The Delaware uniform assignment for the benefit of creditors act: a strategic alternative to Chapter 11 Section 363 sales

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USA | August 20 2026

The US's Uniform Law Commission (ULC)* proposed the Uniform Assignment for the Benefit of Creditors Act (UABCA) in 2025. To date, six US states have adopted the UABCA, notably including Delaware that adopted the UABCA on June 10, 2026. While most US states have varying laws pertaining to assignments for the benefit of creditors (ABCs), the UABCA as adopted in Delaware is a significant modernization that is likely to be a strategic tool for stakeholders seeking to effect a sale of all assets of financially troubled companies. In effect, it offers an alternative to the Chapter 11 Section 363 sale in a faster, more cost-effective, and less court-supervised process.

Some salient points on the Delaware UABCA:

1. No forum shopping. Only entities incorporated in or having their principal place of business in Delaware, or certain controlled affiliates, can file an ABC in Delaware.

2. Limited court supervision. Court involvement is limited unless affirmatively requested.

3. Broad assignee powers. The assignee may:

a. Operate the business during wind-down;

b. Incur secured and unsecured debt (comparable to Chapter 11 DIP financing and supplier credit);

c. Hire professionals, including counsel, financial advisors, and liquidators;

d. Sell assets through a court-approved auction process (comparable to Section 363 sales bidding procedures);

e. Reconcile and settle claims, and commence or defend litigation; and

f. Pursue avoidance actions (comparable to US Bankruptcy Code preference and fraudulent conveyance actions).

4. Independent fiduciary replaces management. Existing management is supplanted by an independent fiduciary.

5. No automatic stay. There is no automatic stay of creditor action against the debtor (though assets are transferred to the assignee).

6. Executory contracts. Executory contracts cannot be assumed or rejected without counterparty consent.

Predictably, the Delaware UABCA will be attractive to companies burning cash with little chance of a successful restructuring—especially portfolio companies and their private equity sponsors—offering a cost-effective, faster, and less regulated path to a sale of assets. Predictably, asset sales under the UABCA will occur at warp speed, and creditors should become conversant with the UABCA and engage early to mitigate risk and optimize recoveries.

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