

CHAPTER 513

FRAUDS

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STATUTE OF FRAUDS

513.01 NO ACTION ON AGREEMENT, WHEN. No action shall be maintained, in either of the following cases, upon any agreement, unless such agreement, or some note or memorandum thereof, expressing the consideration, is in writing, and subscribed by the party charged therewith:

- (1) Every agreement that by its terms is not to be performed within one year from the making thereof;
- (2) Every special promise to answer for the debt, default or doings of another;
- (3) Every agreement, promise, or undertaking made upon consideration of marriage, except mutual promises to marry;
- (4) Every agreement, promise or undertaking to pay a debt which has been discharged by bankruptcy or insolvency proceedings.

[R. L. s. 3483] (8456)

513.02 AUCTIONEER'S MEMORANDUM. Whenever goods are sold at public auction, and the auctioneer, at the time of sale, enters in a salesbook a memorandum specifying the nature and price of the property sold, the terms of the sale, name of the purchaser, and the name of the person on whose account the sale is made, such memorandum shall be deemed a note of the contract of sale, within the meaning of section 512.04.

[R. L. s. 3485] (8457)

513.03 GRANTS OF TRUSTS, WHEN VOID. Every grant or assignment of any existing trust in goods or things in action, unless the same is in writing, subscribed by the party making the same, or by his lawfully authorized agent, shall be void.

[R. L. s. 3486] (8458)

513.04 CONVEYANCE OF ESTATE OR INTEREST IN LAND; CERTAIN LEASES EXCEPTED. No estate or interest in lands, other than leases for a term not exceeding one year, nor any trust or power over or concerning lands, or in any manner relating thereto, shall hereafter be created, granted, assigned, surrendered, or declared, unless by act or operation of law, or by deed or conveyance in writing, subscribed by the parties creating, granting, assigning, surrendering, or declaring the same, or by their lawful agent thereunto authorized by writing. This section shall not affect in any manner the power of a testator in the disposition of his real estate by will; nor prevent any trust from arising or being extinguished by implication or operation of law.

[R. L. s. 3487] (8459)

513.05 LEASES; CONTRACTS FOR SALE OF LANDS. Every contract for the leasing for a longer period than one year or for the sale of any lands, or any interest in lands, shall be void unless the contract, or some note or memorandum thereof, expressing the consideration, is in writing and subscribed by the party by whom the lease or sale is to be made, or by his lawful agent thereunto authorized in writing; and no such contract, when made by an agent, shall be entitled to record unless the authority of such agent be also recorded.

[R. L. s. 3488] (8460)

513.06 SPECIFIC PERFORMANCE. Nothing in this chapter contained shall abridge the power of courts of equity to compel the specific performance of agreements in cases of part performance thereof.

[R. L. s. 3489] (8461)

513.07 LOGS; EXTENSION OF TIME OF PAYMENT FOR LABOR. Every agreement extending the time of payment for manual labor, performed or to be performed in cutting, hauling, banking, or driving logs, beyond the time of the completion of such labor, shall be void, unless such agreement, expressing the consideration, be in writing subscribed by the party to be charged therewith, and unless, at the time of making such agreement or completing such labor, the person for whom it is to be or has been performed deliver to such laborer his negotiable promissory note for payment of the agreed compensation, with interest. Every lien allowed by law on account of such labor shall pass by the transfer of such note, and be enforceable by the holder thereof.

[R. L. s. 3490] (8462)

CONVEYANCES FRAUDULENT AS TO PURCHASERS

513.08 WHEN MADE TO DEFRAUD, VOID; EXCEPTION. Every conveyance of any estate or interest in lands, or the rents and profits thereof, and every charge upon lands, or upon the rents and profits thereof, made or created with the intent to defraud prior or subsequent purchasers for a valuable consideration of the same lands, rents, or profits, as against any such purchasers, shall be void; but no conveyance or charge shall be deemed fraudulent, in favor of a subsequent purchaser who had actual or constructive notice thereof at the time of his purchase, unless it appears that the grantee in such conveyance, or the person to be benefited by such charge, was privy to the intended fraud.

[R. L. s. 3491] (8463)

513.09 WITH POWER OF REVOCATION, DETERMINATION OR ALTERATION; WHEN VOID. Every conveyance or charge of or upon any estate or interest in lands, containing any provision for the revocation, determination, or alteration of such estate or interest, or of any part thereof, at the will of the grantor, shall be void, as against subsequent purchasers from such grantor for a valuable consideration, of any estate or interest liable to be so revoked or determined, although the same is not expressly revoked, determined, or altered by such grantor, by virtue of the power reserved or expressed in such prior conveyance or charge.

