

HOUSE No. 1932

The Commonwealth of Massachusetts

PRESENTED BY:

Alice Hanlon Peisch

To the Honorable Senate and House of Representatives of the Commonwealth of Massachusetts in General Court assembled:

The undersigned legislators and/or citizens respectfully petition for the adoption of the accompanying bill:

An Act relative to the uniform voidable transactions act.

PETITION OF:

NAME:	DISTRICT/ADDRESS:	DATE ADDED:
<i>Alice Hanlon Peisch</i>	<i>14th Norfolk</i>	<i>1/17/2025</i>

HOUSE No. 1932

By Representative Peisch of Wellesley, a petition (accompanied by bill, House, No. 1932) of Alice Hanlon Peisch relative to uniform voidable transactions. The Judiciary.

[SIMILAR MATTER FILED IN PREVIOUS SESSION
SEE HOUSE, NO. 1716 OF 2023-2024.]

The Commonwealth of Massachusetts

**In the One Hundred and Ninety-Fourth General Court
(2025-2026)**

An Act relative to the uniform voidable transactions act.

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

1 SECTION 1. Chapter 109A of the General Laws is hereby amended by striking out the
2 title, as so appearing, and inserting in place thereof the following title:- UNIFORM VOIDABLE
3 TRANSACTIONS ACT.

4 SECTION 2. Section 1 of chapter 109A, as appearing in the 2022 Official Edition, is
5 hereby amended by striking out, in lines 1 and 2, the words “may be cited as the Uniform
6 Fraudulent Transfer Act” and inserting in place thereof the following words:-, which was
7 formerly cited as the Uniform Fraudulent Transfer Act, may be cited as the Uniform Voidable
8 Transactions Act.

9 SECTION 3. Section 2 of said chapter 109A, as so appearing, is hereby amended by
10 inserting, in line 17, after the word “sole” the following word:- discretionary.

11 SECTION 4. Said section 2 of said chapter 109A is hereby further amended by inserting
12 after the definition of “debtor” the following definition:-

13 “Electronic”, relating to technology having electrical, digital, magnetic, wireless, optical,
14 electromagnetic or similar capabilities.

15 SECTION 5. Said section 2 of said chapter 109A is hereby further amended by striking
16 out the definition of “person” and inserting in place thereof the following definitions:-

17 “Organization”, a person other than an individual.

18 “Person”, an individual, estate, partnership, association, trust, business or nonprofit
19 entity, public corporation, government or governmental subdivision, agency, or instrumentality,
20 or other legal or commercial entity. The term includes a protected series, however denominated,
21 of an entity if the protected series is established under law other than this Act that limits, or
22 limits if conditions specified under the law are satisfied, the ability of a creditor of the entity or
23 of any other protected series of the entity to satisfy a claim from assets of the protected series.

24 SECTION 6. Said section 2 of said chapter 109A is hereby further amended by inserting
25 after the definition of “property” the following definition:-

26 “Record”, information that is inscribed on a tangible medium or that is stored in an
27 electronic or other medium and is retrievable in perceivable form.

28 SECTION 7. Said section 2 of said chapter 109A is hereby further amended by inserting
29 after the definition of “relative” the following definition:-

30 “Sign”, with present intent to authenticate or adopt a record: (i) to execute or adopt a
31 tangible symbol; or (ii) to attach to or logically associate with the record an electronic symbol,
32 sound, or process.

33 SECTION 8. Said section 2 of said chapter 109A is hereby further amended by inserting,
34 in line 82, after the word “lease,” the following word:- license.

35 SECTION 9. Said chapter 109A is hereby amended by striking out section 3 and
36 inserting in place thereof the following section:-

37 Section 3. (a) A debtor is insolvent if, at a fair valuation, the sum of the debtor’s debts is
38 greater than the sum of the debtor’s assets.

39 (b) A debtor that is generally not paying the debtor’s debts as they become due other than
40 as a result of a bona fide dispute is presumed to be insolvent. The presumption imposes on the
41 party against which the presumption is directed the burden of proving that the nonexistence of
42 insolvency is more probable than its existence.

43 (c) Assets under this section shall not include property that has been transferred,
44 concealed, or removed with intent to hinder, delay, or defraud creditors or that has been
45 transferred in a manner making the transfer voidable under this chapter.

