

HOUSE SUBSTITUTE FOR
SENATE BILL NO. 982

A bill to amend 1998 PA 434, entitled
"Uniform fraudulent transfer act,"
by amending the title and sections 1, 2, 3, 4, 5, 6, 7, 8, 9, 10,
11, 12, and 13 (MCL 566.31, 566.32, 566.33, 566.34, 566.35, 566.36,
566.37, 566.38, 566.39, 566.40, 566.41, 566.42, and 566.43),
section 1 as amended by 2009 PA 44 and section 8 as amended by 2000
PA 362, and by adding sections 14 and 15.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 TITLE
2 An act to ~~define and regulate fraudulent transfers and~~
3 ~~conveyances; to set~~ **PROVIDE FOR THE SETTING** aside and modify
4 **MODIFICATION OF** certain transfers, ~~and~~ conveyances, **AND**
5 **OBLIGATIONS;** to make uniform the law of fraudulent transfers; and

1 to ~~repeal acts and parts of acts.~~**PROVIDE REMEDIES.**

2 Sec. 1. As used in this act:

3 (a) "Affiliate" means **A PERSON THAT IS** 1 or more of the
4 following:

5 (i) A person ~~who~~**THAT** directly or indirectly owns, controls,
6 or holds with power to vote, 20% or more of the outstanding voting
7 securities of the debtor, other than a person ~~who~~**THAT** holds the
8 securities in either of the following circumstances:

9 (A) As a fiduciary or agent without sole discretionary power
10 to vote the securities.

11 (B) Solely to secure a debt, if the person has not **IN FACT**
12 exercised the power to vote.

13 (ii) A corporation 20% or more of whose outstanding voting
14 securities are directly or indirectly owned, controlled, or held
15 with power to vote by the debtor or a person ~~who~~**THAT** directly or
16 indirectly owns, controls, or holds, with power to vote, 20% or
17 more of the outstanding voting securities of the debtor, other than
18 a person ~~who~~**THAT** holds the securities in either of the following
19 circumstances:

20 (A) As a fiduciary or agent without sole **DISCRETIONARY** power
21 to vote the securities.

22 (B) Solely to secure a debt, if the person has not in fact
23 exercised the power to vote.

24 (iii) A person whose business is operated by the debtor under
25 a lease or other agreement, or a person substantially all of whose
26 assets are controlled by the debtor.

27 (iv) A person ~~who~~**THAT** operates the debtor's business under a

1 lease or other agreement or controls substantially all of the
2 debtor's assets.

3 (b) "Asset" means property of a debtor, but the term does not
4 include any of the following:

5 (i) Property to the extent it is encumbered by a valid lien.

6 (ii) Property to the extent it is generally exempt under
7 nonbankruptcy law.

8 (iii) An interest in property held in tenancy by the
9 entireties to the extent it is not subject to process by a creditor
10 holding a claim against only 1 tenant.

11 (c) "Claim", **EXCEPT AS USED IN "CLAIM FOR RELIEF"**, means a
12 right to payment, whether or not the right is reduced to judgment,
13 liquidated, unliquidated, fixed, contingent, matured, unmatured,
14 disputed, undisputed, legal, equitable, secured, or unsecured.

15 (d) "Creditor" means a person ~~who~~**THAT** has a claim.

16 (e) "Debt" means liability on a claim.

17 (f) "Debtor" means a person ~~who~~**THAT** is liable on a claim.

18 **(G) "ELECTRONIC" MEANS RELATING TO TECHNOLOGY HAVING**
19 **ELECTRICAL, DIGITAL, MAGNETIC, WIRELESS, OPTICAL, ELECTROMAGNETIC,**
20 **OR SIMILAR CAPABILITIES.**

21 **(H) ~~(g)~~"Insider"** includes all of the following:

22 (i) If the debtor is an individual, all of the following:

23 (A) A relative of the debtor or of a general partner of the
24 debtor.

25 (B) A partnership in which the debtor is a general partner.

26 (C) A general partner in a partnership described in sub-
27 subparagraph (B).

