

STATE OF OKLAHOMA

2nd Session of the 43rd Legislature (1992)

HOUSE BILL NO. 2097

BY: ISTOOK

AS INTRODUCED

AN ACT RELATING TO DEBTOR AND CREDITOR; PROVIDING FOR THE TRANSFER OF CERTAIN ASSETS INTO AN EXPRESS TRUST BY A DEBTOR UNDER CERTAIN CONDITIONS; SPECIFYING CERTAIN TRANSFERS TO BE FRAUDULENT AS TO CREDITORS; PROVIDING FOR CODIFICATION; PROVIDING AN EFFECTIVE DATE; AND DECLARING AN EMERGENCY.

BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

SECTION 1. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 124 of Title 24, unless there is created a duplication in numbering, reads as follows:

A. A transfer of assets, which at a fair valuation have a total value in excess of Ten Thousand Dollars (\$10,000.00), into any express trust shall be voidable by a creditor of the creator of the trust to the extent necessary to satisfy the creditor's claim unless the debtor meets the following conditions:

1. Any gift tax return required by law to be filed by the trust, or by the creator of the trust, is timely filed; and

2. A copy of the trust instrument with documents which identify all of the assets transferred into the trust is filed with the Secretary of State within thirty (30) days of the date in which the value of the assets transferred into the trust first exceeds Ten

Thousand Dollars (\$10,000.00). The value of the assets shall be determined by their fair market value at the time they are transferred to the trust.

B. Failure of the debtor to file the documents specified in subsection A of this section shall render the transfer voidable by a creditor to the extent necessary to satisfy the creditor's claim. Such voidability shall be limited only to such assets which were not reported by the debtor.

C. Any transfer of assets into an express trust by a debtor in violation of this section shall be deemed to be a fraudulent transfer as to a creditor, whether the creditor's claim arose before or after the transfer was made.

SECTION 2. This act shall become effective July 1, 1992.

SECTION 3. It being immediately necessary for the preservation of the public peace, health and safety, an emergency is hereby declared to exist, by reason whereof this act shall take effect and be in full force from and after its passage and approval.

43-2-7649

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