

SENATE BILL No. 982

May 24, 2016, Introduced by Senator SCHUITMAKER and referred to the Committee on Judiciary.

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:

TITLE

An act to ~~define and regulate fraudulent transfers and~~
~~conveyances; to set~~ **PROVIDE FOR THE SETTING** aside and modify
MODIFICATION OF certain transfers, ~~and~~ conveyances, **AND**
OBLIGATIONS; to make uniform the law of fraudulent transfers; and
to ~~repeal acts and parts of acts.~~ **PROVIDE REMEDIES.**

1 Sec. 1. As used in this act:

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

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

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

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

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

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

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

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

26 (iv) A person ~~who~~**THAT** operates the debtor's business under a
27 lease or other agreement or controls substantially all of the

1 debtor's assets.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

27 (D) A corporation of which the debtor is a director, officer,

1 or person in control.

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

3 (A) A director of the debtor.

4 (B) An officer of the debtor.

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

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

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

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

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

12 (A) A general partner in the debtor.

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

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

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

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

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

22 (v) A managing agent of the debtor.

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

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

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

7 (L) ~~(j)~~ "Property" means anything that may be the subject of
8 ownership.

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

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

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

19 (i) EXECUTE OR ADOPT A TANGIBLE SYMBOL.

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

22 (P) ~~(l)~~ "Transfer" means every mode, direct or indirect,
23 absolute or conditional, voluntary or involuntary, of disposing of
24 or parting with an asset or an interest in an asset. Transfer
25 includes payment of money, release, lease, **LICENSE**, and creation of
26 a lien or other encumbrance. Transfer does not include any of the
27 following:

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

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

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

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

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

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

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

Sec. 2. (1) A debtor is insolvent if, **AT A FAIR VALUATION**, the sum of the debtor's debts is greater than ~~all~~ **THE SUM** of the 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**

1 ON THE PARTY AGAINST WHICH THE PRESUMPTION IS DIRECTED THE BURDEN
2 OF PROVING THAT THE NONEXISTENCE OF INSOLVENCY IS MORE PROBABLE
3 THAN ITS EXISTENCE.

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

9 (3) ~~(4)~~ As used in this section:

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

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

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

23 (2) For the purposes of ~~sections 4(a)(2)~~ **SECTION 4(1)(B)** and
24 **SECTION 5**, a person gives a reasonably equivalent value if the
25 person acquires an interest of the debtor in an asset pursuant to a
26 regularly conducted, noncollusive foreclosure sale or execution of
27 a power of sale for the acquisition or disposition of the interest

1 of the debtor upon default under a mortgage, deed of trust, or
2 security agreement.

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

6 Sec. 4. (1) A transfer made or obligation incurred by a debtor
7 is ~~fraudulent~~ **VOIDABLE** as to a creditor, whether the creditor's
8 claim arose before or after the transfer was made or the obligation
9 was incurred, if the debtor made the transfer or incurred the
10 obligation in either of the following **CIRCUMSTANCES**:

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

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

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

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

22 (2) In determining actual intent under subsection (1)(a),
23 consideration may be given, among other factors, to whether 1 or
24 more of the following occurred:

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

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

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

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

4 (e) The transfer was of substantially all of the debtor's
5 assets.

6 (f) The debtor absconded.

7 (g) The debtor removed or concealed assets.

8 (h) The value of the consideration received by the debtor was
9 reasonably equivalent to the value of the asset transferred or the
10 amount of the obligation incurred.

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

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

15 (k) The debtor transferred the essential assets of the
16 business to a lienor who transferred the assets to an insider of
17 the debtor.

18 **(3) A CREDITOR MAKING A CLAIM FOR RELIEF UNDER SUBSECTION (1)**
19 **HAS THE BURDEN OF PROVING THE ELEMENTS OF THE CLAIM FOR RELIEF BY A**
20 **PREPONDERANCE OF THE EVIDENCE.**

21 Sec. 5. (1) A transfer made or obligation incurred by a debtor
22 is ~~fraudulent~~ **VOIDABLE** as to a creditor whose claim arose before
23 the transfer was made or the obligation was incurred if the debtor
24 made the transfer or incurred the obligation without receiving a
25 reasonably equivalent value in exchange for the transfer or
26 obligation and the debtor was insolvent at that time or the debtor
27 became insolvent as a result of the transfer or obligation.