1 (D) A corporation of which the debtor is a director, officer,
2 or person in control.

3 (ii) If the debtor is a corporation, all of the following:

4 (A) A director of the debtor.

5 (B) An officer of the debtor.

6 (C) A person in control of the debtor.

7 (D) A partnership in which the debtor is a general partner.

8 (E) A general partner in a partnership described in sub-
9 subparagraph (D).

10 (F) A relative of a general partner, director, officer, or
11 person in control of the debtor.

12 (iii) If the debtor is a partnership, all of the following:

13 (A) A general partner in the debtor.

14 (B) A relative of a general partner in, a general partner of,
15 or a person in control of the debtor.

16 (C) Another partnership in which the debtor is a general
17 partner.

18 (D) A general partner in a partnership described in sub-
19 subparagraph (C).

20 (E) A person in control of the debtor.

21 (iv) An affiliate, or an insider of an affiliate as if the
22 affiliate were the debtor.

23 (v) A managing agent of the debtor.

24 **(I)** ~~(h)~~—"Lien" means a charge against or an interest in
25 property to secure payment of a debt or performance of an
26 obligation, and includes a security interest created by agreement,
27 a judicial lien obtained by legal or equitable process or

proceedings, a common-law lien, or a statutory lien.

(J) "ORGANIZATION" MEANS A PERSON OTHER THAN AN INDIVIDUAL.

(K) ~~(i)~~—"Person" means an individual, **ESTATE**, partnership, ~~corporation, association, organization,~~ **TRUST, BUSINESS OR NONPROFIT ENTITY, PUBLIC CORPORATION**, government or governmental subdivision, ~~or agency, business trust, estate, trust,~~ **OR INSTRUMENTALITY**, or any other legal or commercial entity.

(I) ~~(j)~~—"Property" means anything that may be the subject of ownership.

(M) "QUALIFIED DISPOSITION" MEANS THAT TERM AS DEFINED IN SECTION 2 OF THE QUALIFIED DISPOSITIONS IN TRUST ACT.

(N) "RECORD" MEANS INFORMATION THAT IS INSCRIBED ON A TANGIBLE MEDIUM OR THAT IS STORED IN AN ELECTRONIC OR OTHER MEDIUM AND IS RETRIEVABLE IN PERCEIVABLE FORM.

(O) ~~(k)~~—"Relative" means an individual related by consanguinity within the third degree as determined by the common law, a spouse, or an individual related to a spouse within the third degree as so determined, and includes an individual in an adoptive relationship within the third degree.

(P) "SIGN" MEANS TO DO ANY OF THE FOLLOWING WITH PRESENT INTENT TO AUTHENTICATE OR ADOPT A RECORD:

(i) EXECUTE OR ADOPT A TANGIBLE SYMBOL.

(ii) ATTACH TO OR LOGICALLY ASSOCIATE WITH THE RECORD AN ELECTRONIC SYMBOL, SOUND, OR PROCESS.

(Q) ~~(l)~~—"Transfer" means every mode, direct or indirect, absolute or conditional, voluntary or involuntary, of disposing of or parting with an asset or an interest in an asset. Transfer

1 includes payment of money, release, lease, **LICENSE**, and creation of
 2 a lien or other encumbrance. Transfer does not include any of the
 3 following:

4 (i) The lapse, release, waiver, or disclaimer of a power of
 5 appointment given to a donee by a third party. As used in this
 6 subparagraph, "donee" means that term as defined in section 2 of
 7 the powers of appointment act of 1967, 1967 PA 224, MCL 556.112.

8 (ii) The disposing of or parting with an asset or interest in
 9 an asset held in trust to the person who created the trust if all
 10 of the following apply:

11 (A) The trust is an irrevocable trust for the benefit of third
 12 parties.

13 (B) The trust is a grantor trust with regard to the person for
 14 income tax purposes pursuant to sections 671 to 679 of the internal
 15 revenue code **OF 1986**, 26 USC 671 to 679.

16 (C) The trustee has the discretionary authority to reimburse
 17 or advance trust property to the person for taxes concerning income
 18 attributable to the trust property.

