 **c.** Any other security interest or other lien.

19 **4.** Unless otherwise provided in a record, any warranty
20 arising by operation of other law is disclaimed to the extent
21 permitted by other law.

22 **5.** If a subordinate security interest or other lien
23 is discharged under this section, the assignee may file
24 a record with the official or office responsible for
25 maintaining an official filing, recording, registration, or
26 certificate-of-title system covering the asset secured by
27 the security interest or other lien. The record must state
28 that the security interest or other lien is discharged as a
29 subordinate security interest or other lien in connection with
30 a disposition under an assignment for the benefit of creditors
31 of the assignor whose asset is subject to the security interest
32 or other lien.

33 **Sec. 15. NEW SECTION. 681A.15 Distributions.**

34 **1.** In this section, "*protected secured creditor*" means a
35 secured creditor, if all of the following apply to the secured

1 creditor's lien:

2 *a.* It is a perfected lien.

3 *b.* It cannot be avoided by the assignee under section
4 681A.10, subsection 2, paragraph "1".

5 *c.* It is not subordinate to the assignee's lien.

6 2. Except as provided in section 681A.16, the assignee shall
7 pay claims from the assignment estate allowed under section
8 681A.11 in the order of priority stated in this section.

9 3. Unless otherwise agreed between the assignee and
10 a protected secured creditor, before distributions under
11 subsections 4, 5, 6, and 7, and in accordance with the
12 priorities of creditors with liens under other law, the
13 protected secured creditor shall receive the asset or the
14 proceeds from the collection on or disposition of the asset to
15 the extent of the value of the protected secured creditor's
16 interest in the asset, less the assignee's reasonable and
17 necessary expenses of preserving or disposing of the asset
18 to the extent the expenses benefit the protected secured
19 creditor and are incurred with the protected secured creditor's
20 consent or acquiescence. The protected secured creditor has
21 an unsecured claim under subsection 7, paragraph "b", for the
22 amount of the claim that remains after deducting the amount
23 or value of an asset the protected secured creditor receives
24 under this subsection. To the extent a claim is secured by an
25 asset the value of which, after the deductions provided under
26 this subsection, is greater than the amount of the claim, the
27 protected secured creditor may receive interest on the claim
28 and any reasonable fees, costs, or charges provided for under
29 the agreement or other law under which the claim arose.

30 4. After the distributions under subsection 3, the assignee
31 shall pay the necessary costs of the administration of the
32 assignment estate. The costs include all of the following:

33 *a.* Fees and reimbursements of the expenses of the assignee
34 and any professionals engaged by the assignee.

35 *b.* Post-assignment taxes incurred by the assignee.

1 *c.* Post-assignment rent incurred by the assignee in
2 occupying premises on which assets of the assignment estate are
3 located or the business of the assignor is conducted.

4 *d.* Post-assignment lease payments incurred by the assignee
5 in renting personal property used in the business of the
6 assignor.

7 *e.* Amounts required to be paid under the assignment
8 agreement for expenses of winding up the assignment under
9 section 681A.19.

10 5. After the distributions under subsections 3 and 4, the
11 assignee shall pay claims entitled to priority under federal
12 law including under 31 U.S.C. §3713, as amended, from the
13 assignment estate.

14 6. After the distributions under subsections 3, 4, and
15 5, the assignee shall pay claims from the assignment estate
16 for wages, salaries, or commissions earned not more than one
17 hundred eighty days before the earlier of the effective date
18 of the assignment agreement or the cessation of the assignor's
19 business. Payment shall be limited to the greater of the
20 following:

21 *a.* The amount of the claim allowed as a priority claim
22 ahead of claims of other unsecured creditors under the federal
23 bankruptcy code, 11 U.S.C. §101 et seq., as amended.

24 *b.* The amount allowed as a priority claim ahead of claims of
25 other unsecured creditors under applicable nonbankruptcy law.

26 7. After the distributions under subsections 3, 4, 5, and 6,
27 each creditor shall receive a distribution of the assets of the
28 assignment estate in the following order of priority:

29 *a.* Unsecured claims entitled to priority ahead of claims of
30 other unsecured creditors under other law.

31 *b.* Unsecured claims not entitled to priority.