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

6 **(3) SUBJECT TO SECTION 2(2), A CREDITOR MAKING A CLAIM FOR**
7 **RELIEF UNDER SUBSECTION (1) OR (2) HAS THE BURDEN OF PROVING THE**
8 **ELEMENTS OF THE CLAIM FOR RELIEF BY A PREPONDERANCE OF THE**
9 **EVIDENCE.**

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

12 (a) With respect to an asset that is real property other than
13 a fixture, but including the interest of a seller or purchaser
14 under a contract for the sale of the asset, when the transfer is so
15 far perfected that a good-faith purchaser of the asset from the
16 debtor against ~~whom~~**WHICH** applicable law permits the transfer to be
17 perfected cannot acquire an interest in the asset that is superior
18 to the interest of the transferee.

19 (b) With respect to an asset that is not real property or that
20 is a fixture, when the transfer is so far perfected that a creditor
21 on a simple contract cannot acquire a judicial lien otherwise than
22 under this act that is superior to the interest of the transferee.

23 (2) If applicable law permits the transfer to be perfected as
24 provided in subsection (1) and the transfer is not so perfected
25 before the commencement of an action for relief under this act, the
26 transfer is considered made immediately before the commencement of
27 the action.

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

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

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

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

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

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

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

17 (b) An attachment **OR OTHER PROVISIONAL REMEDY** against the
18 asset transferred or other property of the transferee ~~to the extent~~
19 ~~authorized under section 4001 of the revised judicature act of~~
20 ~~1961, 1961 PA 236, MCL 600.4001, and applicable court rules.~~ **IF**
21 **AVAILABLE UNDER APPLICABLE LAW.**

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

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

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

3 (iii) Any other relief the court determines appropriate.

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

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

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

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

19 (i) ~~(a)~~ The first transferee of the asset or the person for
20 whose benefit the transfer was made.

21 (ii) ~~(b)~~ Any subsequent **AN IMMEDIATE OR MEDIATE TRANSFEREE OF**
22 **THE FIRST** transferee, other than a ~~either of the following:~~

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

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

27 (B) **RECOVERY PURSUANT TO SECTION 7(1)(A) OR (2) OF OR FROM THE**

1 ASSET TRANSFERRED OR ITS PROCEEDS, BY LEVY OR OTHERWISE, IS
 2 AVAILABLE ONLY AGAINST A PERSON DESCRIBED IN SUBDIVISION (A) (i) OR
 3 (ii) .

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

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

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

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

15 (c) A reduction in the amount of the liability on the
 16 judgment.

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

19 (a) Termination of a lease upon default by the debtor when the
 20 termination is pursuant to the lease and applicable law.

21 (b) Enforcement of a security interest in compliance with
 22 article 9 of the uniform commercial code, 1962 PA 174, MCL 440.9101
 23 to ~~440.9708-440.9994~~, **OTHER THAN AN ACCEPTANCE OF COLLATERAL IN**
 24 **FULL OR PARTIAL SATISFACTION OF THE OBLIGATION IT SECURES.**

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

27 (a) To the extent the insider gave new value to or for the

benefit of the debtor after the transfer was made, ~~unless~~ **EXCEPT TO THE EXTENT** the new value was secured by a valid lien.

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

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

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

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

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

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

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

(8) THE STANDARD OF PROOF REQUIRED TO ESTABLISH MATTERS REFERRED TO IN THIS SECTION IS PREPONDERANCE OF THE EVIDENCE.

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

~~Sections~~ **IF THE CLAIM FOR RELIEF IS UNDER SECTION 4(1) (a) and OR (b) and OR 5(1),** within the time period specified in ~~sections~~ **SECTION 5813 and OR 5855** of the revised judicature act of

1 1961, 1961 PA 236, MCL 600.5813 and 600.5855.

2 (b) ~~Section~~ **IF THE CLAIM FOR RELIEF IS UNDER SECTION 5(2)**,
3 within 1 year after the transfer was made or the obligation was
4 incurred.

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

12 (A) A DEBTOR WHO IS AN INDIVIDUAL IS LOCATED AT THE
13 INDIVIDUAL'S PRINCIPAL RESIDENCE.