19 (D) The disposing of or parting with the asset or interest in
 20 the asset is the exercise by the trustee of the discretionary
 21 authority described in sub-subparagraph (C).

22 **(R)** ~~(m)~~ "Valid lien" means a lien that is effective against
 23 the holder of a judicial lien subsequently obtained by legal or
 24 equitable process or proceedings.

25 Sec. 2. (1) A debtor is insolvent if, **AT A FAIR VALUATION**, the
 26 sum of the debtor's debts is greater than ~~all~~ **THE SUM** of the
 27 debtor's assets. ~~at a fair valuation.~~

(2) A debtor ~~who~~ **THAT** is generally not paying his or her ~~THE~~ **DEBTOR'S** debts as they become due **OTHER THAN AS A RESULT OF A BONA FIDE DISPUTE** is presumed to be insolvent. **THE PRESUMPTION IMPOSES ON THE PARTY AGAINST WHICH THE PRESUMPTION IS DIRECTED THE BURDEN OF PROVING THAT THE NONEXISTENCE OF INSOLVENCY IS MORE PROBABLE THAN ITS EXISTENCE.**

~~(3) A partnership is insolvent under subsection (1) if the sum of the partnership's debts is greater than the aggregate, at a fair valuation, of all of the partnership's assets and the sum of the excess of the value of each general partner's nonpartnership assets over the partner's nonpartnership debts.~~

(3) ~~(4)~~ As used in this section:

(a) Assets do not include property that has been transferred, concealed, or removed with intent to hinder, delay, or defraud creditors or that has been transferred in a manner making the transfer voidable under this act.

(b) Debts do not include an obligation to the extent it is secured by a valid lien on property of the debtor not included as an asset.

Sec. 3. (1) Value is given for a transfer or an obligation if, in exchange for the transfer or obligation, property is transferred or an antecedent debt is secured or satisfied. Value does not include an unperformed promise made otherwise than in the ordinary course of the promisor's business to furnish support to the debtor or another person.

(2) For the purposes of ~~sections 4(a)(2)~~ **SECTION 4(1)(B)** and **SECTION 5**, a person gives a reasonably equivalent value if the

1 person acquires an interest of the debtor in an asset pursuant to a
 2 regularly conducted, noncollusive foreclosure sale or execution of
 3 a power of sale for the acquisition or disposition of the interest
 4 of the debtor upon default under a mortgage, deed of trust, or
 5 security agreement.

6 (3) A transfer is made for present value if the exchange
 7 between the debtor and the transferee is intended by them to be
 8 contemporaneous and is in fact substantially contemporaneous.

9 Sec. 4. (1) A ~~EXCEPT AS PROVIDED IN SUBSECTION (4), A~~ transfer
 10 made or obligation incurred by a debtor is ~~fraudulent~~ **VOIDABLE** as
 11 to a creditor, whether the creditor's claim arose before or after
 12 the transfer was made or the obligation was incurred, if the debtor
 13 made the transfer or incurred the obligation in either of the
 14 following **CIRCUMSTANCES**:

15 (a) With actual intent to hinder, delay, or defraud any
 16 creditor of the debtor.

17 (b) Without receiving a reasonably equivalent value in
 18 exchange for the transfer or obligation, and the debtor did either
 19 of the following:

20 (i) Was engaged or was about to engage in a business or a
 21 transaction for which the remaining assets of the debtor were
 22 unreasonably small in relation to the business or transaction.

23 (ii) Intended to incur, or believed or reasonably should have
 24 believed that ~~he or she~~ **THE DEBTOR** would incur, debts beyond ~~his or~~
 25 ~~her~~ **THE DEBTOR'S** ability to pay as they became due.

26 (2) In determining actual intent under subsection (1) (a) **OR**
 27 **(4)**, consideration may be given, among other factors, to whether 1

1 or more of the following occurred:

2 (a) The transfer or obligation was to an insider.

3 (b) The debtor retained possession or control of the property
4 transferred after the transfer.

