

NOTE: This bill has been prepared for the signatures of the appropriate legislative officers and the Governor. To determine whether the Governor has signed the bill or taken other action on it, please consult the legislative status sheet, the legislative history, or the Session Laws.



HOUSE BILL 14-1302

BY REPRESENTATIVE(S) Buckner, Exum, Fields, Foote, Kagan, McLachlan, Pettersen, Schafer, Tyler, Vigil;
also SENATOR(S) Johnston.

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

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

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

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

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

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

Capital letters indicate new material added to existing statutes; dashes through words indicate deletions from existing statutes and such material not part of act.

(c) WITH RESPECT TO A TRANSFER MADE OR OBLIGATION INCURRED THAT IS FRAUDULENT UNDER SECTION 38-8-105 (1) (a), A JUDGMENT FOR ONE AND ONE-HALF THE VALUE OF THE ASSET TRANSFERRED OR FOR ONE AND ONE-HALF THE AMOUNT NECESSARY TO SATISFY THE CREDITOR'S CLAIM, WHICHEVER IS LESS, TOGETHER WITH THE CREDITOR'S ACTUAL COSTS; EXCEPT THAT ANY JUDGMENT ENTERED AGAINST A PERSON UNDER THIS PARAGRAPH (c) IS IN LIEU OF, NOT IN ADDITION TO, A JUDGMENT AGAINST THE SAME PERSON UNDER SECTION 38-8-109 (2). NO JUDGMENT MAY BE ENTERED PURSUANT TO THIS PARAGRAPH (c) AGAINST A PERSON OTHER THAN THE DEBTOR UNLESS THAT PERSON ALSO ACTS WITH WRONGFUL INTENT AS DEFINED IN SECTION 38-8-105 (1) (a); OTHERWISE, JUDGMENT FOR MONEY DAMAGES AGAINST A PERSON OTHER THAN THE DEBTOR MAY BE ENTERED ONLY AS PROVIDED IN SECTION 38-8-109. NO JUDGMENT MAY BE ENTERED UNDER THIS PARAGRAPH (c) UNLESS A COURT OF COMPETENT JURISDICTION ENTERS OR HAS ENTERED A JUDGMENT OR ORDER ESTABLISHING THE VALIDITY OF THE CREDITOR'S CLAIM AGAINST THE DEBTOR.

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

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

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

(III) Any other relief the circumstances may require.

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

SECTION 3. Safety clause. The general assembly hereby finds,

determines, and declares that this act is necessary for the immediate preservation of the public peace, health, and safety.

Mark Ferrandino
SPEAKER OF THE HOUSE
OF REPRESENTATIVES

Morgan Carroll
PRESIDENT OF
THE SENATE

Marilyn Eddins
CHIEF CLERK OF THE HOUSE
OF REPRESENTATIVES

Cindi L. Markwell
SECRETARY OF
THE SENATE

APPROVED _____

John W. Hickenlooper
GOVERNOR OF THE STATE OF COLORADO