GT GreenbergTraurig

Update | Delaware Corporate Law

June 2026

Delaware Adopts Uniform Assignment for the Benefit of Creditors (ABC) Act

Delaware has become the sixth state to adopt a version of the Uniform Assignment for Benefit of Creditors Act (Uniform Act). After approximately a decade of increased ABC activity under the antiquated former Delaware ABC law, the statute and process for ABCs has been revised pursuant to Delaware Senate Bill 267, which became effective when it was signed into law on June 10, 2026.[1] Key changes to the ABC process and modifications to the uniform ABC act include flexibility for out-of-court ABC actions and elimination of bond and appraisal requirements. This GT Update discusses the procedure contemplated by Delaware's adoption of the Uniform Act (Delaware ABC Act), changes from a practical perspective, and certain related considerations.[2]

At a high level, an ABC is a method of winding down a distressed enterprise, whereby the distressed company assigns its assets to a third party assignee – typically a restructuring professional. The assignee thereafter seeks to monetize the company's assets, distribute proceeds to creditors consistent with statutory priorities, and ultimately dissolve the company.

Uniform ABC Act

The synopsis to Delaware SB 267 notes that: "(1) it is debtor-initiated; (2) it provides assurances to creditors by imposing fiduciary duties upon the assignee; (3) it aims to maximize the value of the business's assets for the benefit of all creditors; and (4) it encourages cooperation between the distressed business and the creditors by aligning these parties' goals." The Delaware ABC Act replaces the former Delaware ABC law, which was adopted in 1875. Although members of the Delaware Court of Chancery have improved the clarity and process under the former ABC law over the past decade, the adoption of a modified Uniform Act is intended to promote additional clarity and stability in Delaware ABCs.

Delaware ABC Act

The key components of an ABC include an assignor, assignee, and assignment agreement, each as contemplated by the Delaware ABC Act. Other key aspects of the Delaware ABC Act include flexibility for in-court and out-of-court actions and the duties, liabilities, and protections of the assignor and assignee.

© 2026 Greenberg Traurig, LLP

Assignor. An assignor is a person whose assets are transferred under an assignment. The Delaware ABC Act applies to an assignment that is made by certain assignors, such as certain legal persons whose business is in or internal affairs are subject to the laws of Delaware.[3]

Assignee. An assignee is a person to which assets are transferred under an assignment. The Delaware ABC Act places limits on who may qualify as an assignee, including that the person doesn't have certain interests in, relationships with, or claims against the assignor.[4] The assignee's powers include operating a business that uses an assigned asset, incurring debt, asserting rights and claims, engaging professionals, and other specified, necessary, and appropriate powers.[5] The assignee's term is subject to resignation, removal, death, incapacitation, and discharge.[6]

Assignment Agreement. An assignment agreement is an agreement for the transfer by a person of assets for the benefit of the transferor's creditors. For purposes of the Delaware ABC Act, an assignment agreement must include fundamental details, such as descriptions of the assignor, assignee, assets, and assignee's fee structure, as well as a representation by the assignor that it is assigning its assets.[7]

Duties, Liabilities, and Protections of Assignors and Assignees. The Delaware ABC Act provides for duties, liabilities, and protections of the assignee and assignor, including restrictions on disclaimer of such duties by agreement.[8] Key duties of (a) the assignor include taking reasonable actions necessary for the assignee to administer the assignment, signing reasonably necessary records to transfer assigned assets, designating an appropriate representative of the assignor, providing verified lists of assets, employees, and creditors, and assisting the assignee as required by the assignment agreement and (b) the assignee include loyalty, management of the assignment in good faith, reasonable care to maximize distributions under the Delaware ABC Act, winding up the assignment in the best interests of the assignment estate and creditors, and specified administrative and compliance obligations.