5 (c) The transfer or obligation was disclosed or concealed.

6 (d) Before the transfer was made or obligation was incurred,
7 the debtor had been sued or threatened with suit.

8 (e) The transfer was of substantially all of the debtor's
9 assets.

10 (f) The debtor absconded.

11 (g) The debtor removed or concealed assets.

12 (h) The value of the consideration received by the debtor was
13 reasonably equivalent to the value of the asset transferred or the
14 amount of the obligation incurred.

15 (i) The debtor was insolvent or became insolvent shortly after
16 the transfer was made or the obligation was incurred.

17 (j) The transfer occurred shortly before or shortly after a
18 substantial debt was incurred.

19 (k) The debtor transferred the essential assets of the
20 business to a lienor ~~who~~ **THAT** transferred the assets to an insider
21 of the debtor.

22 **(3) A CREDITOR MAKING A CLAIM FOR RELIEF UNDER SUBSECTION (1)**
23 **HAS THE BURDEN OF PROVING THE ELEMENTS OF THE CLAIM FOR RELIEF BY A**
24 **PREPONDERANCE OF THE EVIDENCE.**

25 **(4) A QUALIFIED DISPOSITION IS FRAUDULENT AS TO THE CREDITOR**
26 **WHOSE CLAIM AROSE AFTER THE QUALIFIED DISPOSITION ONLY IF THE**
27 **QUALIFIED DISPOSITION WAS MADE WITH ACTUAL INTENT TO HINDER, DELAY,**

1 **OR DEFRAUD ANY CREDITOR OF THE DEBTOR.**

2 Sec. 5. (1) A transfer made or obligation incurred by a debtor
3 is ~~fraudulent~~**VOIDABLE** as to a creditor whose claim arose before
4 the transfer was made or the obligation was incurred if the debtor
5 made the transfer or incurred the obligation without receiving a
6 reasonably equivalent value in exchange for the transfer or
7 obligation and the debtor was insolvent at that time or the debtor
8 became insolvent as a result of the transfer or obligation.

9 (2) A transfer made by a debtor is ~~fraudulent~~**VOIDABLE** as to a
10 creditor whose claim arose before the transfer was made if the
11 transfer was made to an insider for an antecedent debt, the debtor
12 was insolvent at that time, and the insider had reasonable cause to
13 believe that the debtor was insolvent.

14 **(3) SUBJECT TO SECTION 2(2), A CREDITOR MAKING A CLAIM FOR**
15 **RELIEF UNDER SUBSECTION (1) OR (2) HAS THE BURDEN OF PROVING THE**
16 **ELEMENTS OF THE CLAIM FOR RELIEF BY A PREPONDERANCE OF THE**
17 **EVIDENCE.**

18 Sec. 6. (1) A transfer is made under this act when 1 of the
19 following occurs:

20 (a) With respect to an asset that is real property other than
21 a fixture, but including the interest of a seller or purchaser
22 under a contract for the sale of the asset, when the transfer is so
23 far perfected that a good-faith purchaser of the asset from the
24 debtor against ~~whom~~**WHICH** applicable law permits the transfer to be
25 perfected cannot acquire an interest in the asset that is superior
26 to the interest of the transferee.

27 (b) With respect to an asset that is not real property or that

1 is a fixture, when the transfer is so far perfected that a creditor
2 on a simple contract cannot acquire a judicial lien otherwise than
3 under this act that is superior to the interest of the transferee.

4 (2) If applicable law permits the transfer to be perfected as
5 provided in subsection (1) and the transfer is not so perfected
6 before the commencement of an action for relief under this act, the
7 transfer is considered made immediately before the commencement of
8 the action.

9 (3) If applicable law does not permit the transfer to be
10 perfected as provided in subsection (1), the transfer is made when
11 it becomes effective between the debtor and the transferee.

12 (4) A transfer is not made under this act until the debtor has
13 acquired rights in the asset transferred.

14 (5) An obligation is incurred under this act if 1 of the
15 following occurs:

16 (a) If oral, when it becomes effective between the parties.

