



## 104TH GENERAL ASSEMBLY

### State of Illinois

2025 and 2026

HB0030

Introduced 1/9/2025, by Rep. Daniel Didech

#### SYNOPSIS AS INTRODUCED:

See Index

Amends the Uniform Fraudulent Transfer Act. Changes the short title to the Uniform Voidable Transactions Act. Makes changes to the Act that were recommended by the National Conference of Commissioners on Uniform State Laws in 2014, including: adding definitions for "electronic", "organization", "record", and "sign"; providing that a presumption of insolvency 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; removing language providing that a partnership is insolvent 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; providing that a creditor making a claim for relief has the burden of proving the elements of the claim for relief by a preponderance of the evidence; adding rules to determine the burden of proving matters regarding defenses, liability, and the protection of transferees or obligees; adding rules to determine a debtor's location; providing that a series organization and each protected series of the organization is a separate person, even if for other purposes a protected series is not a person separate from the organization of other protected series of the organization; how the Act relates to the Electronic Signatures in Global and National Commerce Act; and other changes. Makes conforming changes in the Illinois Insurance Code and the Illinois Trust Code.

LRB104 02886 LNS 12896 b

1 AN ACT concerning civil law.

2 **Be it enacted by the People of the State of Illinois,**  
3 **represented in the General Assembly:**

4 Section 5. The Illinois Insurance Code is amended by  
5 changing Sections 35B-25 and 204 as follows:

6 (215 ILCS 5/35B-25)

7 Sec. 35B-25. Plan of division approval.

8 (a) A division shall not become effective until it is  
9 approved by the Director after reasonable notice and a public  
10 hearing, if the notice and hearing are deemed by the Director  
11 to be in the public interest. Any decision by the Director on  
12 whether or not to hold a public hearing on either a plan of  
13 division or an amended plan of division may be made  
14 independently by the Director. The Director shall hold a  
15 public hearing if one is requested by the dividing company. A  
16 hearing conducted under this Section shall be conducted in  
17 accordance with Article 10 of the Illinois Administrative  
18 Procedure Act.

19 (b) The Director shall approve a plan of division unless  
20 the Director finds that:

21 (1) the interest of any class of policyholder or  
22 shareholder of the dividing company will not be properly  
23 protected;

1           (2) each new company created by the proposed division,  
2           except a new company that is a nonsurviving party to a  
3           merger pursuant to subsection (b) of Section 156, would be  
4           ineligible to receive a license to do insurance business  
5           in this State pursuant to Section 5;

6           (2.5) each new company created by the proposed  
7           division, except a new company that is a nonsurviving  
8           party to a merger pursuant to subsection (b) of Section  
9           156, that will be a member insurer of the Illinois Life and  
10          Health Insurance Guaranty Association and that will have  
11          policy liabilities allocated to it will not be licensed to  
12          do insurance business in each state where such policies  
13          were written by the dividing company;

14          (3) the proposed division violates a provision of the  
15          Uniform Voidable Transactions ~~Fraudulent Transfer~~ Act;

16          (4) the division is being made for purposes of  
17          hindering, delaying, or defrauding any policyholders or  
18          other creditors of the dividing company;

19          (5) one or more resulting companies will not be  
20          solvent upon the consummation of the division; or

21          (6) the remaining assets of one or more resulting  
22          companies will be, upon consummation of a division,  
23          unreasonably small in relation to the business and  
24          transactions in which the resulting company was engaged or  
25          is about to engage.

26          (c) In determining whether the standards set forth in

1 paragraph (3) of subsection (b) have been satisfied, the  
2 Director shall only apply the Uniform Voidable Transactions  
3 ~~Fraudulent Transfer~~ Act to a dividing company in its capacity  
4 as a resulting company and shall not apply the Uniform  
5 Voidable Transactions ~~Fraudulent Transfer~~ Act to any dividing  
6 company that is not proposed to survive the division.

7 (d) In determining whether the standards set forth in  
8 paragraphs (3), (4), (5), and (6) of subsection (b) have been  
9 satisfied, the Director may consider all proposed assets of  
10 the resulting company, including, without limitation,  
11 reinsurance agreements, parental guarantees, support or keep  
12 well agreements, or capital maintenance or contingent capital  
13 agreements, in each case, regardless of whether the same would  
14 qualify as an admitted asset as defined in Section 3.1.

15 (e) In determining whether the standards set forth in  
16 paragraph (3) of subsection (b) have been satisfied, with  
17 respect to each resulting company, the Director shall, in  
18 applying the Uniform Voidable Transactions ~~Fraudulent Transfer~~  
19 Act, treat:

20 (1) the resulting company as a debtor;

21 (2) liabilities allocated to the resulting company as  
22 obligations incurred by a debtor;

23 (3) the resulting company as not having received  
24 reasonably equivalent value in exchange for incurring the  
25 obligations; and

26 (4) assets allocated to the resulting company as

1 remaining property.

2 (f) All information, documents, materials, and copies  
3 thereof submitted to, obtained by, or disclosed to the  
4 Director in connection with a plan of division or in  
5 contemplation thereof, including any information, documents,  
6 materials, or copies provided by or on behalf of a domestic  
7 stock company in advance of its adoption or submission of a  
8 plan of division, shall be confidential and shall be subject  
9 to the same protection and treatment in accordance with  
10 Section 131.22 as documents and reports disclosed to or filed  
11 with the Director pursuant to subsection (a) of Section  
12 131.14b until such time, if any, as a notice of the hearing  
13 contemplated by subsection (a) is issued.

