

**DISTRICT OF COLUMBIA**  
**OFFICIAL CODE**

**TITLE 28.**  
**COMMERCIAL INSTRUMENTS AND**  
**TRANSACTIONS.**

**CHAPTER 21.**  
**ASSIGNMENT FOR BENEFIT OF CREDITORS.**

**2001 Edition**

**DISTRICT OF COLUMBIA OFFICIAL CODE**  
**CHAPTER 21. ASSIGNMENT FOR BENEFIT OF**  
**CREDITORS.**

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# CHAPTER 21. ASSIGNMENT FOR BENEFIT OF CREDITORS.

## § 28-2101. FORM OF ASSIGNMENT.

In a voluntary assignment for the benefit of creditors, the debtor shall annex to the assignment (1) an inventory, under oath or affirmation, of his estate, real and personal, according to the best of his knowledge, (2) a list of his creditors, their respective residences and places of business, if known, and (3) the amounts of their respective demands.

(Aug. 30, 1964, 78 Stat. 667, Pub. L. 88-509, § 1.)

### *HISTORICAL AND STATUTORY NOTES*

#### *Prior Codifications*

1981 Ed., § 28-2101.

1973 Ed., § 28-2101.

## § 28-2102. EXTENT OF ASSIGNMENT--ASSETS EXEMPT.

An assignment vests in the assignee the title to all property, except what is legally exempt, belonging to the debtor at the time of making the assignment and comprehended within its general terms. The inventory annexed to an assignment is not conclusive as to the amount of the debtor's estate.

An assignment for the benefit of creditors does not include or cover property exempt from levy or sale on execution unless the exemption is expressly waived. The court may direct the manner in which exempt property may be ascertained and set aside before a sale by a trustee.

(Aug. 30, 1964, 78 Stat. 667, Pub. L. 88-509, § 1.)

### *HISTORICAL AND STATUTORY NOTES*

#### *Prior Codifications*

1981 Ed., § 28-2102.

1973 Ed., § 28-2102.

## § 28-2103. ASSIGNEE.

Only a resident of the District of Columbia may be an assignee in an assignment for the benefit of creditors. His assent shall appear in writing in, or at the end of, or indorsed on, the assignment. An assignment is invalid unless acknowledged and recorded within five days after its execution in the land records of the District. A trust created by an assignment shall be executed under the supervision and control of the court having probate jurisdiction.

(Aug. 30, 1964, 78 Stat. 668, Pub. L. 88-509, § 1; July 29, 1970, 84 Stat. 569, Pub. L. 91-358, title I, § 151(a); Apr. 9, 1997, D.C. Law 11-255, § 27(a), 44 DCR 1271.)

### *HISTORICAL AND STATUTORY NOTES*

#### *Prior Codifications*

1981 Ed., § 28-2103.

1973 Ed., § 28-2103.

#### *Legislative History of Laws*

Law 11-255, the "Second Technical Amendments Act of 1996," was introduced in Council and assigned Bill

No. 11-905, which was referred to the Committee of the Whole. The Bill was adopted on first and second readings on November 7, 1996, and December 3, 1996, respectively. Signed by the Mayor on December 24, 1996, it was assigned Act No. 11-519 and transmitted to both Houses of Congress for its review. D.C. Law 11-255 became effective on April 9, 1997.

#### **§ 28-2104. BOND OF ASSIGNEE.**

Immediately upon the filing for record of an assignment for the benefit of creditors, the assignee shall execute and file in the clerk's office of the court having probate jurisdiction his bond to the United States, in an amount and with security to be approved by a judge thereof, conditioned for the faithful performance of his duties according to law, and the court may from time to time require the assignee, or a trustee appointed in his place, to give additional security when required by the interests of the creditors.

(Aug. 30, 1964, 78 Stat. 668, Pub. L. 88-509, § 1; July 29, 1970, 84 Stat. 569, Pub. L. 91-358, title I, § 151(a).)

##### *HISTORICAL AND STATUTORY NOTES*

###### *Prior Codifications*

1981 Ed., § 28-2104.

1973 Ed., § 28-2104.

#### **§ 28-2105. NONPERFORMANCE BY ASSIGNEE--TRUSTEE.**

If an assignee named in an assignment for the benefit of creditors fails or refuses to comply with any of the requirements of sections 28-2103 and 28-2104, a judge of the court having probate jurisdiction may, on the application of the assignor or a creditor interested in the assignment, remove the assignee and appoint a trustee in his place to execute the trusts created by the assignment, who shall give bond as the court may require. And the court may accept the resignation of an assignee or trustee, and in case of his resignation, death, or removal from the District, appoint a trustee in his place. The court, for cause shown, on the application of an interested person, may remove an assignee or trustee and appoint a trustee in his place, and make and enforce all orders necessary to put the newly appointed trustee in possession of all property covered by the assignment. Upon the death of an assignee or trustee the court may require his executor or administrator to settle his account and to deliver over to his successor all property belonging to the trust, in default of which the successor may bring suit upon the bond of the deceased assignee or trustee or upon the bond of the executor or administrator, accordingly as the assignee or trustee, executor or administrator is the party in default.

