



CIVIL CODE - CIV

DIVISION 4. GENERAL PROVISIONS [3274 - 9566] (*Heading of Division 4 amended by Stats. 1988, Ch. 160, Sec. 16.*)

PART 2. SPECIAL RELATIONS OF DEBTOR AND CREDITOR [3429 - 3449] (*Part 2 enacted 1872.*)

TITLE 2. VOID AND VOIDABLE TRANSFERS AND UNDERTAKINGS [3439 - 3449] (*Heading of Title 2 amended by Stats. 2015, Ch. 44, Sec. 1.*)

CHAPTER 1. Uniform Voidable Transactions Act [3439 - 3439.14] (*Heading of Chapter 1 amended by Stats. 2015, Ch. 44, Sec. 2.*)

3439.04. (a) A transfer made or obligation incurred by a debtor is voidable 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 as follows:

- (1) With actual intent to hinder, delay, or defraud any creditor of the debtor.
- (2) Without receiving a reasonably equivalent value in exchange for the transfer or obligation, and the debtor either:
 - (A) 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.
 - (B) Intended to incur, or believed or reasonably should have believed that the debtor would incur, debts beyond the debtor's ability to pay as they became due.
- (b) In determining actual intent under paragraph (1) of subdivision (a), consideration may be given, among other factors, to any or all of the following:
 - (1) Whether the transfer or obligation was to an insider.
 - (2) Whether the debtor retained possession or control of the property transferred after the transfer.
 - (3) Whether the transfer or obligation was disclosed or concealed.
 - (4) Whether before the transfer was made or obligation was incurred, the debtor had been sued or threatened with suit.
 - (5) Whether the transfer was of substantially all the debtor's assets.
 - (6) Whether the debtor absconded.
 - (7) Whether the debtor removed or concealed assets.
 - (8) Whether 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.
 - (9) Whether the debtor was insolvent or became insolvent shortly after the transfer was made or the obligation was incurred.
 - (10) Whether the transfer occurred shortly before or shortly after a substantial debt was incurred.

(11) Whether the debtor transferred the essential assets of the business to a lienor that transferred the assets to an insider of the debtor.

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

(Amended by Stats. 2015, Ch. 44, Sec. 6. (SB 161) Effective January 1, 2016.)