In-Court and Out-of-Court Actions. Although the assignee is required by the Delaware ABC Act to file a petition with the Delaware Court of Chancery, and the assignee has flexibility to commence judicial proceedings, the Delaware ABC Act leaves open the possibility that the ABC process may largely unfold outside of court.[9] Notice is, however, required to affected parties such as creditors and recent employees of the assignor,[10] and the terms and procedures regarding claims, transfers, and distributions are prescribed by the Delaware ABC Act.[11] Unlike the former Delaware ABC law, no bond or appraisal is required. The Delaware ABC Act also modifies the Uniform Act in a few ways, such as authorizing the Court of Chancery to communicate with another court before which a related assignment proceeding has been commenced and establishing a rebuttable presumption of notice given in accordance with Court of Chancery rules.[12]

Additional Considerations

Authorization and Approvals. Assignment under the Delaware ABC Act remains subject to other laws under which the assignment may be fraudulent or voidable.[13] Provisions of an applicable entity law such as the Delaware General Corporation Law (DGCL) and the governing documents of an

© 2026 Greenberg Traurig, LLP

entity assignor regarding substantial asset sales and secured asset foreclosures, may also apply to an ABC.[14]

Fiduciary Duties. In addition to the duties set forth in the Delaware ABC Act, applicable fiduciary duties would be implicated when directors, managers, officers, and other members of a governing body consider and authorize an ABC. Under Delaware common law, creditors also have standing to bring claims for breach of fiduciary duty when a corporation is insolvent.

Alternatives to an ABC. An entity assignor, such as a Delaware corporation or limited liability company, considering an ABC should consider the benefits and drawbacks of other alternatives, such as dissolution and winding up, receivership, liquidation or bankruptcy, or a compromise or arrangement with creditors or stockholders permitted by Delaware entity laws such as the DGCL.[15]

Conclusion

The Uniform Act is a relatively new model statute, and the Delaware ABC Act has only just overhauled the preexisting Delaware ABC law, so there is much to learn about how the Delaware ABC Act will be implemented in practice. Legal clarity and certainty are welcome developments for the distressed businesses contemplating ABCs, which are often small- to mid-sized companies, and the new law may be an attractive alternative to other winding-up options.

View Delaware ABC Act (SB 267)

View Assignment for Benefit of Creditors Act (Uniform Laws Commission)

* * *

© 2026 Greenberg Traurig, LLP

Authors

This GT Update was prepared by the following Corporate attorneys from Greenberg Traurig's Delaware office:

- Nathan P. Emeritz | +1 302.661.7385 | Nathan.Emeritz@gtlaw.com
- Diane N. Ibrahim | +1 302.661.7660 | IbrahimD@gtlaw.com
- Justin E. Mann | +1 302.661.7664 | Justin.Mann@gtlaw.com

This GT Update was also prepared by the following attorneys from Greenberg Traurig's Restructuring & Special Situations Practice:

- Nathan A. Haynes | New York | +1 212.801.2137 | HaynesN@gtlaw.com
- Oscar N. Pinkas | New York | +1 212.801.9214 | PinkasO@gtlaw.com

Abu Dhabi˄. Albany. Amsterdam. Aspen. Atlanta. Austin. Berlin¬. Boston. Charlotte. Chicago. Dallas. Delaware. Denver. Dubai‹. Fort Lauderdale. Houston. Las Vegas. London*. Long Island. Los Angeles. Mexico City+. Miami. Milan». Minneapolis. Munich¬. New Jersey. New York. Northern Virginia. Orange County. Orlando. Philadelphia. Phoenix. Portland. Riyadh«. Sacramento. Salt Lake City. San Diego. San Francisco. São Paulo›. Seoul∞. Shanghai. Silicon Valley. Singapore⁼. Tallahassee. Tampa. Tel Aviv^. Tokyo¤. Warsaw~. Washington, D.C. West Palm Beach. Westchester County.