(Aug. 30, 1964, 78 Stat. 668, Pub. L. 88-509, § 1; July 29, 1970, 84 Stat. 569, Pub. L. 91-358, title I, § 151(b).)

##### *HISTORICAL AND STATUTORY NOTES*

###### *Prior Codifications*

1981 Ed., § 28-2105.

1973 Ed., § 28-2105.

#### **§ 28-2106. DUTIES OF ASSIGNEE.**

An assignee or trustee, after giving bond, shall collect and take into his possession all the property covered by the assignment, and to that end he may bring suit in his own name to recover debts due or property belonging to the assignor and embraced in the assignment. The court may require the assignor to be examined under oath touching his property, and may make all orders necessary to prevent any fraudulent transfer of or change in the property of the assignor. The assignee or trustee shall return inventories of the assets coming to his hands and, upon the direction of the court, sell and dispose of them; and his conveyance of any property of the assignor, real or personal, transfers the entire title of the assignor therein to the purchaser. When the assets have been converted into money the assignee or trustee shall settle his accounts and make distribution among the creditors, under the direction of the court, according to the usual course of proceeding in creditor's suits.

(Aug. 30, 1964, 78 Stat. 668, Pub. L. 88-509, § 1.)

##### *HISTORICAL AND STATUTORY NOTES*

###### *Prior Codifications*

1981 Ed., § 28-2106.

### **§ 28-2107. PREFERENCES PROHIBITED.**

A provision in a voluntary assignment made for the payment of one debt or liability in preference to another is void, and all debts and liabilities within the provisions of the assignment shall be paid pro rata from the assets. This section does not affect the priority of liens and incumbrances created bona fide and existing before the execution of the assignment.

(Aug. 30, 1964, 78 Stat. 669, Pub. L. 88-509, § 1.)

#### *HISTORICAL AND STATUTORY NOTES*

##### *Prior Codifications*

1981 Ed., § 28-2107.

1973 Ed., § 28-2107.

### **§ 28-2108. PROCEEDINGS FOR BENEFIT OF ALL CREDITORS.**

A proceeding instituted under this chapter by one or more creditors is deemed to be for the equal benefit of all creditors, but the court may make such allowance to the creditor or creditors instituting the same, out of the fund to be distributed, or expenses, including counsel fees, as may be just and equitable.

(Aug. 30, 1964, 78 Stat. 669, Pub. L. 88-509, § 1.)

#### *HISTORICAL AND STATUTORY NOTES*

##### *Prior Codifications*

1981 Ed., § 28-2108.

1973 Ed., § 28-2108.

### **§ 28-2109. ASSIGNMENT TO HINDER OR DEFRAUD CREDITORS.**

This chapter does not prevent a creditor otherwise entitled from attacking an assignment as made to hinder or defraud the creditors of the assignor. When the court finds an assignment to have been made with that intent, it may enjoin any proceeding thereunder, and upon finally decreeing the assignment to be void may appoint a trustee with power to take possession of all the property of the debtor, and may make and enforce all orders necessary to put him in possession of the property. The trustee shall qualify in the same manner and perform the same duties as the trustees provided for by this chapter.

(Aug. 30, 1964, 78 Stat. 669, Pub. L. 88-509, § 1.)

#### *HISTORICAL AND STATUTORY NOTES*

##### *Prior Codifications*

1981 Ed., § 28-2109.

1973 Ed., § 28-2109.

### **§ 28-2110. NOTICE TO CREDITORS.**

The court shall require a trustee, whether named in the assignment or appointed by the court, in pursuance of this chapter, to give notice as the court may think proper to all the creditors of the assignor to produce and prove their respective claims against the assignor before the auditor of the court, to the end that they may be fairly adjudicated and the creditors may share equally the assets of the insolvent assignor, subject, however, to any legal priorities created by valid incumbrances antedating the assignment.

(Aug. 30, 1964, 78 Stat. 669, Pub. L. 88-509, § 1.)

#### *HISTORICAL AND STATUTORY NOTES*

##### *Prior Codifications*

1981 Ed., § 28-2110.

1973 Ed., § 28-2110.