32 8. If the assets available for distribution to claims with
33 equal priority under subsection 7 are insufficient to pay the
34 total amount of the claims with that priority, each creditor
35 with a claim with that priority shall receive a pro rata

1 distribution of the available assets based on the proportion
2 the amount of the creditor's claim bears to the total amount of
3 the claims with that priority.

4 9. If the claims entitled to the distribution under
5 subsections 3, 4, 5, 6, and 7 are paid in full, the residue
6 shall be distributed to allowed claims evidenced by a
7 late-filed proof of claim, other than a late-filed claim
8 allowed by the assignee under section 681A.11, subsection 2,
9 paragraph "b", and, after the allowed claims evidenced by a
10 late-filed proof of claim have been paid in full, as provided
11 in the assignment agreement.

12 10. An assignee may make interim distributions after
13 considering future expenses and the reserves for disputed
14 claims established under section 681A.12, subsection 3.

15 Sec. 16. NEW SECTION. **681A.16 Claim subordination.**

16 1. A subordination agreement is enforceable under this
17 chapter to the same extent the agreement is enforceable under
18 other law.

19 2. Subject to subsection 3, all of the following claims are
20 subordinate to a claim or interest that is senior or equal in
21 priority to a claim or interest represented by a security or
22 other equity interest in the assignor or an affiliate of the
23 assignor:

24 a. A claim arising from rescission of a purchase or sale of
25 the security or other equity interest.

26 b. A claim for damages arising from the purchase or sale of
27 the security or other equity interest.

28 c. A claim for reimbursement or contribution allowed on
29 account of the rescission or damage claim.

30 3. If the security is common stock or another common equity
31 interest, a claim subject to subordination under subsection 2
32 has the same priority as common stock or another common equity
33 interest.

34 Sec. 17. NEW SECTION. **681A.17 Liability.**

35 1. An assignor is not personally liable for an act or

1 omission by the assignee.

2 2. An assignee is not personally liable for an act or
3 omission by the assignor.

4 3. A representative designated by an assignor under section
5 681A.8, subsection 2, paragraph "d", is exculpated to the same
6 extent as a person acting on behalf of the assignor under other
7 law had there been no assignment, except for an act or omission
8 resulting from the representative's gross negligence or willful
9 misconduct.

10 4. A term of an assignment agreement relieving the assignee
11 of liability is unenforceable to the extent the agreement
12 relieves the assignee of liability for an act or omission
13 committed in bad faith or with reckless indifference to the
14 purposes of the assignment or the interests of the creditors of
15 the assignment estate.

16 5. Subject to subsection 6, an assignee is personally liable
17 for breach of a fiduciary duty under section 681A.9, subsection
18 1. If the assignee is liable all of the following apply:

19 a. The assignee is personally liable to a creditor for an
20 individualized harm to the creditor if the harm is not shared
21 by all creditors or a class of creditors.

22 b. The assignee is personally liable to the assignment
23 estate for a harm shared by all creditors or a class of
24 creditors.

25 6. An assignee is not liable if, in the performance of the
26 assignee's duties and exercise of the assignee's powers, the
27 assignee relies in good faith on any of the following:

28 a. A record of the assignor.

29 b. Information, an opinion, a report, or a statement
30 presented to the assignee by the assignor's officer or
31 employee, a committee of the assignor's board of directors, an
32 independent director or manager of the assignor, or another
33 representative of the assignor.

34 c. Information, an opinion, a report, or a statement
35 presented to the assignee by another person that has been

1 selected with reasonable care by or on behalf of the assignee
2 as to a matter the assignee reasonably believes is within the
3 other person's professional or expert competence.

4 Sec. 18. NEW SECTION. **681A.18 Assignee removal — successor**
5 **assignee.**

6 1. The assignor or a creditor may request the district
7 court to remove the assignee, if the assignor or creditor has a
8 reasonable belief grounds for removal exist under subsection 2.

9 2. After a request under subsection 1 or on the district
10 court's initiative in an action pending before the court under
11 section 681A.21, the court may remove an assignee based on any
12 of the following:

13 a. For cause, including the assignee's fraud, dishonesty,
14 incompetence, gross mismanagement, or failure to comply with
15 this chapter.

16 b. If removal of the assignee best serves the interests of
17 the creditors.

