

ASSEMBLY FINANCIAL INSTITUTIONS AND INSURANCE
COMMITTEE

STATEMENT TO

ASSEMBLY, No. 3384

STATE OF NEW JERSEY

DATED: OCTOBER 19, 2020

The Assembly Financial Institutions and Insurance Committee reports favorably Assembly Bill No. 3384.

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.

Finally, 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.

The bill also replaces references to the “Uniform Fraudulent Transfer Act” or the former “Uniform Fraudulent Conveyance Law” with references to the “Uniform Voidable Transactions Act.”