

**DRAFTING COMMITTEE  
AMENDMENTS TO THE UNIFORM FRAUDULENT TRANSFER ACT**

**Agenda**

April 19-20, 2013  
Washington, D.C.

Edwin E. Smith, *Chair*  
Kenneth C. Kettering, *Reporter*

Materials distributed before this meeting:

- A. Draft amendments to the UFTA (“Draft”)

Materials previously distributed referred to herein:

- B. Memorandum dated January 9, 2012 from Edwin E. Smith to Richard J. Cassidy, *Report of the Committee on Choice of Law for Fraudulent Transfer* (“Study Committee First Report”)
- C. Memorandum dated June 9, 2012 from Edwin E. Smith to Richard J. Cassidy, *Supplemental Report* (“Study Committee Second Report”)
- D. Kenneth C. Kettering, *Codifying a Choice of Law Rule for Fraudulent Transfer: A Memorandum to the Uniform Law Commission*, 19 Am. Bankr. Inst. L. Rev. 319 (2011) (“Kettering Article”)
- E. Memorandum dated November 7, 2012 from Matthew J. Cursio to Edwin Smith, *Proposed Updates to the Uniform Fraudulent Transfer Act – Burdens of Proof and Reasonably Equivalent Value under Section 8(a)* (“Cursio memorandum”)

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1. Introductory remarks from the Chair (Smith).
  2. Choice of law. (Draft § 10; definitions at § 1(9)(“organization”), § 1(13)(“State”); related comments at § 1 cmt. 9, § 1 cmt. 13).  
Materials: Study Committee First Report; Study Committee Second Report, pp. 1-2, 16-17; Kettering Article
  3. Burdens of proof and presumptions.  
(Draft §§ 4(c), 5(c), 8(g); related comments at § 4 cmts. 11, 12, § 5 cmt. 4, § 8 cmt. 7).  
Materials: Study Committee First Report, p. 4; Kettering Article, pp. 325-27; Cursio memorandum, pp. 1-11
  4. Partnership insolvency. (Draft § 2(c); related comment at § 2 cmt. 3).
  5. Series organizations. (Draft § 1(10) (“person”); related comment at § 1 cmt. 10).
  6. Clarification of UFTA § 8(a). (Draft § 8 cmt. 1).  
Materials: Study Committee Second Report, pp. 7-12; Cursio memorandum pp. 11-14

7. Other changes to the statutory text.
  - A. Correcting “avoidable” to “fraudulent”. (Draft §§ 2(d), 8(a), 8(d), 8(e), 8(f)).
  - B. 1984 technical corrections. (Draft, Reporter’s Introductory Note).
8. Other changes to the comments.
  - A. Section 4, Comment 2 (applicability of § 4 to future/unidentified creditors)
  - B. Section 4, Comment 9 (potential applicability of § 4 to transactions intended to reduce liquidity, including conversion of a corporation to an LLC or partnership)
  - C. Section 4, Comment 10 (independence of the UFTA and other laws, including corporation laws restricting distributions)
  - D. Section 7, Comment 7 (meaning of “avoidance”; avoidance of fraudulent obligations)
  - E. Section 8, Comment 5 (Section 8(e)(2) safe harbor for Article 9 remedies applies to strict foreclosure and collection of receivables, as well as to foreclosure sale)
  - F. Section 9, Comment 1 (implications of phrasing limitation period to abolish the right and not merely the remedy)
  - G. Minor changes, including the following:
    1. Section 3, Comment 1
    2. Section 3, Comment 5 (addition of cite to *BFP v. Resolution Trust Corp.*)
  - H. Prefatory Note (2014); Prefatory Note (1984)
9. Other issues.
10. Agenda for next meeting.
11. Adjournment (by 5:00 pm (Eastern time), Saturday April 20, 2013)