

## CHAPTER 143

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**PROPERTY**

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**HOUSE BILL 14-1302**

BY REPRESENTATIVE(S) Buckner, Exum, Fields, Foote, Kagan, McLachlan, Pettersen, Schafer, Tyler, Vigil;  
also SENATOR(S) Johnston.

**AN ACT**

**CONCERNING THE ADDITION OF A JUDGMENT AGAINST A DEBTOR OR TRANSFEREE WHO ACTS WITH ACTUAL INTENT AS AN AVAILABLE REMEDY FOR A CREDITOR IN A FRAUDULENT TRANSFER ACTION.**

*Be it enacted by the General Assembly of the State of Colorado:*

**SECTION 1.** In Colorado Revised Statutes, 38-8-108, **amend** (1) as follows:

**38-8-108. Remedies of creditors.** (1) In an action for relief against a transfer or obligation under this article, a creditor, subject to the limitations in section 38-8-109, may obtain:

(a) Avoidance of the transfer or obligation to the extent necessary to satisfy the creditor's claim;

(b) An attachment or other provisional remedy against the asset transferred or other property of the transferee in accordance with the procedure prescribed by the Colorado rules of civil procedure;

(c) WITH RESPECT TO A TRANSFER MADE OR OBLIGATION INCURRED THAT IS FRAUDULENT UNDER SECTION 38-8-105 (1) (a), A JUDGMENT FOR ONE AND ONE-HALF THE VALUE OF THE ASSET TRANSFERRED OR FOR ONE AND ONE-HALF THE AMOUNT NECESSARY TO SATISFY THE CREDITOR'S CLAIM, WHICHEVER IS LESS, TOGETHER WITH THE CREDITOR'S ACTUAL COSTS; EXCEPT THAT ANY JUDGMENT ENTERED AGAINST A PERSON UNDER THIS PARAGRAPH (c) IS IN LIEU OF, NOT IN ADDITION TO, A JUDGMENT AGAINST THE SAME PERSON UNDER SECTION 38-8-109 (2). NO JUDGMENT MAY BE ENTERED PURSUANT TO THIS PARAGRAPH (c) AGAINST A PERSON OTHER THAN THE DEBTOR UNLESS THAT PERSON ALSO ACTS WITH WRONGFUL INTENT AS DEFINED IN SECTION 38-8-105 (1) (a); OTHERWISE, JUDGMENT FOR MONEY DAMAGES AGAINST

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*Capital letters indicate new material added to existing statutes; dashes through words indicate deletions from existing statutes and such material not part of act.*

A PERSON OTHER THAN THE DEBTOR MAY BE ENTERED ONLY AS PROVIDED IN SECTION 38-8-109. NO JUDGMENT MAY BE ENTERED UNDER THIS PARAGRAPH (c) UNLESS A COURT OF COMPETENT JURISDICTION ENTERS OR HAS ENTERED A JUDGMENT OR ORDER ESTABLISHING THE VALIDITY OF THE CREDITOR'S CLAIM AGAINST THE DEBTOR.

~~(c)~~ (d) Subject to applicable principles of equity and in accordance with applicable rules of civil procedure:

(I) An injunction against further disposition by the debtor or a transferee, or both, of the asset transferred or of other property;

(II) Appointment of a receiver to take charge of the asset transferred or of other property of the transferee; or

(III) Any other relief the circumstances may require.

**SECTION 2. Applicability.** This act applies to actions for relief filed on or after the effective date of this act.

**SECTION 3. Safety clause.** The general assembly hereby finds, determines, and declares that this act is necessary for the immediate preservation of the public peace, health, and safety.

Approved: May 2, 2014