

Colorado Legislative Council Staff Fiscal Note

NO FISCAL IMPACT

Drafting Number: LLS 15-0669
Prime Sponsor(s): Rep. Lee

Date: March 6, 2015
Bill Status: House Business, Affairs and Labor
Fiscal Analyst: Erin Reynolds (303-866-4146)

BILL TOPIC: COLORADO UNIFORM VOIDABLE TRANSACTIONS ACT

Summary of Legislation

This bill, **recommended by the Colorado Commission on Uniform State Laws**, implements a set of amendments to the Colorado Uniform Fraudulent Transfer Act, approved by the national Uniform Law Commission (ULC), including:

- changing the title of the act to the Colorado Uniform Voidable Transactions Act and replacing the word "fraud" with "voidable" throughout;
- clarifying that the applicable law in these cases is that of the debtor's residence, business location, or business headquarters;
- clarifying that a creditor has to prove by a preponderance of the evidence that a transaction is voidable;
- removing a special definition of insolvency for partnerships so that the general definition of insolvency now applies to partnerships;
- refining provisions relating to defenses available to a transferee or obligee; and
- providing that each protected series of a series organization is to be treated as a person under the act.

Background

Under the Colorado Uniform Fraudulent Transfer Act, a fraudulent transfer occurs when a debtor makes a transfer to a third party, such as a family member, with the intent to hinder, delay, or defraud a creditor. If the debtor is insolvent, a transfer where he or she receives less than a reasonably equivalent value in exchange for the goods is also considered a fraudulent transfer under the act. The act allows a fraudulent transfer to be voided and treated as if it never happened, making the property available to the creditor to satisfy a debt.

The Colorado Commission on Uniform State Laws is charged with working with the ULC to promote uniformity in state laws where uniformity may be deemed desirable and practicable. This is achieved by developing proposed uniform legislation through the ULC that can be adopted by the various state legislatures. Colorado's commissioners are required to be attorneys admitted to practice law in Colorado. Members include six attorneys appointed or reappointed by joint resolution of the General Assembly; any Colorado citizen who is elected as a life member of the ULC (after twenty years of membership); and the Director of the Office of Legislative Legal Services (OLLS), or the Director's designee. The OLLS provides assistance to the legislative members of the Colorado Commission in their efforts to enact legislation regarding uniform acts.

Assessment

The bill is assessed as having no fiscal impact. Because the amendments to the act address a narrow number of defined issues rather than completely revising the act, there are no impacts to state agencies.

Effective Date

The bill takes effect August 5, 2015, if the General Assembly adjourns on May 6, 2015, as scheduled, and no referendum petition is filed.

State and Local Government Contacts

Judicial Department
Legislative Legal Services

Law

Regulatory Agencies