14 (g) From and after the issuance of a notice of the hearing  
15 contemplated by subsection (a), all business, financial, and  
16 actuarial information that the domestic stock company requests  
17 confidential treatment, other than the plan of division, shall  
18 continue to be confidential and shall not be available for  
19 public inspection and shall be subject to the same protection  
20 and treatment in accordance with Section 131.22 as documents  
21 and reports disclosed to or filed with the Director pursuant  
22 to subsection (a) of Section 131.14b.

23 (h) All expenses incurred by the Director in connection  
24 with proceedings under this Section, including expenses for  
25 the services of any attorneys, actuaries, accountants, and  
26 other experts as may be reasonably necessary to assist the

1 Director in reviewing the proposed division, shall be paid by  
2 the dividing company filing the plan of division. A dividing  
3 company may allocate expenses described in this subsection in  
4 a plan of division in the same manner as any other liability.

5 (i) If the Director approves a plan of division, the  
6 Director shall issue an order that shall be accompanied by  
7 findings of fact and conclusions of law.

8 (j) The conditions in this Section for freeing one or more  
9 of the resulting companies from the liabilities of the  
10 dividing company and for allocating some or all of the  
11 liabilities of the dividing company shall be conclusively  
12 deemed to have been satisfied if the plan of division has been  
13 approved by the Director in a final order that is not subject  
14 to further appeal.

15 (k) If a dividing company amends its plan of division at  
16 any time before the plan of division becomes effective,  
17 including after the Director's approval of the plan or after  
18 any hearing has been conducted under this Section, then the  
19 dividing company shall file the amended plan of division for  
20 approval by the Director pursuant to the provisions of this  
21 Section. If the Director has already issued an order approving  
22 the dividing company's previous plan of division under  
23 subsection (i), then that order shall not be rescinded by the  
24 Director's subsequent disapproval of an amended plan.

25 (1) If a hearing is conducted on the amended plan of  
26 division after the Director has approved a previous plan

1 of division, then the hearing shall not be considered a  
2 rehearing or a reopening of any hearing conducted on the  
3 previous plan. Nothing in this Section shall prohibit the  
4 dividing company from requesting a rehearing or reopening  
5 of any hearing conducted on any disapproved plan of  
6 division, amended or otherwise.

7 (2) Whether under direct review or in a hearing, the  
8 Director may rely on information already submitted or  
9 developed in connection with the previous plan of  
10 division, as well as any findings of fact or conclusions  
11 of law if a hearing has been conducted or an approval order  
12 has been issued on the previous plan, to the extent the  
13 information, findings, or conclusions remain relevant to  
14 the amended plan of division, and the Director shall  
15 collect any other information necessary to make a  
16 determination under subsection (b).

17 (3) The fee assessed under Section 408 for filing a  
18 plan of division shall not apply to the filing of an  
19 amended plan of division, but subsection (h) shall apply  
20 to all proceedings related to the amended plan.

21 (Source: P.A. 102-394, eff. 8-16-21; 102-578, eff. 7-1-22 (See  
22 Section 5 of P.A. 102-672 for effective date of P.A. 102-578);  
23 103-90, eff. 6-9-23.)

24 (215 ILCS 5/204) (from Ch. 73, par. 816)

25 Sec. 204. Prohibited and voidable transfers and liens.

1           (a) (1) A preference is a transfer of any of the property of  
2 a company to or for the benefit of a creditor, for or on  
3 account of an antecedent debt, made or suffered by the company  
4 within 2 years before the filing of a complaint under this  
5 Article, the effect of which may be to enable the creditor to  
6 obtain a greater percentage of this debt than another creditor  
7 of the same class would receive.

8           (2) Any preference may be avoided by the Director as  
9 rehabilitator, liquidator, or conservator if:

10           (A) the company was insolvent at the time of the  
11 transfer; and

12           (B) the transfer was made within 4 months before the  
13 filing of the complaint; or the creditor receiving it was  
14 (i) an officer, or any employee or attorney or other  
15 person who was in fact in a position of comparable  
16 influence in the company to an officer whether or not that  
17 person held such a position, (ii) any shareholder holding,  
18 directly or indirectly, more than 5% of any class of any  
19 equity security issued by the company, or (iii) any other  
20 person, firm, corporation, association, or aggregation of  
21 individuals with whom the company did not deal at arm's  
22 length.

23           (3) Where the preference is voidable, the Director as  
24 rehabilitator, liquidator, or conservator may recover the  
25 property or, if it has been converted, its value from any  
26 person who has received or converted the property; except



1 where a bona fide purchaser or lienor has given less than fair  
2 equivalent value, the purchaser or lienor shall have a lien  
3 upon the property to the extent of the consideration actually  
4 given. Where a preference by way of lien or security title is  
5 voidable, the court may on due notice order the lien or title  
6 to be preserved for the benefit of the estate, in which event  
7 the lien or title shall pass to the Director as rehabilitator  
8 or liquidator.

9 (b) (1) A transfer of property other than real property  
10 shall be deemed to be made or suffered when it becomes so far  
11 perfected that no subsequent lien obtainable by legal or  
12 equitable proceedings on a simple contract could become  
13 superior to the rights of the transferee.

14 (2) A transfer of real property shall be deemed to be made  
15 or suffered when it becomes so far perfected that no  
16 subsequent bona fide purchaser from the company could obtain  
17 rights superior to the rights of the transferee.