17 (b) If evidenced by a ~~writing~~, **RECORD**, when the ~~writing~~
18 ~~executed~~ **RECORD SIGNED** by the obligor is delivered to or for the
19 benefit of the obligee.

20 Sec. 7. (1) In an action for relief against a transfer or
21 obligation under this act, a creditor, subject to the limitations
22 in section 8, may obtain 1 or more of the following:

23 (a) Avoidance of the transfer or obligation to the extent
24 necessary to satisfy the creditor's claim.

25 (b) An attachment **OR OTHER PROVISIONAL REMEDY** against the
26 asset transferred or other property of the transferee ~~to the extent~~
27 ~~authorized under section 4001 of the revised judicature act of~~

~~1961, 1961 PA 236, MCL 600.4001, and applicable court rules.~~ **IF**
AVAILABLE UNDER APPLICABLE LAW.

(c) Subject to applicable principles of equity and in accordance with applicable court rules and statutes, 1 or more of the following:

(i) An injunction against further disposition by the debtor or a transferee, or both, of the asset transferred or of other property.

(ii) Appointment of a receiver to take charge of the asset transferred or of other property of the transferee.

(iii) Any other relief the court determines appropriate.

(2) If a creditor has obtained a judgment on a claim against the debtor, the creditor, if the court so orders, may levy execution on the asset transferred or its proceeds.

Sec. 8. (1) A transfer or obligation is not voidable under section 4(1)(a) against a person ~~who~~ **THAT** took in good faith and for a reasonably equivalent value **GIVEN THE DEBTOR** or against any subsequent transferee or obligee.

(2) TO THE EXTENT A TRANSFER IS AVOIDABLE IN AN ACTION BY A CREDITOR UNDER SECTION 7(1)(A), ALL OF THE FOLLOWING RULES APPLY:

(A) Except as otherwise provided in this section, ~~to the extent a transfer is voidable in an action by a creditor under section 7(1)(a),~~ the creditor may recover a judgment for the value of the asset transferred, as adjusted under subsection (3), or the amount necessary to satisfy the creditor's claim, whichever is less. The judgment may be entered against either of the following:

(i) ~~(a)~~ The first transferee of the asset or the person for

1 whose benefit the transfer was made.

2 (ii) ~~(b) Any subsequent~~ **AN IMMEDIATE OR MEDIATE TRANSFEREE OF**
 3 **THE FIRST** transferee, other than a ~~or from any~~ **EITHER OF THE FOLLOWING:**

4 (A) A good-faith transferee who took for value. ~~or from any~~
 5 ~~subsequent transferee.~~

6 (B) **AN IMMEDIATE OR MEDIATE GOOD-FAITH TRANSFEREE OF A PERSON**
 7 **DESCRIBED IN SUB-SUBPARAGRAPH (A) .**

8 (B) **RECOVERY PURSUANT TO SECTION 7(1) (A) OR (2) OF OR FROM THE**
 9 **ASSET TRANSFERRED OR ITS PROCEEDS, BY LEVY OR OTHERWISE, IS**
 10 **AVAILABLE ONLY AGAINST A PERSON DESCRIBED IN SUBDIVISION (A) (i) OR**
 11 **(ii) .**

12 (3) If the judgment under subsection (2) is based upon the
 13 value of the asset transferred, the judgment ~~shall~~ **MUST** be for an
 14 amount equal to the value of the asset at the time of the transfer,
 15 subject to adjustment as the equities may require.

16 (4) Notwithstanding the voidability of a transfer or an
 17 obligation under this act, a good-faith transferee or obligee is
 18 entitled, to the extent of the value given the debtor for the
 19 transfer or obligation, to 1 or more of the following:

20 (a) A lien on or a right to retain ~~any~~ **AN** interest in the
 21 asset transferred.

22 (b) Enforcement of ~~any~~ **AN** obligation incurred.

23 (c) A reduction in the amount of the liability on the
 24 judgment.

