

SENATE COMMERCE COMMITTEE

STATEMENT TO

SENATE, No. 3171

with committee amendments

STATE OF NEW JERSEY

DATED: JANUARY 21, 2021

The Senate Commerce Committee reports favorably and with committee amendments Senate Bill No. 3171.

As amended, this bill revises the “Uniform Fraudulent Transfer Act” by making changes approved and recommended for enactment in all states by the Uniform Law Commission, and in New Jersey by the New Jersey Law Revision Commission. The bill provides that the “Uniform Fraudulent Transfer Act” shall be known, on or after the bill’s effective date, as the “Uniform Voidable Transactions Act.”

Generally, the bill recategorizes certain transactions by debtors as “voidable” rather than “fraudulent” to more accurately reflect the nature of the transactions.

The bill establishes a “preponderance of evidence” standard, applicable to various provisions in the act, including providing that a creditor has the burden of proving the elements of a voidable transaction claim by a preponderance of the evidence.

The bill provides that a debtor that is generally not paying debts as they become due, other than as a result of a bona fide dispute, is presumed to be insolvent. The bill removes the requirement that the net worth of a general partner must be included in determining the insolvency of a partnership. The bill also makes certain revisions to provisions relating to the defenses available to a transferee or debtors.

The bill also provides statutory rules for determining a debtor’s location, and provides guidance to address conflict of law issues.

Moreover, the bill provides that the act generally modifies, limits, and supersedes the “Electronic Signatures in Global and National Commerce Act,” 15 U.S.C. s.7001 et seq., but with certain exceptions as noted in the bill.

Finally, the bill replaces references to the “Uniform Fraudulent Transfer Act” or the former “Uniform Fraudulent Conveyance Law” with references to the “Uniform Voidable Transactions Act,” and also repeals outdated sections of the law concerning fraudulent conveyances.

As amended and reported, this bill is identical to Assembly Bill No. 3384, as amended and reported by the Senate Commerce Committee on January 21, 2021.

COMMITTEE AMENDMENTS:

The committee amended the bill to:

- (1) replace a reference to the “Uniform Fraudulent Transfer Act” with a reference to the “Uniform Voidable Transactions Act”; and
- (2) repeal certain outdated provisions of law concerning fraudulent conveyances.