18 (3) A transfer that creates an equitable lien shall not be  
19 deemed to be perfected if there are available means by which a  
20 legal lien could be created.

21 (4) A transfer not perfected before the filing of a  
22 complaint shall be deemed to be made immediately before the  
23 filing of the complaint.

24 (5) The provisions of this subsection apply whether or not  
25 there are or were creditors who might have obtained liens or  
26 persons who might have become bona fide purchasers.

1 (c) For purposes of this Section:

2 (1) A lien obtainable by legal or equitable  
3 proceedings upon a simple contract is one arising in the  
4 ordinary course of the proceedings upon the entry or  
5 docketing of a judgment or decree, or upon attachment,  
6 garnishment, execution, or like process, whether before,  
7 upon, or after judgment or decree and whether before or  
8 upon levy. It does not include liens that, under  
9 applicable law, are given a special priority over other  
10 liens that are prior in time.

11 (2) A lien obtainable by legal or equitable  
12 proceedings could become superior to the rights of a  
13 transferee, or a purchaser could obtain rights superior to  
14 the rights of a transferee within the meaning of  
15 subsection (b) of this Section, if such consequences would  
16 follow only from the lien or purchase itself, or from the  
17 lien or purchase followed by any step wholly within the  
18 control of the respective lienholder or purchaser, with or  
19 without the aid of ministerial action by public officials.  
20 A lien could not, however, become superior and a purchase  
21 could not create superior rights for the purpose of  
22 subsection (b) of this Section through any acts subsequent  
23 to an obtaining of the lien or subsequent to a purchase  
24 that requires the agreement or concurrence of any third  
25 party or that requires any further judicial action or  
26 ruling.

1           (d) A transfer of property for or on account of a new and  
2 contemporaneous consideration which is deemed under subsection  
3 (b) of this Section to be made or suffered after the transfer  
4 because of delay in perfecting it does not thereby become a  
5 transfer for or on account of an antecedent debt if any acts  
6 required by the applicable law to be performed in order to  
7 perfect the transfer as against liens or bona fide purchasers'  
8 rights are performed within 21 days or any period expressly  
9 allowed by the law, whichever is less. A transfer to secure a  
10 future loan, if the loan is actually made, or a transfer that  
11 becomes security for a future loan, shall have the same effect  
12 as a transfer for or on account of a new and contemporaneous  
13 consideration.

14           (e) If any lien deemed voidable under part (2) of  
15 subsection (a) of this Section has been dissolved by the  
16 furnishing of a bond or other obligation, the surety on which  
17 has been indemnified directly or indirectly by the transfer of  
18 or the creation of a lien upon any property of a company before  
19 the filing of a complaint under this Article, the indemnifying  
20 transfer or lien shall also be deemed voidable.

21           (f) The property affected by any lien deemed voidable  
22 under subsections (a) and (e) of this Section shall be  
23 discharged from the lien, and that property and any of the  
24 indemnifying property transferred to or for the benefit of a  
25 surety shall pass to the Director as rehabilitator or  
26 liquidator, except that the court may, on due notice, order

1 any such lien to be preserved for the benefit of the estate and  
2 the court may direct that such conveyance be executed as may be  
3 proper or adequate to evidence the title of the Director as  
4 rehabilitator or liquidator.

5 (g) The court shall have summary jurisdiction over any  
6 proceeding by the Director as rehabilitator, liquidator, or  
7 conservator to hear and determine the rights of any parties  
8 under this Section. Reasonable notice of any hearings in the  
9 proceeding shall be given to all parties in interest,  
10 including the obligee of a releasing bond or other life  
11 obligation. Where an order is entered for the recovery of  
12 indemnifying property in kind or for the avoidance of an  
13 indemnifying lien, the court, upon application of any party in  
14 interest, shall in the same proceeding ascertain the value of  
15 the property or lien, and if the value is less than the amount  
16 for which the property is indemnity or than the amount of the  
17 lien, the transferee or lienholder may elect to retain the  
18 property or lien upon payment of its value, as ascertained by  
19 the court, to the Director as rehabilitator, liquidator, or  
20 conservator, within such reasonable times as the court shall  
21 fix.

22 (h) The liability of the surety under the releasing bond  
23 or other similar obligation shall be discharged to the extent  
24 of the value of the indemnifying property recovered or the  
25 indemnifying lien nullified and avoided by the Director as  
26 rehabilitator, liquidator, or conservator. Where the property

1 is retained under subsection (g) of this Section, the  
2 liability shall be discharged to the extent of the amount paid  
3 to the Director as rehabilitator, liquidator, or conservator.

4 (i) If a creditor has been preferred and thereafter in  
5 good faith gives the company further credit without security  
6 of any kind, for property which becomes a part of the company's  
7 estate, the amount of the new credit remaining unpaid at the  
8 time of the petition may be set off against the preference  
9 which would otherwise be recoverable from the creditor.

10 (j) If a company shall, directly or indirectly, within 4  
11 months before the filing of a complaint under this Article, or  
12 at any time in contemplation of such a proceeding, pay money or  
13 transfer property to any attorney for services rendered or to  
14 be rendered, the transactions may be examined by the court on  
15 its own motion or shall be examined by the court on petition of  
16 the Director as rehabilitator, liquidator, or conservator and  
17 shall be held valid only to the extent of a reasonable amount  
18 to be determined by the court, and the excess may be recovered  
19 by the Director as rehabilitator, liquidator, or conservator  
20 for the benefit of the estate provided that where the attorney  
21 is in a position of influence in the company or an affiliate  
22 thereof payment of any money or the transfer of any property to  
23 the attorney for services rendered or to be rendered shall be  
24 governed by item (B) of part (2) of subsection (a) of this  
25 Section.