*This Greenberg Traurig Alert is issued for informational purposes only and is not intended to be construed or used as general legal advice nor as a solicitation of any type. Please contact the author(s) or your Greenberg Traurig contact if you have questions regarding the currency of this information. The hiring of a lawyer is an important decision. Before you decide, ask for written information about the lawyer's legal qualifications and experience. Greenberg Traurig is a service mark and trade name of Greenberg Traurig, LLP and Greenberg Traurig, P.A. ˄Greenberg Traurig's Abu Dhabi office is a branch of Greenberg Traurig, P.A., which is registered with the Abu Dhabi Global Market Registration Authority (Registration No. 29906) and licensed to carry out legal services and regulated as a DNFBP by the ADGM Financial Services Regulatory Authority. ¬Greenberg Traurig's Berlin and Munich offices are operated by Greenberg Traurig Germany, LLP, an affiliate of Greenberg Traurig, P.A. and Greenberg Traurig, LLP. ‹Greenberg Traurig's Dubai office is operated by Greenberg Traurig Limited, a company registered in the Dubai International Financial Centre (Registration No. CL7238), regulated as a DNFBP by the Dubai Financial Services Authority and licensed by The Government of Dubai Legal Affairs Department. *Operates as a separate UK registered legal entity. +Greenberg Traurig's Mexico City office is operated by Greenberg Traurig, S.C., an affiliate of Greenberg Traurig, P.A. and Greenberg Traurig, LLP. »Greenberg Traurig's Milan office is operated by Greenberg Traurig Studio Legal Associato, an affiliate of Greenberg Traurig, P.A. and Greenberg Traurig, LLP. «Greenberg Traurig operates in the Kingdom of Saudi Arabia through Greenberg Traurig Khalid Al-Thebity Law Firm, a professional limited liability company, licensed to practice law by the Ministry of Justice. ›Greenberg Traurig's São Paulo office is operated by Greenberg Traurig Brazil Consultores em Direito Estrangeiro – Direito Estadunidense, incorporated in Brazil as a foreign legal consulting firm. Attorneys in the São Paulo office do not practice Brazilian law. ∞Operates as Greenberg Traurig LLP Foreign Legal Consultant Office. ⁼Greenberg Traurig's Singapore office is operated by Greenberg Traurig Singapore LLP which is licensed as a foreign law practice in Singapore. ^Greenberg Traurig's Tel Aviv office is a branch of Greenberg Traurig, P.A., Florida, USA. ¤Greenberg Traurig's Tokyo Office is operated by GT Tokyo Horitsu Jimusho and Greenberg Traurig Gaikokuhojimubengoshi Jimusho, affiliates of Greenberg Traurig, P.A. and Greenberg Traurig, LLP. ~Greenberg Traurig's Warsaw office is operated by GREENBERG TRAURIG Nowakowska-Zimoch Wysokiński sp.k., an affiliate of Greenberg Traurig, P.A. and Greenberg Traurig, LLP. Certain partners in GREENBERG TRAURIG Nowakowska-Zimoch Wysokiński sp.k. are also shareholders in Greenberg Traurig, P.A. Images in this advertisement do not depict Greenberg Traurig attorneys, clients, staff or facilities. No aspect of this advertisement has been approved by the Supreme Court of New Jersey. ©2026 Greenberg Traurig, LLP. All rights reserved.*

---

[1] S.B. 267 (2026), adopting 10 Del. C. §§ 7301A-7324A and repealing §§7381-7387. As of the date of this GT Update, the Uniform Act has previously been enacted in Alabama, Arizona, Nebraska, Iowa, and Utah and introduced in Colorado, Oklahoma, and West Virginia.

[2] Unless otherwise stated, references to "Sections" are to sections of the Delaware ABC Act.

[3] Section 7303A.

[4] Section 7304A(a).

[5] Section 7310A.

[6] Section 7318A.

[7] Section 7304A(c).

[8] Sections 7308A, 7309A, 7317A, 7323A.

[9] Section 7321A, 7322A.

[10] Section 7307A.

[11] Sections 7311A-7316A.

[12] Section 7320A(e), 7321A(e).

[13] Section 7305A(e).

[14] See, e.g., DGCL 271, 272.

[15] See, e.g., DGCL 275 (dissolution), 280 and 281 (winding up), 226, 279, and 291 (custodianship, trusteeship, and receivership), 302 (compromise or arrangement).

© 2026 Greenberg Traurig, LLP