

§3575. Transfers fraudulent as to present and future creditors

1. Fraudulent transfer. A transfer made or obligation incurred by a debtor is fraudulent as to a creditor, whether the creditor's claim arose before or after the transfer was made or the obligation was incurred, if the debtor made the transfer or incurred the obligation:

A. With actual intent to hinder, delay or defraud any creditor of the debtor; or [PL 1985, c. 641, §3 (NEW).]

B. Without receiving a reasonably equivalent value in exchange for the transfer or obligations and the debtor:

(1) Was engaged or was about to engage in a business or a transaction for which the remaining assets of the debtor were unreasonably small in relation to the business or transaction; or

(2) Intended to incur, or believed or reasonably should have believed that he would incur, debts beyond his ability to pay as the debts became due. [PL 1985, c. 641, §3 (NEW).]

[PL 1985, c. 641, §3 (NEW).]

2. Determination of actual intent. In determining actual intent under subsection 1, paragraph A, consideration may be given, among other factors, to whether:

A. The transfer or obligation was to an insider; [PL 1985, c. 641, §3 (NEW).]

B. The debtor retained possession or control of the property transferred after the transfer; [PL 1985, c. 641, §3 (NEW).]

C. The transfer or obligation was disclosed or concealed; [PL 1985, c. 641, §3 (NEW).]

D. Before the transfer was made or obligation was incurred, the debtor sued or threatened with suit; [PL 1985, c. 641, §3 (NEW).]

E. The transfer was of substantially all the debtor's assets; [PL 1985, c. 641, §3 (NEW).]

F. The debtor absconded; [PL 1985, c. 641, §3 (NEW).]

G. The debtor removed or concealed assets; [PL 1985, c. 641, §3 (NEW).]

H. The value of the consideration received by the debtor was reasonably equivalent to the value of the asset transferred or the amount of the obligation incurred; [PL 1985, c. 641, §3 (NEW).]

I. The debtor was insolvent or became insolvent shortly after the transfer was made or the obligation was incurred; [PL 1985, c. 641, §3 (NEW).]

J. The transfer occurred shortly before or shortly after a substantial debt was incurred; and [PL 1985, c. 641, §3 (NEW).]

K. The debtor transferred the essential assets of the business to a lienor who had transferred the assets to an insider of the debtor. [PL 1985, c. 641, §3 (NEW).]

[PL 1985, c. 641, §3 (NEW).]

SECTION HISTORY

PL 1985, c. 641, §3 (NEW).

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