

Second Regular Session
Sixty-ninth General Assembly
STATE OF COLORADO

ENGROSSED

*This Version Includes All Amendments Adopted
on Second Reading in the House of Introduction*

LLS NO. 14-0939.01 Esther van Mourik x4215

HOUSE BILL 14-1302

HOUSE SPONSORSHIP

Buckner,

SENATE SPONSORSHIP

Johnston,

House Committees
Judiciary

Senate Committees

A BILL FOR AN ACT

101 **CONCERNING THE ADDITION OF A JUDGMENT AGAINST A DEBTOR OR**
102 **TRANSFeree WHO ACTS WITH ACTUAL INTENT AS AN AVAILABLE**
103 **REMEDY FOR A CREDITOR IN A FRAUDULENT TRANSFER ACTION.**

Bill Summary

(Note: This summary applies to this bill as introduced and does not reflect any amendments that may be subsequently adopted. If this bill passes third reading in the house of introduction, a bill summary that applies to the reengrossed version of this bill will be available at <http://www.leg.state.co.us/billsummaries>.)

The bill allows a creditor to seek a judgment in a fraudulent transfer action for 2 times the value of the asset transferred or for 2 times the amount necessary to satisfy the creditor's claim, whichever is less, together with the creditor's actual costs, against any debtor or transferee

Shading denotes HOUSE amendment. Double underlining denotes SENATE amendment.
Capital letters indicate new material to be added to existing statute.
Dashes through the words indicate deletions from existing statute.

HOUSE
Amended 2nd Reading
March 31, 2014

who acts with actual intent to hinder, delay, or defraud a creditor, either alone or in conspiracy with another.

1 *Be it enacted by the General Assembly of the State of Colorado:*

2 **SECTION 1.** In Colorado Revised Statutes, 38-8-108, **amend** (1)
3 as follows:

4 **38-8-108. Remedies of creditors.** (1) In an action for relief
5 against a transfer or obligation under this article, a creditor, subject to the
6 limitations in section 38-8-109, may obtain:

7 (a) Avoidance of the transfer or obligation to the extent necessary
8 to satisfy the creditor's claim;

9 (b) An attachment or other provisional remedy against the asset
10 transferred or other property of the transferee in accordance with the
11 procedure prescribed by the Colorado rules of civil procedure;

12 (c) WITH RESPECT TO A TRANSFER MADE OR OBLIGATION
13 INCURRED THAT IS FRAUDULENT UNDER SECTION 38-8-105 (1) (a), A
14 JUDGMENT FOR ONE AND ONE-HALF THE VALUE OF THE ASSET
15 TRANSFERRED OR FOR ONE AND ONE-HALF THE AMOUNT NECESSARY TO
16 SATISFY THE CREDITOR'S CLAIM, WHICHEVER IS LESS, TOGETHER WITH THE
17 CREDITOR'S ACTUAL COSTS; EXCEPT THAT ANY JUDGMENT ENTERED
18 AGAINST A PERSON UNDER THIS PARAGRAPH (c) IS IN LIEU OF, NOT IN
19 ADDITION TO, A JUDGMENT AGAINST THE SAME PERSON UNDER SECTION
20 38-8-109 (2). NO JUDGMENT MAY BE ENTERED PURSUANT TO THIS
21 PARAGRAPH (c) AGAINST A PERSON OTHER THAN THE DEBTOR UNLESS
22 THAT PERSON ALSO ACTS WITH WRONGFUL INTENT AS DEFINED IN SECTION
23 38-8-105 (1) (a); OTHERWISE, JUDGMENT FOR MONEY DAMAGES AGAINST
24 A PERSON OTHER THAN THE DEBTOR MAY BE ENTERED ONLY AS PROVIDED
25 IN SECTION 38-8-109. NO JUDGMENT MAY BE ENTERED UNDER THIS

1 PARAGRAPH (c) UNLESS A COURT OF COMPETENT JURISDICTION ENTERS OR
2 HAS ENTERED A JUDGMENT OR ORDER ESTABLISHING THE VALIDITY OF THE
3 CREDITOR'S CLAIM AGAINST THE DEBTOR.

4 (ε)(d) Subject to applicable principles of equity and in accordance
5 with applicable rules of civil procedure:

6 (I) An injunction against further disposition by the debtor or a
7 transferee, or both, of the asset transferred or of other property;

8 (II) Appointment of a receiver to take charge of the asset
9 transferred or of other property of the transferee; or

10 (III) Any other relief the circumstances may require.

11 **SECTION 2. Applicability.** This act applies to actions for relief
12 filed on or after the effective date of this act.

13 **SECTION 3. Safety clause.** The general assembly hereby finds,
14 determines, and declares that this act is necessary for the immediate
15 preservation of the public peace, health, and safety.