
By: **Senator Ruben**

Introduced and read first time: March 3, 2006

Assigned to: Rules

A BILL ENTITLED

1 AN ACT concerning

2 **Family Law - Invalid Property Transfers Between Spouses**

3 FOR the purpose of requiring a creditor to prove by a certain standard of proof that a
4 certain transfer of property between spouses was made in prejudice of the
5 creditor's rights; exempting certain transfers of property between spouses from
6 being held invalid; defining certain terms; and generally relating to the invalid
7 transfers of property between spouses.

8 BY repealing and reenacting, with amendments,
9 Article - Family Law
10 Section 4-301
11 Annotated Code of Maryland
12 (2004 Replacement Volume and 2005 Supplement)

13 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF
14 MARYLAND, That the Laws of Maryland read as follows:

15 **Article - Family Law**

16 4-301.

17 (a) (1) IN THIS SECTION THE FOLLOWING WORDS HAVE THE MEANINGS
18 INDICATED.

19 (2) (I) "NECESSARIES" MEANS BASIC ITEMS NEEDED TO MAINTAIN A
20 STANDARD OF LIVING.

21 (II) "NECESSARIES" INCLUDES:

22 1. PRINCIPAL, INTEREST, TAXES, INSURANCE, AND
23 MAINTENANCE PAYMENTS ON JOINTLY OWNED REAL PROPERTY;

24 2. FOOD;

25 3. CLOTHING;

1 4. EDUCATIONAL EXPENSES; AND

2 5. CHILD CARE EXPENSES.

3 (3) "PREJUDICE" MEANS TO AFFECT INJURIOUSLY OR DETRIMENTALLY
4 BY AN ACT.

5 (B) (1) An individual is not liable for:

6 (i) any debt contracted by the individual's spouse before the
7 marriage; or

8 (ii) any claim or demand against the spouse that arose before the
9 marriage.

10 (2) The debtor spouse and that spouse's property are liable for the debt
11 as if the marriage had not occurred.

12 [(b)] (C) A husband is not liable:

13 (1) for a tort that is committed:

14 (i) separately by his wife; and

15 (ii) without his participation or sanction; or

16 (2) on a contract made by his wife in her own name and on her own
17 responsibility.

18 [(c)] (D) A judgment or decree in a proceeding under § 4-205(b) of this title
19 shall:

20 (1) be passed against the wife only; and

21 (2) operate only on the property she owned individually before or after
22 the marriage.

23 [(d)] (E) (1) Except as provided in paragraph (2) of this subsection, the
24 property that a woman owns at the time of her marriage, or acquires after her
25 marriage, is not liable for the payment of her husband's debts.

26 (2) (i) A transfer of property between spouses is invalid if made in
27 prejudice of the rights of present creditors.

28 (II) A CREDITOR SHALL PROVE BY CLEAR AND CONVINCING
29 EVIDENCE THAT A TRANSFER OF PROPERTY BETWEEN SPOUSES INTO A JOINT
30 ACCOUNT WAS MADE IN PREJUDICE OF THE CREDITOR'S RIGHTS.

31 (III) PROOF THAT A TRANSFER OF PROPERTY BETWEEN SPOUSES
32 INTO A JOINT ACCOUNT WAS MADE IN PREJUDICE SHALL INCLUDE THE FOLLOWING
33 EVIDENCE:

1 1. THE CREDITOR ATTEMPTED TO LEGALLY COLLECT A
2 DEBT OWED BY ONE SPOUSE; AND

3 2. THE CREDITOR WAS UNABLE TO COLLECT THE DEBT
4 BECAUSE OF THE TRANSFER.

5 (IV) A TRANSFER OF FUNDS BETWEEN SPOUSES INTO A JOINT
6 ACCOUNT IS EXEMPT FROM A CLAIM OF PREJUDICE BY A CREDITOR IF THE FUNDS
7 TRANSFERRED ARE USED TO PAY FOR NECESSARIES.

8 [(ii)] (V) A claim under this paragraph shall be asserted within 3
9 years after the transfer or be barred absolutely.

10 [(iii)] (VI) For purposes of this paragraph, all claims are
11 considered due and matured.

12 (F) AS PROVIDED IN § 15-213 OF THE COMMERCIAL LAW ARTICLE, THIS
13 SECTION IS NOT REPEALED BY THE MARYLAND FRAUDULENT CONVEYANCE ACT.

14 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
15 October 1, 2006.