

done these uniform laws, there is sometimes a tendency that they wipe out a whole court case history that has essentially served as the law when it's an old law that we're dealing with and I have been told that sometimes this then generates a whole new series of lawsuits or could, and I think some of the areas as in state law where some uniform things were done a few years ago, that maybe wiped out a lot of court cases. Is there a substantive change? To what degree of change does this have that might, I guess, be a surprise to the people who are not attorneys but assume that there was some action that is normal and usual and has been true for a long time? Are we having something in this that would somehow subsequently surprise someone?

SENATOR LANDIS: Fair question. First let me say that Harvey Perlman, Dean of the UN-L Law School, appeared on the day this was taken up. He testified on behalf of an earlier bill and in that statement indicated his support for this measure as well. I don't think the records of the committee recorded that fact. I think he checked in as both a proponent for the Fraudulent Conveyance Act and the Uncertificated Securities Act that we passed earlier this morning. Dean Perlman and the rest of the uniform law commissioners, we have two in this state, Norm Krivosha and Harvey Perlman, what they attempted to do here was basically make terminology changes, updating language that basically has grown archaic because of the Bankruptcy Act change in the federal level in 1978. Secondly, they also wanted to recognize the insider transaction as a fraudulent conveyance, specifically. That is done as well. You are correct that there is an attempt in this language to undo a court case. That court case is a federal court case interpreting a mortgage foreclosure sale that yielded an amount of money not particularly close to the alleged actual value of the sale as a fraudulent transfer. Because there was significant difference in the amount of consideration for the loan that was given and what the asset then yielded when sold at a mortgage foreclosure, the absolutely unintended result of turning a legitimate mortgage foreclosure sale into a fraudulent transfer occurred. One of the purposes of this bill is to define fair consideration, good faith and the like so as to make it clear that a legitimate mortgage foreclosure sale is not a fraudulent transfer.

SENATOR WARNER: Then one other question in that area, is there an impact that changes the distribution of the proceeds in any way from...if it was a mortgage for sale type of concept as