

Committee on Judiciary

CS/CS/SB 600 — Assignment for the Benefit of Creditors

by Rules Committee; Judiciary Committee; and Senator Martin

The bill amends several statutes within ch. 727, F.S., relating to assignments for the benefit of creditors. The bill's revisions were recommended by a subcommittee of the Business Law Section of The Florida Bar to streamline practice, clarify ambiguities in statute, and minimize the potential for litigation.

Specifically, the bill:

- Revises the legislative intent of ch. 727, F.S., relating to assignments for the benefit of creditors, to include the orderly liquidation of insolvent estates.
- Grants assignees discretion on how to record assignments both inside and outside of this state where relevant assets are located.
- Grants courts discretion to schedule case management conferences and require periodic status reports as warranted.
- Provides that assignees may rely upon, and will not be held personally liable for, their own good faith compliance with court documents and other documents believed to be genuine.
- Provides that assignees will not be held personally liable for:
 - Complying in good faith with their duties and responsibilities as assignees; or
 - Acts or omissions, unless those acts or omissions were outside the scope of their duties, were grossly negligent, or constitute malfeasance.
- Provides that, unless assignees' acts or omissions subject them to personal liability, creditors asserting claims against them must look only to the estate assets and posted bonds to recover.
- Provides that, before bringing a suit against an assignee, a creditor must first obtain leave of the court based upon good cause shown.
- Requires any claims against an assignee to be brought before the assignee is discharged by the court.
- Clarifies that only creditors holding a lien or a right of setoff or recoupment with respect to the subject assets – i.e. not all creditors – are exempt from requirements to turn the assets over to the assignee.
- Provides for negative notice in connection with assignees' rejection of unexpired leases of nonresidential property or of personal property, and flexibility regarding the effective date.

If approved by the Governor, or allowed to become law without the Governor's signature, these provisions take effect July 1, 2023.

Vote: Senate 40-0; House 112-0