18 3. After an assignee resigns, or is removed, dies, or
19 becomes incapacitated, a successor assignee provided for in the
20 assignment agreement becomes the assignee, unless the successor
21 assignee is not eligible to be an assignee under section
22 681A.4, subsection 1, or is subject to removal under subsection
23 2. A court shall appoint a successor assignee if any of the
24 following apply:

25 a. The assignment agreement does not provide for a successor
26 assignee.

27 b. The successor assignee provided for in the assignment
28 agreement is ineligible to be an assignee under section 681A.4,
29 subsection 1, or is subject to removal under subsection 2.

30 4. Subject to section 681A.17, an assignee that resigns, or
31 is removed, dies, or becomes incapacitated, is discharged from
32 the assignee's duties under this chapter when the assignee, or
33 a representative of a deceased or incapacitated assignee does
34 all of the following:

35 a. Accounts for and turns over to the successor assignee all

1 assets of the assignment estate.

2 *b.* Submits to creditors a report summarizing the receipts
3 and disbursements made during the service of the assignee.

4 5. Subject to an applicable privilege, a court may order an
5 attorney, accountant, or other person that has information in
6 a record relating to the assignment estate or the assignor's
7 financial affairs to turn over or disclose the record to the
8 successor assignee.

9 Sec. 19. NEW SECTION. 681A.19 Winding up.

10 1. On completion of an assignee's duties, the assignee shall
11 send a creditor whose claim is allowed under section 681A.11,
12 and not satisfied in full, a final accounting sufficient to
13 inform the creditor of all material aspects of the assignment,
14 including all of the following:

15 *a.* A description of the actions taken by the assignee under
16 the assignment.

17 *b.* A summary of the assets received by the assignee at the
18 commencement of the assignment and the assets received by the
19 assignee during the assignment.

20 *c.* A summary of disbursements made by the assignee
21 during the assignment for the purpose of administering the
22 assignment estate, including the fees charged by the assignee,
23 and payments to professionals, for rent, and for business
24 purchases.

25 *d.* A summary of collections and dispositions of assets by
26 the assignee.

27 *e.* A summary of distributions made or proposed to be made by
28 the assignee for creditor claims.

29 *f.* A description of additional work to be done by the
30 assignee to complete the administration of the assignment
31 estate and the distributions under section 681A.15.

32 *g.* Other information considered reasonably necessary by the
33 assignee.

34 2. Except as otherwise provided in the final accounting or
35 if the assignee has not fulfilled the assignee's duties under

1 this chapter, the assignee is discharged from the assignee's
2 duties under this chapter when the assignee sends the final
3 accounting and distributes all the assets of the assignment
4 estate.

5 3. If the final accounting describes additional work under
6 subsection 1, paragraph "f", the assignee shall exercise the
7 powers appropriate to complete the work.

8 Sec. 20. NEW SECTION. **681A.20 Interstate matters.**

9 1. Subject to subsection 2, an assignment made under the law
10 of another state must be recognized and enforced on an issue
11 if the result for the issue would be substantially similar to
12 the result for the issue if the assignment had been made under
13 this chapter.

14 2. If a claim for wages, salaries, or commissions or a claim
15 of a governmental unit exists in another state, for the purpose
16 of determining the priority of the claim under section 681A.15,
17 subsection 6, paragraph "b", the assignee shall use the amount
18 asserted or determined under the law of the other state.

19 3. If an assignee determines that a creditor should receive
20 the treatment the creditor would receive under an assignment
21 made under the law of another state, the assignee may treat the
22 creditor as the creditor would be treated in the other state.

23 Sec. 21. NEW SECTION. **681A.21 Court action.**

24 1. A district court may hear and resolve a matter involving
25 the administration of an assignment or the exercise of
26 an assignee's powers and duties, including a request for
27 instructions or approval or to declare rights.

28 2. Without limiting the rights of the assignee or a
29 creditor or other interested person to request the court
30 to hear or resolve a matter under subsection 1, on request
31 of the assignee, the court may issue an order relating to
32 the administration of the assignment or the exercise of
33 the assignee's powers and duties, including an order for
34 disposition of an asset or the incurrence of an obligation.

35 3. Acceptance of the assignment by the assignee constitutes

1 the assignee's consent to the jurisdiction of the court.