46 (d) Debts under this section shall not include an obligation to the extent it is secured by a
47 valid lien on property of the debtor not included as an asset.

48 SECTION 10. Section 5 of said chapter 109A, as so appearing, is hereby amended by
49 striking out, in line 2, the word “fraudulent” and inserting in place thereof the following word:-
50 voidable.

51 SECTION 11. Said section 5 of said chapter 109A is hereby further amended by striking
52 out, in line 13, the words “he would incur, debts beyond his” and inserting in place thereof the
53 following words:- the debtor would incur, debts beyond the debtor’s.

54 SECTION 12. Said section 5 of said chapter 109A is hereby further amended by striking
55 out, in line 34, the word “who” and inserting in place thereof the following word:- that.

56 SECTION 13. Said section 5 of said chapter 109A is hereby further amended by inserting
57 after subsection (b) the following subsection:-

58 (c) A creditor making a claim for relief under subsection (a) has the burden of proving the
59 elements of the claim for relief by a preponderance of the evidence.

60 SECTION 14. Section 6 of said chapter 109A, as so appearing, is hereby amended by
61 striking out, in lines 2 and 8, the word “fraudulent” each time it appears and inserting in place
62 thereof, in each instance, the following word:- “voidable”.

63 SECTION 15. Said section 6 of said chapter 109A is hereby further amended by inserting
64 after subsection (b) the following subsection:-

65 (c) Subject to subsection (b) of section 3, a creditor making a claim for relief under
66 subsection (a) or (b) has the burden of proving the elements of the claim for relief by a
67 preponderance of the evidence.

68 SECTION 16. Section 7 of said chapter 109A, as so appearing, is hereby amended by
69 striking out, in line 7, the word “whom” and inserting in place thereof the following word:-
70 which.

71 SECTION 17. Said section 7 of said chapter 109A is hereby further amended by
72 inserting, in line 23, after the word “transferred;” the following word:- and.

73 SECTION 18. Said section 7 of said chapter 109A is hereby further amended by striking
74 out, in line 26, the words “writing, when the writing executed” and inserting in place thereof the
75 following words:- record, when the record signed.

76 SECTION 19. Section 8 of said chapter 109A, as so appearing, is hereby amended by
77 striking out paragraph (2) of subsection (a) and inserting in place thereof the following
78 paragraph:-

79 (2) an attachment or other provisional remedy against the asset transferred or other
80 property of the transferee if available under applicable law; and

81 SECTION 20. Said section 8 of said chapter 109A is hereby further amended by striking
82 out, in line 13, the comma after the word “procedure” and inserting in place thereof a colon.

83 SECTION 21. Said chapter 109A is hereby amended by striking out section 9 and
84 inserting in place thereof the following section:-

85 Section 9. (a) A transfer or obligation is not voidable under paragraph (1) of subsection
86 (a) of section 5 against a person that took in good faith and for a reasonably equivalent value
87 given the debtor or against any subsequent transferee or obligee.

88 (b) To the extent a transfer is avoidable in an action by a creditor under paragraph (1) of
89 subsection (a) of section 8, the following rules apply:

90 (1) Except as otherwise provided in this section, the creditor may recover judgment for
91 the value of the asset transferred, as adjusted under subsection (c), or the amount necessary to
92 satisfy the creditor's claim, whichever is less. The judgment may be entered against:

93 (i) the first transferee of the asset or the person for whose benefit the transfer was made;

94 or

95 (ii) an immediate or mediate transferee of the first transferee, other than:

96 (A) a good-faith transferee that took for value; or

97 (B) an immediate or mediate good-faith transferee of a person described in clause (A).

98 (2) Recovery pursuant to paragraph (1) of subsection (a) or (b) of section 8 of or from the
99 asset transferred or its proceeds, by levy or otherwise, is available only against a person
100 described in clause (i) or (ii) of paragraph (1).

101 (c) If the judgment under subsection (b) is based upon the value of the asset transferred,
102 the judgment shall be for an amount equal to the value of the asset at the time of the transfer,
103 subject to adjustment as the equities may require.

104 (d) Notwithstanding voidability of a transfer or an obligation under this chapter, a good-
105 faith transferee or obligee is entitled, to the extent of the value given the debtor for the transfer or
106 obligation, to:

107 (1) a lien on or a right to retain an interest in the asset transferred;

108 (2) enforcement of an obligation incurred; or

109 (3) a reduction in the amount of the liability on the judgment.

