



Ohio Revised Code

Section 1336.08 Bona fide transfers - voidable transfers.

Effective: July 1, 2001

Legislation: Senate Bill 74 - 124th General Assembly

(A) A transfer or an obligation is not fraudulent under division (A)(1) of section 1336.04 of the Revised Code against a person who took in good faith and for a reasonably equivalent value or against any subsequent transferee or obligee.

(B)(1) Except as otherwise provided in this section, to the extent a transfer is voidable in an action by a creditor or a child support enforcement agency under division (A)(1) of section 1336.07 of the Revised Code, the creditor or agency may recover a judgment for the value of the asset transferred, as adjusted under division (B)(2) of this section, or the amount necessary to satisfy the claim of the creditor or agency, whichever is less. The judgment may be entered against either of the following:

(a) The first transferee of the asset or the person for whose benefit the transfer was made;

(b) Any subsequent transferee other than a good faith transferee who took for value or from any subsequent transferee.

(2) If the judgment under division (B)(1) of this section is based upon the value of the asset transferred, the judgment shall be in an amount equal to the value of the asset at the time of the transfer, subject to adjustment as the equities may require.

(C) Notwithstanding the voidability of a transfer or an obligation under division (A)(1) of section 1336.07 of the Revised Code, a good faith transferee or obligee is entitled, to the extent of the value given to the debtor for the transfer or obligation, to any of the following:

(1) A lien on or a right to retain any interest in the asset transferred;

(2) Enforcement of any obligation incurred;

(3) A reduction in the amount of the liability on the judgment.



(D) A transfer is not fraudulent under division (A)(2) of section 1336.04 or section 1336.05 of the Revised Code if the transfer results from either of the following:

(1) Termination of a lease upon default by the debtor when the termination is pursuant to the lease and applicable law;

(2) Enforcement of a security interest in compliance with section sections 1309.601 to 1309.604 of the Revised Code.

(E) A transfer is not fraudulent under division (B) of section 1336.05 of the Revised Code as follows:

(1) To the extent the insider gave new value to or for the benefit of the debtor after the transfer was made, unless the new value was secured by a valid lien;

(2) If made in the ordinary course of business or financial affairs of the debtor and the insider;

(3) If made pursuant to a good faith effort to rehabilitate the debtor and the transfer secured present value given for that purpose as well as an antecedent debt of the debtor.