26 (k)(1) An officer, director, manager, employee,

1 shareholder, member, subscriber, attorney, or other person  
2 acting on behalf of the company who knowingly participates in  
3 giving any preference when that officer, director, manager,  
4 employee, shareholder, member, subscriber, attorney, or other  
5 person has reasonable cause to believe the company is or is  
6 about to become insolvent at the time of the preference shall  
7 be personally liable to the Director as rehabilitator,  
8 liquidator, or conservator for the amount of the preference.  
9 There is a reasonable cause to so believe if the transfer was  
10 made within 4 months before the date of filing of the  
11 complaint.

12 (2) A person receiving any property from the company or  
13 the benefit thereof as a preference voidable under subsection  
14 (a) of this Section shall be personally liable therefor and  
15 shall be bound to account to the Director as rehabilitator,  
16 liquidator, or conservator.

17 (3) Nothing in this Section shall prejudice any other  
18 claim by the Director as rehabilitator, liquidator, or  
19 conservator against any person.

20 (1) For purposes of this Section, the company is presumed  
21 to have been insolvent on and during the 4 month period  
22 immediately preceding the date of the filing of the complaint.

23 (m) The Director as rehabilitator, liquidator, or  
24 conservator may not avoid a transfer under this Section to the  
25 extent that the transfer was:

26 (A) Intended by the company and the creditor to or for

1       whose benefit the transfer was made to be a  
2       contemporaneous exchange for new value given to the  
3       company, and was in fact a substantially contemporaneous  
4       exchange; or

5           (B) In payment of a debt incurred by the company in the  
6       ordinary course of business or financial affairs of the  
7       company and the transferee; made in the ordinary course of  
8       business or financial affairs of the company and the  
9       transferee; and made according to ordinary business terms;

10          (C) In the case of a transfer by a company where the  
11       Director has determined that an event described in Section  
12       35A-25 or 35A-30 has occurred, specifically approved by  
13       the Director in writing pursuant to this subsection,  
14       whether or not the company is in receivership under this  
15       Article. Upon approval by the Director, such a transfer  
16       cannot later be found to constitute a prohibited or  
17       voidable transfer based solely upon a deviation from the  
18       statutory payment priorities established by law for any  
19       subsequent receivership; or

20          (D) Of money or other property arising under or in  
21       connection with any Federal Home Loan Bank security  
22       agreement or any pledge, security, collateral or guarantee  
23       agreement, or any other similar arrangement or credit  
24       enhancement relating to a Federal Home Loan Bank security  
25       agreement.

26       (n) The Director as rehabilitator, liquidator, or

1 conservator may avoid any transfer of or lien upon the  
2 property of a company that the estate of the company or a  
3 policyholder, creditor, member, or stockholder of the company  
4 may have avoided, and the Director as rehabilitator,  
5 liquidator, or conservator may recover and collect the  
6 property so transferred or its value from the person to whom it  
7 was transferred unless the property was transferred to a bona  
8 fide holder for value before the filing of the complaint. The  
9 Director as rehabilitator, liquidator, or conservator shall be  
10 deemed a creditor for purposes of pursuing claims under the  
11 Uniform Voidable Transactions ~~Fraudulent Transfer~~ Act.

12 (o) Notwithstanding any provision of this Article to the  
13 contrary, a Federal Home Loan Bank shall not be stayed,  
14 enjoined, or prohibited from exercising or enforcing any right  
15 or cause of action regarding collateral pledged under any  
16 security agreement or any pledge, security, collateral or  
17 guarantee agreement, or any other similar arrangement or  
18 credit enhancement relating to a Federal Home Loan Bank  
19 security agreement.

20 (Source: P.A. 100-89, eff. 8-11-17.)

21 Section 10. The Uniform Fraudulent Transfer Act is amended  
22 by changing the title of the Act and Sections 1, 2, 3, 4, 5, 6,  
23 7, 8, 9, and 10 and by adding Sections 10.1, 10.2, and 14 as  
24 follows:



(740 ILCS 160/Act title)

An Act in relation to voidable transactions ~~fraudulent transfers~~.

(740 ILCS 160/1) (from Ch. 59, par. 101)

Sec. 1. Short title. This Act, which was formerly cited as the Uniform Fraudulent Transfer Act, ~~shall be known and~~ may be cited as the Uniform Voidable Transactions ~~Fraudulent Transfer~~ Act.

(Source: P.A. 86-814.)

(740 ILCS 160/2) (from Ch. 59, par. 102)

Sec. 2. Definitions. ~~As used in this Act:~~ As used in this Act:

(a) "Affiliate" means:

(1) a person that ~~who~~ directly or indirectly owns, controls, or holds with power to vote, 20% or more of the outstanding voting securities of the debtor, other than a person that ~~who~~ holds the securities: 7

(A) as a fiduciary or agent without sole discretionary power to vote the securities; or

(B) solely to secure a debt, if the person has not in fact exercised the power to vote;

(2) a corporation with 20% or more outstanding voting securities which are directly or indirectly owned, controlled, or held with power to vote, by the debtor or a

1 person that ~~who~~ directly or indirectly owns, controls, or  
2 holds with power to vote, 20% or more of the outstanding  
3 voting securities of the debtor, other than a person that  
4 ~~who~~ holds the securities: 7

5 (A) as a fiduciary or agent without sole  
6 discretionary power to vote the securities; or

7 (B) solely to secure a debt, if the person has not  
8 in fact exercised the power to vote;

9 (3) a person whose business is operated by the  
10 debtor under a lease or other agreement, or a person  
11 substantially all of whose assets are controlled by  
12 the debtor; or

13 (4) a person that ~~who~~ operates the debtor's business  
14 under a lease or other agreement or controls substantially  
15 all of the debtor's assets.

