

New Uniform Voidable Transactions Act Enacted by Eight States, Four to Consider

By: Earl Forte

Financial Restructuring and Bankruptcy Alert

10.28.15

Based on data from the Conference of Commissioners On Uniform State Laws, eight states (California, Georgia, Idaho, Kentucky, Minnesota, New Mexico, North Carolina and North Dakota) have enacted the new Uniform Voidable Transactions Act (UVTA) and four states (Colorado, Indiana, Massachusetts and Nevada) have it under consideration. The Commissioners drafted the new UVTA to replace the prior Uniform Fraudulent Transfer Act, which had been the law in 43 of 50 states, plus the District of Columbia. The UVTA may have local variation and the effective date in each state may also vary. See www.uniformcommission.org, Enactment Status Map.

The new UVTA will make substantial changes to current law such as:

- Fraud has been removed from the Act, including from its name.
- The burden of proof has been made uniform and in some cases lowered.
- It will be easier for plaintiffs to plead certain claims.
- Choice of law rules have been changed.
- Proving insolvency has changed for partnerships.
- Purchasers from secured creditors have new protections.
- D&O liability insurance coverage may be easier for defendants to obtain.
- Definitions and Official Comments have been updated.

More about the new UVTA can be found in the book by Earl M. Forte entitled *The Fraudulent Transfer (a/k/a Voidable Transactions) Handbook – 2015 Supplement* (1st Ed. 2015), available on www.Amazon.com. For questions, please contact Earl Forte (215.864.6822; fortee@whiteandwilliams.com).

This correspondence should not be construed as legal advice or legal opinion on any specific facts or circumstances. The contents are intended for general informational purposes only and you are urged to consult a lawyer concerning your own situation and legal questions.