



STATE SENATOR

**Eric Wimberger**

DISTRICT 30

**State Senator Eric Wimberger  
Senate Committee on Financial Institutions and Sporting  
Heritage**

**Re: Adoption of the Uniform Voidable Transaction Act  
Tuesday, December 19th, 2023**

Thank you Chairman Stafsholt and committee members for allowing me to testify on Senate Bill 450, which would adopt the Uniform Law Commission's 2014 Uniform Fraudulent Transfer Act (UFTA).

Senate Bill 450 is an update to the Uniform Fraudulent Transfer Act (UFTA), to be renamed the Uniform Voidable Transactions Act (UVTA), which Wisconsin adopted in 1988 to prohibit certain transactions and transfers of funds to avoid paying off a debt. The bill before you does the following:

- Clarifies confusing terms to reduce misunderstandings by courts. This includes replacing the term "fraudulent" with "voidable" to reflect the meaning and operation of the law accurately;
- Makes clear that a claim under the UVTA must be made where the debtor is located when a voidable transfer occurs. This will eliminate costly debates over which state's laws apply, creating greater certainty and predictability that will save time and money;
- Improves provisions for determining when a debtor is considered insolvent;
- Includes updates for emerging legal developments like electronic communications, and the treatment of "protected series organizations," a new type of business entity;
- Clearly establishes the "preponderance of the evidence" standard and identifies which party bears the burden of proof for varying provisions.

These changes make important and necessary updates to Wisconsin law surrounding unlawful transfers and transactions. The UVTA is suggested legislation by the Council of State Governments and approved by the American Bar Association. The 2014 UVTA amendments have been enacted in 23 states, including our neighboring states - Michigan, Minnesota, Iowa, and Indiana.

Thank you, again for holding a hearing on Senate Bill 450 and I hope you will join me in supporting this bill.

State Capitol • PO Box 7882  
Madison, WI 53707-7882  
(608) 266-5670 • (800) 385-3385  
Sen.Wimberger@legis.wi.gov

## BUSINESS LAW SECTION

---

**To: Senate Committee on Financial Institutions and Sporting Heritage**  
**Date: December 19, 2023**  
**Re: Support of SB 450 – Relating to: Adopting Modifications and renaming the Uniform Fraudulent Transfer Act to the Uniform Voidable Transactions Act**

---

The Business Law Section of the State Bar supports the passage of SB 450 relating to modifications and renaming the Uniform Fraudulent Transfer Act to the Uniform Voidable Transactions Act. We would like to thank Senator Wimberger and Representative Tusler for sponsoring this important legislation and for their work as members on the Uniform Law Commission.

In Wisconsin, a Commission on Uniform State Laws is created by Wis. Stat. §13.55. The Wisconsin commission consists of nine members: two public members appointed by the governor, four legislative members (two from each house and from different political parties), the director of the Legislative Council or staff designee, and chief of the Legislative Reference Bureau or staff designee.

The Wisconsin Commission meets annually to review all current and previous uniform acts passed by the Uniform Law Commission (ULC). The ULC includes commissioners from every state as well as members from the District of Columbia, the Commonwealth of Puerto Rico and the U.S. Virgin Islands. Each individual jurisdiction appoints its commissioners, all of whom must be members of the bar. The ULC goal is to promote a unified and practical set of laws that states can enact either in entirety or with modifications based on existing established law or case law. A good example of the ULC's work is the adoption of the Uniform Commercial Code.

The Wisconsin Commission often requests that practice sections of the State Bar further review and study uniform laws for possible adoption. The State Bar's Business Law Section reviewed the act and voted to support the passage of AB 453.

The existing Uniform Fraudulent Transfer Act is out of date, and its unfortunate name has caused confusion in the Court system, as the statute does not require fraudulent activity as a condition to its application. With allegations of "fraud" requiring a heightened pleading standard and a higher burden of proof, this confusion has caused errant rulings refusing to apply the law to achieve its purpose. Furthermore, the bill clarifies other thorny issues that practitioners have encountered in working with the existing law.

The Business Law Section believes that the bill will better achieve the intended purpose of the existing law, will clarify rights and responsibilities of parties in debtor-creditor relationships, and reduce the uncertainty of application plaguing the existing law.

If you have any additional questions, please contact Cale Battles, Government Relations Coordinator, at (608) 695-5686 or [cbattles@wisbar.org](mailto:cbattles@wisbar.org).

*The State Bar of Wisconsin establishes and maintains sections for carrying on the work of the association, each within its proper field of study defined in its bylaws. Each section consists of members who voluntarily enroll in the section because of a special interest in the particular field of law to which the section is dedicated. Section positions are taken on behalf of the section only. The views expressed on this issue have not been approved by the Board of Governors of the State Bar of Wisconsin and are not the views of the State Bar as a whole. These views are those of the Section alone.*



STATE BAR OF WISCONSIN