16 (b) "Asset" means property of a debtor, but the term does  
17 not include:

18 (1) property to the extent it is encumbered by a valid  
19 lien;

20 (2) property to the extent it is generally exempt  
21 under nonbankruptcy law ~~laws of this State~~; or

22 (3) an interest in property held in tenancy by the  
23 entirety to the extent it is not subject to process by a  
24 creditor holding a claim against only one tenant.

25 (c) "Claim", except as used in "claim for relief", means a  
26 right to payment, whether or not the right is reduced to

1 judgment, liquidated, unliquidated, fixed, contingent,  
2 matured, unmatured, disputed, undisputed, legal, equitable,  
3 secured, or unsecured.

4 (d) "Creditor" means a person that ~~who~~ has a claim,  
5 including a claim for past-due child support.

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

7 (f) "Debtor" means a person that ~~who~~ is liable on a claim.

8 (g) "Electronic" means relating to technology having  
9 electrical, digital, magnetic, wireless, optical,  
10 electromagnetic, or similar capabilities.

11 (h) ~~(g)~~ "Insider" includes:

12 (1) if the debtor is an individual: τ

13 (A) a relative of the debtor or of a general  
14 partner of the debtor;

15 (B) a partnership in which the debtor is a general  
16 partner;

17 (C) a general partner in a partnership described  
18 in clause (B); or

19 (D) a corporation of which the debtor is a  
20 director, officer, or person in control;

21 (2) if the debtor is a corporation: τ

22 (A) a director of the debtor;

23 (B) an officer of the debtor;

24 (C) a person in control of the debtor;

25 (D) a partnership in which the debtor is a general  
26 partner;

1 (E) a general partner in a partnership described  
2 in clause (D); or

3 (F) a relative of a general partner, director,  
4 officer, or person in control of the debtor;

5 (3) if the debtor is a partnership:7

6 (A) a general partner in the debtor;

7 (B) a relative of a general partner in, a general  
8 partner of, or a person in control of the debtor;

9 (C) another partnership in which the debtor is a  
10 general partner;

11 (D) a general partner in a partnership described  
12 in clause (C); or

13 (E) a person in control of the debtor;

14 (4) an affiliate, or an insider of an affiliate as if  
15 the affiliate were the debtor; and

16 (5) a managing agent of the debtor.

17 (i) ~~(h)~~ "Lien" means a charge against or an interest in  
18 property to secure payment of a debt or performance of an  
19 obligation, and includes a security interest created by  
20 agreement, a judicial lien obtained by legal or equitable  
21 process or proceedings, a common-law lien, or a statutory  
22 lien.

23 (j) "Organization" means a person other than an  
24 individual. ~~(i) "Person" means an individual, partnership,~~  
25 ~~corporation, association, organization, government or~~  
26 ~~governmental subdivision or agency, business trust, estate,~~

1 ~~trust, or any other legal or commercial entity.~~

2 (k) "Person" means an individual, estate, partnership,  
3 association, trust, business or nonprofit entity, public  
4 corporation, government or governmental subdivision, agency,  
5 or instrumentality, or other legal or commercial entity.

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

8 (m) "Record" means information that is inscribed on a  
9 tangible medium or that is stored in an electronic or other  
10 medium and is retrievable in perceivable form.

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

17 (o) "Sign" means, with present intent to authenticate or  
18 adopt a record:

19 (1) to execute or adopt a tangible symbol; or

20 (2) to attach to or logically associate with the  
21 record an electronic symbol, sound, or process.

22 (p) ~~(l)~~ "Transfer" means every mode, direct or indirect,  
23 absolute or conditional, voluntary or involuntary, of  
24 disposing of or parting with an asset or an interest in an  
25 asset, and includes payment of money, release, lease, license,  
26 and creation of a lien or other encumbrance.

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

4        (Source: P.A. 90-18, eff. 7-1-97.)

5                (740 ILCS 160/3) (from Ch. 59, par. 103)

6        Sec. 3. Insolvency.

7                (a) A debtor is insolvent if, at a fair valuation, the sum  
8        of the debtor's debts is greater than the sum ~~all~~ of the  
9        debtor's assets ~~at a fair valuation~~.

10               (b) A debtor that ~~who~~ is generally not paying the debtor's  
11        ~~his~~ debts as they become due other than as a result of a bona  
12        fide dispute is presumed to be insolvent. The presumption  
13        imposes on the party against which the presumption is directed  
14        the burden of proving that the nonexistence of insolvency is  
15        more probable than its existence.

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

21               (c) ~~(d)~~ Assets under this Section do not include property  
22        that has been transferred, concealed, or removed with intent  
23        to hinder, delay, or defraud creditors or that has been  
24        transferred in a manner making the transfer voidable under  
25        this Act.

1        ~~(d)(e)~~ Debts under this Section do not include an  
2 obligation to the extent it is secured by a valid lien on  
3 property of the debtor not included as an asset.

4        (Source: P.A. 86-814.)