110 (e) A transfer is not voidable under paragraph (2) of subsection (a) of section 5 or section
111 6 if the transfer results from:

112 (1) termination of a lease upon default by the debtor when the termination is pursuant to
113 the lease and applicable law; or

114 (2) enforcement of a security interest in compliance with Article 9 of chapter 106, other
115 than acceptance of collateral in full or partial satisfaction of the obligation it secures.

116 (f) A transfer is not voidable under subsection (b) of section 6:

117 (1) to the extent the insider gave new value to or for the benefit of the debtor after the
118 transfer was made, except to the extent the new value was secured by a valid lien;

119 (2) if made in the ordinary course of business or financial affairs of the debtor and the
120 insider; or

121 (3) if made pursuant to a good-faith effort to rehabilitate the debtor and the transfer
122 secured present value given for that purpose as well as an antecedent debt of the debtor.

123 (g) The following rules determine the burden of proving matters referred to in this
124 section:

125 (1) A party that seeks to invoke subsection (a), (d), (e) or (f) has the burden of proving
126 the applicability of that subsection.

127 (2) Except as otherwise provided in paragraphs (3) and (4), the creditor has the burden of
128 proving each applicable element of subsection (b) or (c).

129 (3) The transferee has the burden of proving the applicability to the transferee of clause
130 (A) or (B) of clause (ii) of paragraph 1 of subsection (b).

131 (4) A party that seeks adjustment under subsection (c) has the burden of proving the
132 adjustment.

133 (h) The standard of proof required to establish matters referred to in this section is by a
134 preponderance of the evidence.

135 SECTION 22. Section 10 of said chapter 109A, as so appearing, is hereby amended by
136 striking out, in line 1, the words “A cause of action with respect to a fraudulent” and inserting in
137 place thereof the following words:- A claim for relief with respect to a.

138 SECTION 23. Said section 10 of said chapter 109A is hereby further amended by striking
139 out, in lines 4, 6, 9 and 11, the word “within” each time it appears and inserting in place thereof,
140 in each instance, the following words:- not later than.

141 SECTION 24. Said chapter 109A is hereby amended by striking out sections 11 and 12
142 and inserting in place thereof the following sections:-

143 Section 11. (a) In this section, the following rules determine a debtor’s location:

144 (1) A debtor who is an individual is located at the individual’s principal residence.

145 (2) A debtor that is an organization and has only one place of business is located at its
146 place of business.

147 (3) A debtor that is an organization and has more than one place of business is located at
148 its principal place of business.

149 (b) A claim for relief under this chapter is governed by the local law of the jurisdiction in
150 which the debtor is located when the transfer is made or the obligation is incurred.

151 Section 12. Unless otherwise required by the provisions of this chapter, the principles of
152 law and equity, including the law merchant and the law relating to principal and agent, estoppel,
153 laches, fraud, misrepresentation, duress, coercion, mistake, insolvency, or other validating or
154 invalidating cause, shall supplement its provisions.

155 SECTION 25. Said chapter 109A is hereby amended by inserting after section 13 the
156 following sections:-

157 Section 14. This chapter shall be applied and construed to effectuate its general purpose
158 to make uniform the law with respect to the subject of this chapter among states which enact it.

159 Section 15. This chapter modifies, limits or supersedes the Electronic Signatures in Global
160 and National Commerce Act, 15 U.S.C. Section 7001 et seq., but does not modify, limit, or
161 supersede Section 101(c) of that act, 15 U.S.C. Section 7001(c), or authorize electronic delivery
162 of any of the notices described in Section 103(b) of that act, 15 U.S.C. Section 7003(b).

163 Section 16. The official comments to the Uniform Voidable Transactions Act, as added
164 by the Uniform Law Commission in 2014 with the adoption of the changes to the Uniform
165 Fraudulent Transfer Act, are not part of this act and may or may not reflect current
166 Massachusetts law.

167 SECTION 26. The amendments to chapter 109A made by this Act: (a) apply to a transfer
168 made or obligation incurred on or after the effective date of the amendments; (b) do not apply to
169 a transfer made or obligation incurred before the effective date of the amendments; and (c) do

170 not apply to a right of action that has accrued before the effective date of the amendments. A

171 transfer is made and an obligation is incurred at the time provided in section 6 of chapter 109A.