2 Sec. 22. NEW SECTION. **681A.22 Ancillary assignee.**

3 1. Subject to other law of this state governing a person
4 from another state serving as a fiduciary in this state, the
5 district court may appoint a person serving as an assignee in
6 an assignment in another state, or the person's nominee, as an
7 ancillary assignee relating to assigned assets located in this
8 state or subject to the jurisdiction of a court in this state,
9 if all of the following apply:

10 a. The person or nominee would be eligible to serve as an
11 assignee under section 681A.4.

12 b. The appointment furthers the person's possession,
13 custody, control, or disposition of an assigned asset under the
14 assignment in the other state.

15 2. The court may issue an order that implements an order
16 entered in another state appointing or directing an assignee or
17 otherwise concerning an assignment in the other state.

18 3. Unless the court orders otherwise, an ancillary assignee
19 appointed under subsection 1 has the rights, powers, and duties
20 of an assignee appointed under this chapter.

21 4. A person in possession, custody, or control of an
22 assigned asset in this state, other than a creditor holding a
23 lien or a right of setoff or recoupment relating to the asset,
24 shall, on notification in a record by an ancillary assignee
25 appointed under subsection 1, turn over the asset to the
26 ancillary assignee.

27 Sec. 23. NEW SECTION. **681A.23 Provisions variable by**
28 **agreement.**

29 1. Except as provided in this section and section 681A.10,
30 subsection 2, the provisions of this chapter shall not be
31 varied by agreement.

32 2. The duties under section 681A.8, subsection 1, and
33 section 681A.9, subsection 1, shall not be disclaimed by
34 agreement. An assignor and the assignee may determine by
35 agreement the standards measuring the fulfillment of the

1 duties of the assignor under section 681A.8 and the assignee
2 under section 681A.9 if the standards are not manifestly
3 unreasonable.

4 3. Except as provided in section 681A.17, subsection 4, the
5 assignment agreement may limit the assignee's liability under
6 section 681A.17 and may require the assignee be indemnified by
7 the assignment estate.

8 4. Except as provided under section 681A.7, subsection 1,
9 whenever this chapter requires an action to be taken within
10 a reasonable time, a time not manifestly unreasonable may be
11 fixed by agreement.

12 5. The assignment agreement may provide for duties of the
13 assignee in addition to those in this chapter.

14 Sec. 24. NEW SECTION. **681A.24 Uniformity of application**
15 **and construction.**

16 In applying and construing this uniform act, a court shall
17 consider the promotion of uniformity of the law among states
18 that enact it.

19 Sec. 25. NEW SECTION. **681A.25 Relation to Electronic**
20 **Signatures in Global and National Commerce Act.**

21 This chapter modifies, limits, or supersedes the Electronic
22 Signatures in Global and National Commerce Act, 15 U.S.C. §7001
23 et seq., as amended, but does not modify, limit, or supersede
24 15 U.S.C. §7001(c), or authorize electronic delivery of any of
25 the notices described in 15 U.S.C. §7003(b).

26 Sec. 26. NEW SECTION. **681A.26 Transitional provision.**

27 This chapter applies to an assignment made on or after the
28 effective date of this Act.

29 Sec. 27. REPEAL. Chapter 681, Code 2026, is repealed.

30 DIVISION II

31 COORDINATING PROVISIONS

32 PART A

33 FRANCHISES

34 Sec. 28. Section 523H.7, subsection 3, paragraph b, Code
35 2026, is amended to read as follows:

1 for Benefit of Creditors Act" approved and recommended by the
2 uniform law commission in 2025 for enactment by all states.
3 The bill repeals Code chapter 681 which governs the same
4 subject.

5 BACKGROUND. An assignment for the benefit of creditors
6 (commonly referred to as "ABC") allows one party to facilitate
7 the liquidation of the person's assets by transferring the
8 assets to a disinterested party who acts as a fiduciary
9 supervising the distribution of the assets to pay creditor
10 claims. The process is governed under state law as an
11 alternative to a federal bankruptcy proceeding.