5            (740 ILCS 160/4) (from Ch. 59, par. 104)

6        Sec. 4. Value.

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

13        (b) For the purposes of paragraph (2) of subsection (a) of  
14 Section 5 and Section 6, a person gives a reasonably  
15 equivalent value if the person acquires an interest of the  
16 debtor in an asset pursuant to a regularly conducted,  
17 noncollusive foreclosure sale or execution of a power of sale  
18 for the acquisition or disposition of the interest of the  
19 debtor upon default under a mortgage, deed of trust, or  
20 security agreement.

21        (c) A transfer is made for present value if the exchange  
22 between the debtor and the transferee is intended by them to be  
23 contemporaneous and is in fact substantially contemporaneous.

24        (Source: P.A. 86-814.)

(740 ILCS 160/5) (from Ch. 59, par. 105)

Sec. 5. Transfer or obligation voidable as to present or future creditor.

(a) A transfer made or obligation incurred by a debtor is voidable ~~fraudulent~~ as to a creditor, whether the creditor's claim arose before or after the transfer was made or the obligation was incurred, if the debtor made the transfer or incurred the obligation:

(1) with actual intent to hinder, delay, or defraud any creditor of the debtor; or

(2) without receiving a reasonably equivalent value in exchange for the transfer or obligation, and the debtor:

(A) was engaged or was about to engage in a business or a transaction for which the remaining assets of the debtor were unreasonably small in relation to the business or transaction; or

(B) intended to incur, or believed or reasonably should have believed that the debtor ~~he~~ would incur, debts beyond the debtor's ~~his~~ ability to pay as they became due.

(b) In determining actual intent under paragraph (1) of subsection (a), consideration may be given, among other factors, to whether:

(1) the transfer or obligation was to an insider;

(2) the debtor retained possession or control of the property transferred after the transfer;



1           (3) the transfer or obligation was disclosed or  
2       concealed;

3           (4) before the transfer was made or obligation was  
4       incurred, the debtor had been sued or threatened with  
5       suit;

6           (5) the transfer was of substantially all the debtor's  
7       assets;

8           (6) the debtor absconded;

9           (7) the debtor removed or concealed assets;

10          (8) the value of the consideration received by the  
11       debtor was reasonably equivalent to the value of the asset  
12       transferred or the amount of the obligation incurred;

13          (9) the debtor was insolvent or became insolvent  
14       shortly after the transfer was made or the obligation was  
15       incurred;

16          (10) the transfer occurred shortly before or shortly  
17       after a substantial debt was incurred; and

18          (11) the debtor transferred the essential assets of  
19       the business to a lienor that ~~who~~ transferred the assets  
20       to an insider of the debtor.

21       (c) A creditor making a claim for relief under subsection  
22       (a) has the burden of proving the elements of the claim for  
23       relief by a preponderance of the evidence.

24       (Source: P.A. 86-814.)

25       (740 ILCS 160/6) (from Ch. 59, par. 106)

1       Sec. 6. Transfer or obligation voidable as to present  
2 creditor.

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

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

16       (c) Subject to subsection (b) of Section 3, a creditor  
17 making a claim for relief under subsection (a) or (b) has the  
18 burden of proving the elements of the claim for relief by a  
19 preponderance of the evidence.

20       (Source: P.A. 86-814.)

21       (740 ILCS 160/7) (from Ch. 59, par. 107)

22       Sec. 7. When transfer is made or obligation is incurred.  
23 ~~For the purposes of this Act:~~ For the purposes of this Act:

24       (a) a transfer is made:

25           (1) with respect to an asset that is real property

1 other than a fixture, but including the interest of a  
2 seller or purchaser under a contract for the sale of the  
3 asset, when the transfer is so far perfected that a  
4 good-faith purchaser of the asset from the debtor against  
5 which ~~whom~~ applicable law permits the transfer to be  
6 perfected cannot acquire an interest in the asset that is  
7 superior to the interest of the transferee; and

8 (2) with respect to an asset that is not real property  
9 or that is a fixture, when the transfer is so far perfected  
10 that a creditor on a simple contract cannot acquire a  
11 judicial lien otherwise than under this Act that is  
12 superior to the interest of the transferee;

13 (b) if applicable law permits the transfer to be  
14 perfected as provided in subsection (a) and the transfer  
15 is not so perfected before the commencement of an action  
16 for relief under this Act, the transfer is deemed made  
17 immediately before the commencement of the action;

18 (c) if applicable law does not permit the transfer to be  
19 perfected as provided in subsection (a), the transfer is made  
20 when it becomes effective between the debtor and the  
21 transferee;

22 (d) a transfer is not made until the debtor has acquired  
23 rights in the asset transferred; and

24 (e) an obligation is incurred:

25 (1) if oral, when it becomes effective between the  
26 parties; or

1           (2) if evidenced by a record ~~writing~~, when the record  
2           signed ~~writing executed~~ by the obligor is delivered to or  
3           for the benefit of the obligee.

4           (Source: P.A. 86-814.)

5           (740 ILCS 160/8) (from Ch. 59, par. 108)

6           Sec. 8. Remedies of creditor.

7           (a) In an action for relief against a transfer or  
8           obligation under this Act, a creditor, subject to the  
9           limitations in Section 9, may obtain:

10           (1) avoidance of the transfer or obligation to the  
11           extent necessary to satisfy the creditor's claim;

12           (2) an attachment or other provisional remedy against  
13           the asset transferred or other property of the transferee  
14           if available under applicable law ~~in accordance with the~~  
15           ~~procedure prescribed by the Code of Civil Procedure; and~~

16           (3) subject to applicable principles of equity and in  
17           accordance with applicable rules of civil procedure: 7

18           (A) an injunction against further disposition by  
19           the debtor or a transferee, or both, of the asset  
20           transferred or of other property;

21           (B) appointment of a receiver to take charge of  
22           the asset transferred or of other property of the  
23           transferee; or

24           (C) any other relief the circumstances may  
25           require.

