

CHAPTER 2023-219

Committee Substitute for Committee Substitute for Senate Bill No. 600

An act relating to an assignment for the benefit of creditors; amending s. 727.101, F.S.; revising legislative intent; amending s. 727.104, F.S.; revising requirements for the commencement of proceedings for general assignments; authorizing courts to determine compliance with a specified rule; amending s. 727.105, F.S.; authorizing assignees to rely on certain orders, judgments, decrees, rules, and documents; specifying that the assignee is not personally liable for certain good faith compliance, acts, or omissions; limiting the assets a creditor or other party in interest may pursue in an action against an assignee; providing requirements for a creditor or other party in interest in certain actions against an assignee; providing requirements for claims against an assignee or any agent or professional of the assignee; providing construction; amending s. 727.106, F.S.; excluding certain creditors from being required to turn over assets of the estate upon notice of an assignment proceeding; amending s. 727.110, F.S.; requiring assignees to serve a copy of a notice of rejection by negative notice; authorizing the court to specify an effective date of rejection in its order of rejection; providing an effective date.

Be It Enacted by the Legislature of the State of Florida:

Section 1. Section 727.101, Florida Statutes, is amended to read:

727.101 Intent of chapter.—The intent of this chapter is to provide a uniform procedure for the administration and orderly liquidation of insolvent estates, and to ensure full reporting to creditors and equal distribution of assets according to priorities as established under this chapter.

Section 2. Paragraph (a) of subsection (2) of section 727.104, Florida Statutes, is amended, and subsection (3) is added to that section, to read:

727.104 Commencement of proceedings.—

(2) Within 10 days after delivery of the assignment to the assignee, the assignee shall:

(a) Record the original assignment, with or without the schedules, in the official public records of the county in which the assignor had its principal place of business and shall thereafter promptly record a certified copy of the assignment, with or without the schedules, in each county in this state in which real property where assets of the estate are located. The assignee shall promptly record a certified copy of the assignment, without schedules, in the land records of each recording jurisdiction outside of this state in which real property assets of the estate are located. If a certified copy of the assignment

is not acceptable for recording in a particular jurisdiction, the assignee shall record a lis pendens or similar notice of action permitted in that jurisdiction referencing the pendency of the proceedings under this chapter. In either instance, the recorded original assignment, certified copy of the assignment, or lis pendens or similar notice of action shall include the legal description of any real property located in the recording jurisdiction.

(3) The court may determine proper compliance with Rule 1.200, Florida Rules of Civil Procedure, in an action filed under this chapter, including, but not limited to, scheduling a case management conference and requiring a periodic status report as warranted by the circumstances of the case.

Section 3. Section 727.105, Florida Statutes, is amended to read:

727.105 Actions Proceedings against assignee.—

(1) An action Proceedings may not be commenced against the assignee except as provided in this chapter, but nothing contained in this chapter affects any action or proceeding by a governmental unit to enforce such governmental unit's police or regulatory power. Except in the case of a consensual lienholder enforcing its rights in personal property or real property collateral, there shall be no levy, execution, attachment, or the like in respect of any judgment against assets of the estate in the possession, custody, or control of the assignee.

(2) The assignee may:

(a) Rely on any outstanding court orders, judgments, decrees, and rules of law, and is not personally liable for the assignee's own good faith compliance with any such orders, judgments, decrees, or rules of law.

(b) Rely on, and shall be protected in any action by, any resolution, certificate, statement, opinion, report, notice, consent, or other document believed by the assignee to be genuine and to have been signed or presented by the proper parties.

(3) The assignee is not personally liable for:

(a) The assignee's good faith compliance with his or her duties and responsibilities as an assignee.

(b) The assignee's acts or omissions, except upon a finding by the court presiding over an action or proceeding under this chapter that the assignee's acts or omissions:

1. Were outside the scope of his or her duties;
2. Were grossly negligent; or
3. Constitute malfeasance.

(4)(a) Except for matters in paragraph (3)(b), any creditor or party in interest seeking to assert a claim against the assignee must look only to the assignment estate assets and any bond posted by the assignee to satisfy any liability, and the assignee is not personally liable to satisfy any such obligation.

(b) Any creditor or party in interest seeking to assert a claim against the assignee under paragraph (3)(b) must first obtain leave of the court presiding over the assignment action or proceeding based upon good cause shown.

(5) Any claim against the assignee, or any agent or professional of the assignee who assists the assignee in the administration of the estate, must be brought before the discharge of the assignee under s. 727.116 to the extent the claim has accrued and is predicated upon facts that are known or reasonably should have been known at the time of the discharge, at which point all such claims are deemed released and forever barred.

(6) This section does not alter or limit any other immunity otherwise held by the assignee or any agent or professional of the assignee who assists the assignee in the administration of the estate.

Section 4. Section 727.106, Florida Statutes, is amended to read:

727.106 Turnover.—Any person or entity, other than a creditor, in possession, custody, or control of assets of the estate, other than a creditor holding a lien or a right of setoff or recoupment with respect to the subject assets, shall, upon notice by the assignee of the assignment proceeding, promptly turn such assets over to the assignee or the assignee's duly authorized representative.

Section 5. Paragraphs (a) and (b) of subsection (3) of section 727.110, Florida Statutes, are amended to read:

727.110 Actions by assignee and other parties in interest.—

(3) As to an assignee's rejection of an unexpired lease of nonresidential real property or of personal property, as provided under ss. 727.108(5) and 727.109(6):

(a) The assignee shall file a notice of rejection with the court and serve a copy, by negative notice as defined in s. 727.103, on the owner or lessor of the affected property and, for personal property, on the landlord of the premises on which the property is located. A notice of rejection relating to personal property must identify the affected property, the address at which the affected property is located, the name and telephone number of the person in possession of the affected property, and the deadline for removal of the affected property.

(b) The effective date of the rejection is the date of entry of a court order authorizing such rejection, unless the court orders otherwise.

Section 6. This act shall take effect July 1, 2023.

Approved by the Governor June 12, 2023.

Filed in Office Secretary of State June 12, 2023.