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

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

18 (2) A CLAIM FOR RELIEF IN THE NATURE OF A CLAIM FOR RELIEF
19 UNDER THIS ACT IS GOVERNED BY THE LOCAL LAW OF THE JURISDICTION IN
20 WHICH THE DEBTOR IS LOCATED WHEN THE TRANSFER IS MADE OR THE
21 OBLIGATION IS INCURRED.

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

26 (A) "PROTECTED SERIES" MEANS AN ARRANGEMENT, HOWEVER
27 DENOMINATED, CREATED BY A SERIES ORGANIZATION THAT, PURSUANT TO THE

1 LAW UNDER WHICH THE SERIES ORGANIZATION IS ORGANIZED, HAS THE
2 CHARACTERISTICS SET FORTH IN SUBDIVISION (B).

3 (B) "SERIES ORGANIZATION" MEANS AN ORGANIZATION THAT, PURSUANT
4 TO THE LAW UNDER WHICH IT IS ORGANIZED, HAS THE FOLLOWING
5 CHARACTERISTICS:

6 (i) THE ORGANIC RECORD OF THE ORGANIZATION PROVIDES FOR
7 CREATION BY THE ORGANIZATION OF 1 OR MORE PROTECTED SERIES, HOWEVER
8 DENOMINATED, WITH RESPECT TO SPECIFIED PROPERTY OF THE
9 ORGANIZATION, AND FOR RECORDS TO BE MAINTAINED FOR EACH PROTECTED
10 SERIES THAT IDENTIFY THE PROPERTY OF OR ASSOCIATED WITH THE
11 PROTECTED SERIES.

12 (ii) DEBT INCURRED OR EXISTING WITH RESPECT TO THE ACTIVITIES
13 OF, OR PROPERTY OF OR ASSOCIATED WITH, A PARTICULAR PROTECTED
14 SERIES IS ENFORCEABLE AGAINST THE PROPERTY OF OR ASSOCIATED WITH
15 THE PROTECTED SERIES ONLY, AND NOT AGAINST THE PROPERTY OF OR
16 ASSOCIATED WITH THE ORGANIZATION OR OTHER PROTECTED SERIES OF THE
17 ORGANIZATION.

18 (iii) DEBT INCURRED OR EXISTING WITH RESPECT TO THE ACTIVITIES
19 OR PROPERTY OF THE ORGANIZATION IS ENFORCEABLE AGAINST THE PROPERTY
20 OF THE ORGANIZATION ONLY, AND NOT AGAINST THE PROPERTY OF OR
21 ASSOCIATED WITH A PROTECTED SERIES OF THE ORGANIZATION.

22 (2) A SERIES ORGANIZATION AND EACH PROTECTED SERIES OF THE
23 ORGANIZATION IS A SEPARATE PERSON FOR PURPOSES OF THIS ACT, EVEN IF
24 FOR OTHER PURPOSES A PROTECTED SERIES IS NOT A PERSON SEPARATE FROM
25 THE ORGANIZATION OR OTHER PROTECTED SERIES OF THE ORGANIZATION.

26 Sec. 12. ~~This act shall be known and may be cited as the~~
27 ~~"uniform fraudulent transfer act".~~ UNLESS DISPLACED BY THE

1 PROVISIONS OF THIS ACT, THE PRINCIPLES OF LAW AND EQUITY, INCLUDING
2 THE LAW MERCHANT AND THE LAW RELATING TO PRINCIPAL AND AGENT,
3 ESTOPPEL, LACHES, FRAUD, MISREPRESENTATION, DURESS, COERCION,
4 MISTAKE, INSOLVENCY, OR OTHER VALIDATING OR INVALIDATING CAUSE,
5 SUPPLEMENT THE PROVISIONS OF THIS ACT.

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

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

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

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

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

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

1 (C) THE SECTIONS AS AMENDED AND ADDED DO NOT APPLY TO A RIGHT
2 OF ACTION THAT ACCRUED BEFORE THE EFFECTIVE DATE OF THE AMENDATORY
3 ACT THAT ADDED THIS SECTION.

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

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

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

11 (a) Senate Bill No. 983.

12
13 (b) Senate Bill No. 984.

14
15 (c) Senate Bill No. 985.