

HB382: Uniform Assignment for the Benefit of Creditors Amendments

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What is "Assignment for the Benefit of Creditors" (ABC)

ABC is a non-bankruptcy cleanup option for a business that can't pay its creditors.

The ABC process works as follows:

1. A business that can't pay its bills will voluntarily hand over its assets to a 3rd party (an assignee).
2. The assignee will sell all of the business's assets.
3. The assignee uses the money from selling assets to pay the creditors in a fair order.

Why HB382 is Necessary

The ABC process already exists in common law Utah, but it is rarely used, even though it is faster, less expensive, and less disruptive to workers and customers than the bankruptcy process.

The existing code outlining the ABC process is from 1953 and remains largely unchanged, making it outdated.

This bill takes language from the Uniform Law Commission and makes ABC a more viable option for companies.

CREATES A CLEAR, MODERN RULEBOOK

Explains who can use ABC,
how the process works,
who gets paid and when,
and what oversight exists.

ASSIGNEE IS INDEPENDENT AND TRUSTWORTHY

The Assignee must be independent (not a friend, insider, etc),
owes a legal duty to all creditors, not just one,
can be removed if they do not do their job properly.

TREATS CREDITORS FAIRLY

Requires notice be given to all creditors,
gives creditors a way to submit claims,
sets clear rules for resolving disputes,
establishes a fair, predictable order of who gets paid first.

BENEFITS OF ABC COMPARED TO BANKRUPTCY

LOWER COSTS	ABCs (especially non-judicial ABC processes) avoid many formalities of bankruptcy, reducing administrative expenses.
SPEED	ABCs can conclude more quickly than chapter 7 or chapter 11 proceedings.
CONFIDENTIALITY	In many states, ABCs are less public, preserving asset value and protecting reputational interests.
FLEXIBILITY	Asset sales and negotiations typically occur without the need for court approval and procedures, unless required by applicable state law.
REDUCED STIGMA	ABCs are sometimes viewed as more cooperative and business-friendly, avoiding the stigma that may attach to a bankruptcy filing.