



# SENATE BILL 123: Uniform Fraudulent Transfer Act

2015-2016 General Assembly

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<b>Committee:</b>	Senate Judiciary II	<b>Date:</b>	March 16, 2015
<b>Introduced by:</b>	Sen. Hartsell	<b>Prepared by:</b>	Janice Paul
<b>Analysis of:</b>	PCS to First Edition S123-CSMN-1		Committee Counsel

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**SUMMARY:** *The PCS to Senate Bill 123 would amend the Uniform Fraudulent Transfer Act (UFTA) to adopt the amendments approved by the Uniform Law Commission in 2014 and to make related conforming and technical amendments, as recommended by the General Statutes Commission. The PCS makes technical changes to the bill.*

**CURRENT LAW AND BACKGROUND:** The law relating to fraudulent conveyances has been governed by an Act of the Parliament of England since 1376, during the reign of Edward III, and codified in this State since at least 1854. In North Carolina, the Uniform Fraudulent Transfer Act currently comprises Article 3A of Chapter 39 of the General Statutes. Under the UFTA, a “fraudulent transfer” occurs when a debtor transfers property to a third party with the intent to hinder, delay or defraud creditors, or, in the event that the debtor was insolvent at the time of the transfer, the debtor received less than reasonably equivalent value for the property. The UFTA provides a remedy for creditors against such third-party transferees by allowing a fraudulent transfer to be “voided,” that is, treated as though it never happened. As a result, the value of the property is returned to the debtor or to the debtor's estate.

**BILL ANALYSIS:** The Uniform Law Commission adopted a series of amendments to the UFTA and renamed it the "Uniform Voidable Transfers Act. The specifics of the Proposed Committee Substitute to Senate Bill 123 are contained in the memo of the General Statutes Commission that is attached to this summary.

**EFFECTIVE DATE:** This act becomes effective October 1, 2015, and applies to a transfer made or obligation incurred on or after that date.

*Bly Hall, Assistant Revisor of Statutes and Staff Attorney, Legislative Bill Drafting Division, substantially contributed to this summary.*