25 (5) A transfer is not voidable under section 4(1)(b) or
 26 **SECTION 5** if the transfer results from either of the following:

27 (a) Termination of a lease upon default by the debtor when the

1 termination is pursuant to the lease and applicable law.

2 (b) Enforcement of a security interest in compliance with
 3 article 9 of the uniform commercial code, ~~1962 PA 174, MCL 440.9101~~
 4 ~~to 440.9708.~~ **OTHER THAN AN ACCEPTANCE OF COLLATERAL IN FULL OR**
 5 **PARTIAL SATISFACTION OF THE OBLIGATION IT SECURES.**

6 (6) A transfer is not voidable under section 5(2) ~~if~~ **IN** 1 or
 7 more of the following ~~occur~~ **CIRCUMSTANCES:**

8 (a) To the extent the insider gave new value to or for the
 9 benefit of the debtor after the transfer was made, ~~unless~~ **EXCEPT TO**
 10 **THE EXTENT** the new value was secured by a valid lien.

11 (b) If made in the ordinary course of business or financial
 12 affairs of the debtor and the insider.

13 (c) If made pursuant to a good-faith effort to rehabilitate
 14 the debtor and the transfer secured present value given for that
 15 purpose as well as an antecedent debt of the debtor.

16 **(7) THE FOLLOWING RULES DETERMINE THE BURDEN OF PROVING**
 17 **MATTERS REFERRED TO IN THIS SECTION:**

18 **(A) A PARTY THAT SEEKS TO INVOKE SUBSECTION (1), (4), (5), OR**
 19 **(6) HAS THE BURDEN OF PROVING THE APPLICABILITY OF THAT SUBSECTION.**

20 **(B) EXCEPT AS OTHERWISE PROVIDED IN SUBDIVISIONS (C) AND (D),**
 21 **THE CREDITOR HAS THE BURDEN OF PROVING EACH APPLICABLE ELEMENT OF**
 22 **SUBSECTION (2) OR (3).**

23 **(C) THE TRANSFEREE HAS THE BURDEN OF PROVING THE APPLICABILITY**
 24 **TO THE TRANSFEREE OF SUBSECTION (2) (A) (ii) (A) OR (B).**

25 **(D) A PARTY THAT SEEKS ADJUSTMENT UNDER SUBSECTION (3) HAS THE**
 26 **BURDEN OF PROVING THE ADJUSTMENT.**

27 **(8) THE STANDARD OF PROOF REQUIRED TO ESTABLISH MATTERS**

1 REFERRED TO IN THIS SECTION IS PREPONDERANCE OF THE EVIDENCE.

2 Sec. 9. A ~~cause of action~~ **CLAIM FOR RELIEF** with respect to a
3 ~~fraudulent transfer~~ or obligation under this act is extinguished
4 unless action is brought ~~under~~ **WITHIN** 1 or more of the following
5 **TIME PERIODS:**

6 (a) ~~Sections~~ **EXCEPT AS OTHERWISE PROVIDED IN SUBDIVISION (C),**
7 **IF THE CLAIM FOR RELIEF IS UNDER SECTION 4(1)(a) and OR (b) and OR**
8 **5(1),** within the time period specified in ~~sections~~ **SECTION 5813 and**
9 **OR 5855** of the revised judicature act of 1961, 1961 PA 236, MCL
10 600.5813 and 600.5855.

11 (b) ~~Section~~ **EXCEPT AS OTHERWISE PROVIDED IN SUBDIVISION (C),**
12 **IF THE CLAIM FOR RELIEF IS UNDER SECTION 5(2),** within 1 year after
13 the transfer was made or the obligation was incurred.

