

MAINE STATE LEGISLATURE

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L.D. 770
(Filing No. S- 418)

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STATE OF MAINE
SENATE
112TH LEGISLATURE
SECOND REGULAR SESSION

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COMMITTEE AMENDMENT "A " to S.P. 244, L.D. 770,
Bill, "AN ACT to Adopt a State Uniform Fraudulent
Transfer Act."

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Amend the Bill in section 3 in that part design-
ated "§3572." in subsection 2, paragraph A in the
last line (page 3, line 7 in L.D.) by inserting after
the underlined word and punctuation "lien;" the un-
derlined word 'or'

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Further amend the Bill in section 3 in that part
designated "§3572." in subsection 2, paragraph B in
the last line (page 3, line 9 in L.D.) by striking
out the underlined punctuation and word "; or" and
inserting in their place the underlined punctuation
'.'

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Further amend the Bill in section 3 in that part
designated "§3572." in subsection 2 by striking out
all of paragraph C.

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Further amend the Bill in section 3 in that part
designated "§3572." in subsection 12 in the 3rd line
(page 5, line 16 in L.D.) by striking out the under-
lined words "of disposing" and inserting in their
place the underlined words 'or disposing' and in the
next to the last line (page 5, line 18 in L.D.) by
striking out the underlined words "and creation" and
inserting in their place the underlined words 'or
creation'

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Further amend the Bill in section 3 in that part
designated "§3573." in subsection 4 in the first line
(page 6, line 1 in L.D.) by striking out the follow-
ing: "4. Assets." and inserting in its place the
following: '4. Assets; exclusion.'

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1 Further amend the Bill in section 3 in that part
2 designated "§3574." in subsection 2 in the first line
3 (page 6, line 18 in L.D.) by inserting after the un-
4 derlined word "value" the following: '; foreclosure'

5 Further amend the Bill in section 3 in that part
6 designated "§3574." in subsection 3 in the first line
7 (page 6, line 27 in L.D.) by striking out the under-
8 lined words and punctuation "Transfer; obligation."
9 and inserting in their place the following:
10 'Contemporaneous transfer'

11 Further amend the Bill in section 3 in that part
12 designated "§3577." in subsection 1 in the first line
13 (page 8, line 28 in L.D.) by striking out the under-
14 lined word "trade" and inserting in its place the un-
15 derlined word 'transfer'

16 Further amend the Bill in section 3 in that part
17 designated "§3577." in subsection 2 in the first line
18 (page 9, line 7 in L.D.) by striking out the follow-
19 ing: "2. Transfer prior to commencement of action."
20 and inserting in its place the following:
21 '2. Transfer; relation back'

22 Further amend the Bill in section 3 in that part
23 designated "§3577." in subsection 3 in the first line
24 (page 9, line 13 in L.D.) by striking out the follow-
25 ing: "3. Transfer made when it became effective."
26 and inserting in its place the following: '3. Other
27 transfer.'

28 Further amend the Bill in section 3 in that part
29 designated "§3577." in subsection 5 in the first line
30 (page 9, line 22 in L.D.) by striking out the under-
31 lined words "Obligation when" and inserting in their
32 place the following: 'An obligation is'

33 Further amend the Bill in section 3 in that part
34 designated "§3579." by striking out all of the first
35 paragraph of subsection 5 (page 11, lines 20 to 23 in

COMMITTEE AMENDMENT " A " to S.P. 244, L.D. 770

1 L.D.) and inserting in its place the following:

2 '5. Defenses; lease termination and foreclosure
3 of security interest. A transfer is not voidable un-
4 der section 3575, subsection 1, paragraph B, or sec-
5 tion 3576, subsection 1, if the transfer results
6 from:'

7 Further amend the Bill in section 3 in that part des-
8 ignated "§3579." in subsection 6 in the first line
9 (page 11, line 30 in L.D.) by striking out the under-
10 lined words and punctuation "Transfer to insider."
11 and inserting in their place the underlined words and
12 punctuation 'Defenses; insider transfers.'

13 Further amend the Bill in section 3 in that part
14 designated "§3580." in subsection 1 in the last line
15 (page 12, line 17 in L.D.) by inserting after the un-
16 derlined word and punctuation "claimant;" the un-
17 derlined word 'or'

18 Further amend the Bill in section 3 in that part
19 designated "§3580." by striking out all of subsec-
20 tions 2 and 3 and inserting in their place the fol-
21 lowing:

22 '2. Failure to receive reasonably equivalent
23 value; transfer to insider. Under section 3575, sub-
24 section 1, paragraph B, or section 3576, subsection 1
25 or 2, within 6 years after the transfer was made or
26 the obligation was incurred.'

27 Further amend the Bill in section 3 by inserting
28 at the end the following:

29 '§3582. Uniformity of application and construction

30 This Act shall be applied and construed to effec-
31 tuate its general purpose to make uniform the law
32 with respect to the subject of this Act among states
33 enacting it.'

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STATEMENT OF FACT

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The main purpose of this amendment is to make technical corrections, such as in subsection headings, to clarify portions of the bill.

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Three more substantive changes are also made by this amendment. Section 3572, subsection 2, paragraph C is deleted. This provision from the Uniform Fraudulent Transfer Act is not applicable in the State. Under Maine law, property held in joint tenancy is subject to process by a creditor holding a claim against only one tenant, so paragraph C has no application in the State.

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Section 3580, subsection 3 is deleted by this amendment and section 3580, subsection 2 is amended with reference to the limitations period during which an action must be brought based on a fraudulent transfer to an insider. The Uniform Fraudulent Transfer Act suggests a statute of limitations of one year with regard to fraudulent transfers to insiders. The bill recommends a 2-year statute of limitations. The amendment provides for a 6-year statute of limitations, making the limitation period consistent with the traditional 6-year statute of limitations applicable to civil actions under Maine law.

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Section 3582 is added by this amendment. This section was inadvertently omitted from the bill when it was printed and is a standard section included in uniform acts.

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Reported by Sen. Carpenter for the Committee on Judiciary.
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