

over time. In 1978, for example, we passed the Bankruptcy Reform Act. It makes significant changes. Terms that were once appropriate to use in our Fraudulent Conveyance Act are no longer the terms that are being used for bankruptcy. So, what happens? In 1984, the Uniform State Law Commissioners get back together again and say, since we first promulgated this uniform law, there have been a number of changes in the commercial area, there's been a number of changes in the bankruptcy area. If we want to get back to the real guts of that idea, we have to sharpen our definitions, we have to recognize what the role of an insider, and to say that a transfer to an insider is also a fraudulent conveyance. We have to redefine what reasonable equivalent value, and fair consideration are, terms that used to be used in the Fraudulent Conveyance Act, but now have been muddied by court decisions. As a matter of fact, we have to overcome the recent case of Durrett v. Washington National Insurance Company, 1980, which ruled that mortgage foreclosure sales could constitute a fraudulent conveyance if the mortgage foreclosure sale did not recover an amount somewhere near the market value of the property. Well, that throws a whole lot of problems into the...creates a whole lot of problems if you can't have a good mortgage foreclosure sale. You need to have one. And to have a mortgage foreclosure sale that unfortunately doesn't produce a whole lot of money, should not trip a fraudulent conveyance statute and that shouldn't be a fraudulent action. So, the Uniform Commissioners drew together this language, it was reported out by our committee. It has been adopted in about 18 states. It has been advanced and introduced in another 10 or so. Nebraska, in so changing its law, merely updates and uses appropriate language and terminology and sharpens what, for us, is a law that is roughly 70 years old and whose terminology is archaic, but whose reason is all the more important today and that is to protect creditors from fraudulent conveyance of good assets by their debtors to somebody else and then the debtor goes into bankruptcy and thereby defeats what should be the rightful claim of the creditor to the assets of the debtor. That is the purpose behind the bill. I would ask for its adoption and advancement.

SENATOR LABEDZ: Thank you, Senator Landis. Senator Warner, on the advancement of LB 423.

SENATOR WARNER: I'd have a question for Senator Landis in this...I see no one appeared for or against, so I assume there is no change at all, but I can recall on occasions, when we've