14 (C) **IF THE CLAIM FOR RELIEF IS UNDER SECTION 4 OR 5, WITH**
15 **RESPECT TO A QUALIFIED DISPOSITION, WITHIN THE TIME PROVIDED IN**
16 **SECTION 5 OF THE QUALIFIED DISPOSITIONS IN TRUST ACT.**

17 Sec. 10. (1) ~~Unless in conflict with the provisions of this~~
18 ~~act, the principles of law and equity, including the law merchant~~
19 ~~and the law relating to principal and agent, estoppel, laches,~~
20 ~~fraud, misrepresentation, duress, coercion, mistake, insolvency, or~~
21 ~~other validating or invalidating cause, supplement the provisions~~
22 ~~of this act.~~ **IN THIS SECTION, THE FOLLOWING RULES DETERMINE A**
23 **DEBTOR'S LOCATION:**

24 (A) **A DEBTOR WHO IS AN INDIVIDUAL IS LOCATED AT THE**
25 **INDIVIDUAL'S PRINCIPAL RESIDENCE.**

26 (B) **A DEBTOR THAT IS AN ORGANIZATION AND HAS ONLY 1 PLACE OF**
27 **BUSINESS IS LOCATED AT ITS PLACE OF BUSINESS.**

1 (C) A DEBTOR THAT IS AN ORGANIZATION AND HAS MORE THAN 1 PLACE
2 OF BUSINESS IS LOCATED AT ITS CHIEF EXECUTIVE OFFICE.

3 (2) A CLAIM FOR RELIEF IN THE NATURE OF A CLAIM FOR RELIEF
4 UNDER THIS ACT IS GOVERNED BY THE LOCAL LAW OF THE JURISDICTION IN
5 WHICH THE DEBTOR IS LOCATED WHEN THE TRANSFER IS MADE OR THE
6 OBLIGATION IS INCURRED.

7 Sec. 11. ~~(1) This act shall be applied and construed to~~
8 ~~effectuate its general purpose to make uniform the law of~~
9 ~~fraudulent conveyance among the states enacting it.~~ AS USED IN THIS
10 SECTION:

11 (A) "PROTECTED SERIES" MEANS AN ARRANGEMENT, HOWEVER
12 DENOMINATED, CREATED BY A SERIES ORGANIZATION THAT, PURSUANT TO THE
13 LAW UNDER WHICH THE SERIES ORGANIZATION IS ORGANIZED, HAS THE
14 CHARACTERISTICS SET FORTH IN SUBDIVISION (B).

15 (B) "SERIES ORGANIZATION" MEANS AN ORGANIZATION THAT, PURSUANT
16 TO THE LAW UNDER WHICH IT IS ORGANIZED, HAS THE FOLLOWING
17 CHARACTERISTICS:

18 (i) THE ORGANIC RECORD OF THE ORGANIZATION PROVIDES FOR
19 CREATION BY THE ORGANIZATION OF 1 OR MORE PROTECTED SERIES, HOWEVER
20 DENOMINATED, WITH RESPECT TO SPECIFIED PROPERTY OF THE
21 ORGANIZATION, AND FOR RECORDS TO BE MAINTAINED FOR EACH PROTECTED
22 SERIES THAT IDENTIFY THE PROPERTY OF OR ASSOCIATED WITH THE
23 PROTECTED SERIES.

24 (ii) DEBT INCURRED OR EXISTING WITH RESPECT TO THE ACTIVITIES
25 OF, OR PROPERTY OF OR ASSOCIATED WITH, A PARTICULAR PROTECTED
26 SERIES IS ENFORCEABLE AGAINST THE PROPERTY OF OR ASSOCIATED WITH
27 THE PROTECTED SERIES ONLY, AND NOT AGAINST THE PROPERTY OF OR

1 ASSOCIATED WITH THE ORGANIZATION OR OTHER PROTECTED SERIES OF THE
2 ORGANIZATION.

3 (iii) DEBT INCURRED OR EXISTING WITH RESPECT TO THE ACTIVITIES
4 OR PROPERTY OF THE ORGANIZATION IS ENFORCEABLE AGAINST THE PROPERTY
5 OF THE ORGANIZATION ONLY, AND NOT AGAINST THE PROPERTY OF OR
6 ASSOCIATED WITH A PROTECTED SERIES OF THE ORGANIZATION.