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

4 (Source: P.A. 86-814.)

5 (740 ILCS 160/9) (from Ch. 59, par. 109)

6 Sec. 9. Defenses, liability, and protection of transferee  
7 or obligee.

8 (a) A transfer or obligation is not voidable under  
9 paragraph (1) of subsection (a) of Section 5 against a person  
10 that ~~who~~ took in good faith and for a reasonably equivalent  
11 value given the debtor or against any subsequent transferee or  
12 obligee.

13 (b) To the extent a transfer is avoidable in an action by a  
14 creditor under paragraph (1) of subsection (a) of Section 8,  
15 the following rules apply:

16 (1) Except as otherwise provided in this Section, ~~to~~  
17 ~~the extent a transfer is voidable in an action by a~~  
18 ~~creditor under paragraph (1) of subsection (a) of Section~~  
19 ~~8,~~ the creditor may recover judgment ~~judgement~~ for the  
20 value of the asset transferred, as adjusted under  
21 subsection (c), or the amount necessary to satisfy the  
22 creditor's claim, whichever is less. The judgment may be  
23 entered against:

24 (A) ~~(1)~~ the first transferee of the asset or the  
25 person for whose benefit the transfer was made; or

1           (B) an immediate or mediate transferee of the  
2           first transferee, other than: ~~(2) any subsequent~~  
3           ~~transferee other than~~

4           (i) a good-faith transferee that ~~who~~ took for  
5           value; or ~~or from any subsequent transferee.~~

6           (ii) an immediate or mediate good-faith  
7           transferee of a person described in item (i).

8           (2) Recovery pursuant to paragraph (1) of subsection  
9           (a) or subsection (b) of Section 8 of or from the asset  
10           transferred or its proceeds, by levy or otherwise, is  
11           available only against a person described in subparagraph  
12           (A) or (B) of paragraph (1).

13           (c) If the judgment under subsection (b) is based upon the  
14           value of the asset transferred, the judgment must be for an  
15           amount equal to the value of the asset at the time of the  
16           transfer, subject to adjustment as the equities may require.

17           (d) Notwithstanding voidability of a transfer or an  
18           obligation under this Act, a good-faith transferee or obligee  
19           is entitled, to the extent of the value given the debtor for  
20           the transfer or obligation, to:

21           (1) a lien on or a right to retain an ~~any~~ interest in  
22           the asset transferred;

23           (2) enforcement of an ~~any~~ obligation incurred; or

24           (3) a reduction in the amount of the liability on the  
25           judgment.

26           (e) A transfer is not voidable under paragraph (2) of

1 subsection (a) of Section 5 or Section 6 if the transfer  
2 results from:

3 (1) termination of a lease upon default by the debtor  
4 when the termination is pursuant to the lease and  
5 applicable law; or

6 (2) enforcement of a security interest in compliance  
7 with Article 9 of the Uniform Commercial Code, other than  
8 acceptance of collateral in full or partial satisfaction  
9 of the obligation it secures.

10 (f) A transfer is not voidable under subsection (b) of  
11 Section 6:

12 (1) to the extent the insider gave new value to or for  
13 the benefit of the debtor after the transfer was made, except to the extent ~~unless~~ the new value was secured by a  
14 valid lien;

15 (2) if made in the ordinary course of business or  
16 financial affairs of the debtor and the insider; or

17 (3) if made pursuant to a good-faith effort to  
18 rehabilitate the debtor and the transfer secured present  
19 value given for that purpose as well as an antecedent debt  
20 of the debtor.

21 (g) The following rules determine the burden of proving  
22 matters referred to in this Section:

23 (1) A party that seeks to invoke subsection (a), (d),  
24 (e), or (f) has the burden of proving the applicability of  
25 that subsection.  
26

1           (2) Except as otherwise provided in paragraphs (3) and  
2           (4), the creditor has the burden of proving each  
3           applicable element of subsection (b) or (c).

4           (3) The transferee has the burden of proving the  
5           applicability to the transferee of item (i) or (ii) of  
6           subparagraph (B) of paragraph (1) of subsection (b).

7           (4) A party that seeks adjustment under subsection (c)  
8           has the burden of proving the adjustment.

9           (h) The standard of proof required to establish matters  
10          referred to in this Section is preponderance of the evidence.

11          (Source: P.A. 86-814.)

12           (740 ILCS 160/10) (from Ch. 59, par. 110)

13           Sec. 10. Extinguishment of claim for relief. A claim for  
14          relief ~~cause of action~~ with respect to a ~~fraudulent~~ transfer  
15          or obligation under this Act is extinguished unless action is  
16          brought:

17           (a) under paragraph (1) of subsection (a) of Section  
18           5, not later than ~~within~~ 4 years after the transfer was  
19           made or the obligation was incurred or, if later, not  
20           later than ~~within~~ one year after the transfer or  
21           obligation was or could reasonably have been discovered by  
22           the claimant;

23           (b) under paragraph (2) of subsection (a) of Section 5  
24           or subsection (a) of Section 6, not later than ~~within~~ 4  
25           years after the transfer was made or the obligation was



1 incurred; or

2 (c) under subsection (b) of Section 6, not later than  
3 ~~within~~ one year after the transfer was made ~~or the~~  
4 ~~obligation was incurred.~~

5 (Source: P.A. 86-814.)

