

CREDIT UNION ACT (EXCERPT)
Act 215 of 2003

490.234 Voidable transfer or lien; person knowingly implementing voidable transfer or lien; personal liability; prohibitions to voiding otherwise voidable transfer; "preference" defined.

Sec. 234. (1) Except as provided in subsection (3), a transfer of or lien on the property or assets of a domestic credit union is voidable by a receiver appointed under this part if the transfer or lien is 1 or more of the following:

(a) Made or created within 1 year before the date the domestic credit union is ordered into receivership if the receiving transferee or lien holder was at the time an official or employee of the domestic credit union or an affiliate of the domestic credit union.

(b) Made or created on or within 90 days before the date the domestic credit union is ordered in receivership with the intent of giving to a creditor or depositor, or enabling a creditor or depositor to obtain, a greater percentage of the claimant's debt than is given or obtained by another claimant of the same class.

(c) Accepted after the domestic credit union is ordered in receivership by a creditor or depositor having reasonable cause to believe that a preference will occur.

(d) Voidable by the domestic credit union and the domestic credit union may recover the property transferred or its value from the person to whom it was transferred or from a person who has received it, unless the transferee or recipient was a bona fide holder for value before the date the domestic credit union was ordered in receivership.

(2) A person acting on behalf of the domestic credit union, who knowingly has participated in implementing a voidable transfer or lien, and each person receiving property or the benefit of property of the domestic credit union as a result of the voidable transfer or lien, is personally liable to the receiver for the property or benefit received.

(3) A receiver appointed under this part shall not void an otherwise voidable transfer under this section if any of the following apply:

(a) The transfer or lien does not exceed the value of \$1,000.00.

(b) The transfer or lien was received in good faith by a person who gave value and who is not a person described in subsection (1)(a).

(c) The transfer of lien was intended by the domestic credit union and the transferee or lien holder as, and in fact substantially was, a contemporaneous exchange for new value given to the domestic credit union.

(4) As used in this section, "preference" means a transfer or grant of an interest in the property or assets of the domestic credit union that is either of the following:

(a) Made or incurred with the intent to hinder, delay, or defraud an entity to which, on or after the date that the transfer or grant of interest was made, the domestic credit union was or became indebted.

(b) Made or incurred for less than a reasonably equivalent value in exchange for the transfer or grant of interest if the domestic credit union was insolvent on the date that the transfer or grant of interest was made or became insolvent as a result of the transfer or grant of interest.

History: 2003, Act 215, Eff. June 1, 2004;—Am. 2004, Act 471, Imd. Eff. Dec. 28, 2004.