7 (2) A SERIES ORGANIZATION AND EACH PROTECTED SERIES OF THE
8 ORGANIZATION IS A SEPARATE PERSON FOR PURPOSES OF THIS ACT, EVEN IF
9 FOR OTHER PURPOSES A PROTECTED SERIES IS NOT A PERSON SEPARATE FROM
10 THE ORGANIZATION OR OTHER PROTECTED SERIES OF THE ORGANIZATION.

11 Sec. 12. ~~This act shall be known and may be cited as the~~
12 ~~"uniform fraudulent transfer act".~~ UNLESS DISPLACED BY THE
13 PROVISIONS OF THIS ACT, THE PRINCIPLES OF LAW AND EQUITY, INCLUDING
14 THE LAW MERCHANT AND THE LAW RELATING TO PRINCIPAL AND AGENT,
15 ESTOPPEL, LACHES, FRAUD, MISREPRESENTATION, DURESS, COERCION,
16 MISTAKE, INSOLVENCY, OR OTHER VALIDATING OR INVALIDATING CAUSE,
17 SUPPLEMENT THE PROVISIONS OF THIS ACT.

18 Sec. 13. ~~The uniform fraudulent conveyance act, 1919 PA 310,~~
19 ~~MCL 566.11 to 566.23, is repealed.~~ THIS ACT SHALL BE APPLIED AND
20 CONSTRUED TO EFFECTUATE ITS GENERAL PURPOSE TO MAKE UNIFORM THE LAW
21 WITH RESPECT TO THE SUBJECT OF THIS ACT AMONG THE STATES ENACTING
22 IT.

23 SEC. 14. THIS ACT MODIFIES, LIMITS, OR SUPERSEDES THE
24 ELECTRONIC SIGNATURES IN THE GLOBAL AND NATIONAL COMMERCE ACT, 15
25 USC 7001 TO 7031, BUT DOES NOT MODIFY, LIMIT, OR SUPERSEDE 15 USC
26 7001(C) OR AUTHORIZE ELECTRONIC DELIVERY OF ANY OF THE NOTICES
27 DESCRIBED IN 15 USC 7003(B).

1 SEC. 15. (1) THIS ACT, WHICH WAS FORMERLY KNOWN AND CITED AS
2 THE "UNIFORM FRAUDULENT TRANSFER ACT", SHALL BE KNOWN AND MAY BE
3 CITED AS THE "UNIFORM VOIDABLE TRANSACTIONS ACT".

4 (2) ALL OF THE FOLLOWING APPLY TO SECTIONS 1 TO 13 AS AMENDED,
5 AND TO SECTION 14 AND THIS SECTION AS ADDED, BY THE AMENDATORY ACT
6 THAT ADDED THIS SECTION:

7 (A) THE SECTIONS AS AMENDED OR ADDED APPLY TO A TRANSFER MADE
8 OR OBLIGATION INCURRED ON OR AFTER THE EFFECTIVE DATE OF THE
9 AMENDATORY ACT THAT ADDED THIS SECTION.

10 (B) THE SECTIONS AS AMENDED OR ADDED DO NOT APPLY TO A
11 TRANSFER MADE OR OBLIGATION INCURRED BEFORE THE EFFECTIVE DATE OF
12 THE AMENDATORY ACT THAT ADDED THIS SECTION.

13 (C) THE SECTIONS AS AMENDED OR ADDED DO NOT APPLY TO A RIGHT
14 OF ACTION THAT ACCRUED BEFORE THE EFFECTIVE DATE OF THE AMENDATORY
15 ACT THAT ADDED THIS SECTION.

16 (D) FOR PURPOSES OF THIS SUBSECTION, A TRANSFER IS MADE AND AN
17 OBLIGATION IS INCURRED AT THE TIME PROVIDED IN SECTION 6.

18 Enacting section 1. This amendatory act takes effect 90 days
19 after the date it is enacted into law.

20 Enacting section 2. This amendatory act does not take effect
21 unless all of the following bills of the 98th Legislature are
22 enacted into law:

23 (a) Senate Bill No. 597.

24 (b) Senate Bill No. 983.

25 (c) Senate Bill No. 984.

26 (d) Senate Bill No. 985.

27 (e) House Bill No. 5504.