6 (740 ILCS 160/10.1 new)

7 Sec. 10.1. Governing law.

8 (a) In this Section, the following rules determine a  
9 debtor's location:

10 (1) A debtor who is an individual is located at the  
11 individual's principal residence.

12 (2) A debtor that is an organization and has only one  
13 place of business is located at its place of business.

14 (3) A debtor that is an organization and has more than  
15 one place of business is located at its chief executive  
16 office.

17 (b) A claim for relief in the nature of a claim for relief  
18 under this Act is governed by the local law of the jurisdiction  
19 in which the debtor is located when the transfer is made or the  
20 obligation is incurred.

21 (740 ILCS 160/10.2 new)

22 Sec. 10.2. Application to series organization.

23 (a) In this Section:

24 (1) "Protected series" means an arrangement, however

1       denominated, created by a series organization that,  
2       pursuant to the law under which the series organization is  
3       organized, has the characteristics set forth in paragraph  
4       (2).

5       (2) "Series organization" means an organization that,  
6       pursuant to the law under which it is organized, has the  
7       following characteristics:

8               (A) The organic record of the organization  
9               provides for creation by the organization of one or  
10              more protected series, however denominated, with  
11              respect to specified property of the organization, and  
12              for records to be maintained for each protected series  
13              that identify the property of or associated with the  
14              protected series.

15              (B) Debt incurred or existing with respect to the  
16              activities of, or property of or associated with, a  
17              particular protected series is enforceable against the  
18              property of or associated with the protected series  
19              only, and not against the property of or associated  
20              with the organization or other protected series of the  
21              organization.

22              (C) Debt incurred or existing with respect to the  
23              activities or property of the organization is  
24              enforceable against the property of the organization  
25              only, and not against the property of or associated  
26              with a protected series of the organization.

1       (b) A series organization and each protected series of the  
2       organization is a separate person for purposes of this Act,  
3       even if for other purposes a protected series is not a person  
4       separate from the organization or other protected series of  
5       the organization.

6           (740 ILCS 160/14 new)

7       Sec. 14. Relation to the Electronic Signatures in Global  
8       and National Commerce Act. This Act modifies, limits, or  
9       supersedes the Electronic Signatures in Global and National  
10       Commerce Act, 15 U.S.C. Section 7001 et seq., but does not  
11       modify, limit, or supersede Section 101(c) of that Act, 15  
12       U.S.C. Section 7001(c), or authorize electronic delivery of  
13       any of the notices described in Section 103(b) of that Act, 15  
14       U.S.C. Section 7003(b).

15       Section 15. The Illinois Trust Code is amended by changing  
16       Sections 1332 and 1335 as follows:

17           (760 ILCS 3/1332)

18       Sec. 1332. Creditor claim: general power created by  
19       powerholder.

20       (a) In this Section, "power of appointment created by the  
21       powerholder" includes a power of appointment created in a  
22       transfer by another person to the extent the powerholder  
23       contributed value to the transfer.

1 (b) Appointive property subject to a general power of  
2 appointment created by the powerholder is subject to a claim  
3 of a creditor of the powerholder or of the powerholder's  
4 estate to the extent provided in the Uniform Voidable  
5 Transactions ~~Fraudulent Transfer~~ Act.

6 (c) Subject to subsection (b), appointive property subject  
7 to a general power of appointment created by the powerholder  
8 is not subject to a claim of a creditor of the powerholder or  
9 the powerholder's estate to the extent the powerholder  
10 irrevocably appointed the property in favor of a person other  
11 than the powerholder or the powerholder's estate.

12 (d) Subject to subsections (b) and (c), and  
13 notwithstanding the presence of a spendthrift provision or  
14 whether the claim arose before or after the creation of the  
15 power of appointment, appointive property subject to a general  
16 power of appointment created by the powerholder is subject to  
17 a claim of a creditor of:

18 (1) the powerholder, to the same extent as if the  
19 powerholder owned the appointive property, if the power is  
20 presently exercisable; and

21 (2) the powerholder's estate, to the extent the estate  
22 is insufficient to satisfy the claim and subject to the  
23 right of a decedent to direct the source from which  
24 liabilities are paid, if the power is exercisable at the  
25 powerholder's death.

26 (Source: P.A. 101-48, eff. 1-1-20.)

1 (760 ILCS 3/1335)

2 Sec. 1335. Creditor claim: nongeneral power.

3 (a) Except as otherwise provided in subsections (b) and  
4 (c), appointive property subject to a nongeneral power of  
5 appointment is exempt from a claim of a creditor of the  
6 powerholder or the powerholder's estate.

7 (b) Appointive property subject to a nongeneral power of  
8 appointment is subject to a claim of a creditor of the  
9 powerholder or the powerholder's estate to the extent that the  
10 powerholder owned the property and, reserving the nongeneral  
11 power, transferred the property in violation of the Uniform  
12 Voidable Transactions ~~Fraudulent Transfer~~ Act.

13 (c) If the initial gift in default of appointment is to the  
14 powerholder or the powerholder's estate, a nongeneral power of  
15 appointment is treated for purposes of this Section as a  
16 general power.

17 (Source: P.A. 101-48, eff. 1-1-20.)

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