12 DIVISION I — BILL'S PRINCIPAL PROVISIONS — TERMINOLOGY.

13 Under the bill, the person seeking to liquidate assets is
14 referred to as an assignor and the fiduciary is referred to
15 as the assignee. The assignor and assignee act in accordance
16 with an assignment agreement entered into by the parties.
17 Therefore, the liquidation is governed by agreement rather
18 than by court order. An assigned asset refers to an asset
19 transferred under an assignment agreement. An assigned asset
20 includes any legal or equitable interest in the property
21 of an assignor, regardless of whether the assignor is in
22 possession or control of the property. The transferred assets
23 covered under the assignment agreement becomes part of an
24 assignment estate administered by the assignee for the benefit
25 of creditors. A creditor's proof of claim refers to a record
26 required to be submitted to an assignee by a creditor that
27 evidences the creditor's claim to an assigned asset. A person
28 is considered a protected secured creditor if the person holds
29 a perfected lien that cannot be avoided by the assignee and is
30 superior to the assignee's lien.

31 DIVISION I — BILL'S PRINCIPAL PROVISIONS — POWERS AND

32 DUTIES OF THE ASSIGNOR, ASSIGNEE, AND CREDITORS. The assignor
33 has the duty to cooperate with the assignee to assist in
34 administering the assignment estate. The assignor must provide
35 the assignee a list of the assigned assets, together with

1 creditor and employee information. The assignee must notify
2 creditors known to the assignee of the assignment. An assigned
3 asset is subject to any existing lien or security interest that
4 is not capable of being avoided by the assignee. A transfer
5 of assets is presumably governed under the "Uniform Voidable
6 Transactions Act" (Code chapter 684). Unless the assignment
7 agreement otherwise provides, the assignee has the same rights
8 and duties over the assigned assets as did the assignor prior
9 to the assignment (e.g., to operate the assignor's business,
10 incur debt, pay expenses, and assert or defend claims related
11 to administering the assigned estate). The assignee may also
12 avoid certain claims that the assignor could have avoided if
13 there had not been an assignment agreement. The assignee
14 is deemed to be a lien creditor against the assigned assets
15 consisting of personal property and fixtures and a bona fide
16 purchaser of assigned assets consisting of nonfixture real
17 estate. The assignor or a creditor may petition the district
18 court to remove an assignee based on the best interests of the
19 creditors (e.g., evidence of fraud, dishonesty, incompetence,
20 or gross mismanagement).

21 DIVISION I — BILL'S PRINCIPAL PROVISIONS — DISTRIBUTIONS
22 TO CREDITORS AND WINDING UP THE ASSIGNMENT ESTATE. A creditor
23 must file proof of a claim with the assignee as required by the
24 assignee. The assigned assets in the assignment estate are
25 distributed to creditors whose proof of a claim is accepted
26 by the assignee in accordance with scheduled priorities
27 including by class of creditors. The creditor's priority is
28 established by law outside the Code chapter (e.g., Code chapter
29 554, article 9). A creditor holding priority status includes
30 protected secured creditors and the assignee who has a lien on
31 the assignment estate for payment of the assignee's fees and
32 expenses. If there are not sufficient moneys to pay creditors
33 with equal priority in full, the assignee must distribute the
34 moneys to those creditors on a pro rata basis. The assignee
35 may also establish reserve moneys for disputed claims to be

1 determined in district court, and for winding up the assignment
2 estate. After the assignee has distributed all of the assets
3 of the assignment estate to creditors, the assignee must send
4 a final accounting to the creditors. The assignee is then
5 discharged from the assignee's duties.

6 DIVISION II — BILL'S COORDINATING AMENDMENTS. The bill
7 amends several Code provisions that refer to Code chapter
8 681, including provisions governing franchises, including
9 the termination of a franchise under an ABC process (Code
10 section 523H.7(3)(b) and Code section 537A.10(7)(c)). The
11 bill replaces those references with references to Code chapter
12 681A. The bill similarly revises a reference from Code chapter
13 681 to 681A in a provision requiring the clerk of court to
14 carry out duties relating to the assignment of property for the
15 benefit of creditors (Code section 602.8102(122)). The bill
16 provides that an assignment does not trigger the real estate
17 transfer tax otherwise imposed on the transfer of real property
18 (Code section 428A.2). Under current law, there is no similar
19 exemption.

20 DIVISION III — BILL'S EFFECTIVE DATE. The bill takes effect
21 January 1, 2027.