[R. L. s. 3492] (8464)

513.10 UNDER POWER OF REVOCATION. When a power to revoke a conveyance of any lands, or of the rents and profits thereof, and to reconvey the same, is given to any person other than the grantor in such conveyance, and such person thereafter conveys the same land, rents, or profits to a purchaser for a valuable consideration, such subsequent conveyance shall be valid in the same manner and to the same extent as if the power of revocation was recited therein, and the intent to revoke the former conveyance expressly declared.

[R. L. s. 3493] (8465)

513.11 PREMATURE CONVEYANCE. If a conveyance to a purchaser under either section 513.09 or 513.10 is made before the person making the same is entitled to execute his power of revocation, it shall nevertheless be valid from the time the power of revocation actually vests in such person, in the same manner and to the same extent as if then made.

[R. L. s. 3494] (8466)

CONVEYANCES FRAUDULENT AS TO CREDITORS

513.12 SALE OF CHATTELS WITHOUT DELIVERY; FRAUD PRESUMED.

Every sale by a vendor of goods and chattels in his possession or under his control, and every assignment of goods and chattels, unless the same is accompanied by an immediate delivery, and followed by an actual and continued change of possession of the things sold or assigned, shall be presumed to be fraudulent and void as against the creditors of the vendor or assignor and subsequent purchasers in good faith, unless those claiming under such sale or assignment make it appear that the same was made in good faith, and without any intent to hinder, delay, or defraud such creditors or purchasers. The term "creditors," as herein used, shall include all persons who are creditors of the vendor or assignor, at any time while such goods and chattels remain in his possession or under his control.

[R. L. s. 3496] (8467)

513.13 EXCEPTED CASES. Nothing contained in section 513.12 shall apply to contracts of bottomry or respondentia, or assignments or hypothecations of vessels or goods at sea, in foreign ports, or out of the state, if the assignee or mortgagee take possession of such vessel or goods as soon as possible after the arrival thereof within the state.

[R. L. s. 3497] (8468)

513.14 RIGHTS OF HEIRS. Every conveyance, charge, instrument, or proceeding, declared void by this chapter as against creditors or purchasers, shall be equally void as against their heirs, successors, personal representatives, or assigns.

[R. L. s. 3499] (8469)

513.15 FRAUDULENT INTENT QUESTION OF FACT. The question of fraudulent intent, in all cases arising under this chapter, shall be deemed a question of fact, and not of law; and no conveyance or charge shall be adjudged fraudulent as against creditors solely on the ground that it was not founded on a valuable consideration.

[R. L. s. 3500] (8470)

513.16 BONA FIDE PURCHASERS. The provisions of this chapter shall not be construed in any manner to affect or impair the title of a purchaser for a valuable consideration, unless it appears that such purchaser had previous notice of the fraudulent intent of his immediate grantor or of the fraud rendering void the title of such grantor.

[R. L. s. 3501] (8471)

513.17 ASSIGNMENT OF DEBT. Every assignment of a debt, unless the same be in writing and be filed with the clerk of the town or municipality in which the assignor resides, shall be presumed to be fraudulent and void as against his creditors, unless those claiming thereunder make it appear that it was made in good faith and for a valuable consideration: Provided, that this section shall not apply to debts evidenced by writing subscribed by the debtor, and delivered to the assignee at the time of the assignment thereof. Assignments required by this section to be filed need not be acknowledged.

[R. L. s. 3502] (8472)

513.18 SALE OF STOCK OF MERCHANDISE. Every sale of a portion of stock of merchandise, otherwise than in the ordinary course of the seller's business, and every sale of an entire stock of merchandise, shall be presumed fraudulent and void as against the seller's creditors, unless at least five days before the sale:

(1) The seller and purchaser make an inventory showing the quantity, and, so far as possible, with the exercise of reasonable diligence, the cost to the seller, of each article to be sold;

(2) The purchaser in good faith make full inquiry of the seller as to the names and places of residence and business of the seller's creditors and the amount owing to each; and

(3) The purchaser mail to each creditor, of whom he can with the exercise of reasonable diligence acquire knowledge, notice of the proposed sale, stating the cost to the seller of the merchandise sold and the price to be paid therefor.

Except as herein provided, nothing in this section shall change or affect the rules of evidence and the presumptions of law otherwise applicable to such sales.

[R. L. s. 3503] (8473)

513.19 CONVEYANCE. The term "conveyance," as used in this chapter, shall be construed to embrace every instrument in writing, except a will, whatever its

form, and by whatever name known in law, by which any estate or interest in lands is created, aliened, assigned, or surrendered.

[*R. L. s. 3504*] (8474)

FRAUDULENT CONVEYANCES

513.20 DEFINITIONS. In sections 513.20 to 513.32 "assets" of a debtor means property not exempt from liability for his debts. To the extent that any property is liable for any debts of the debtor, such property shall be included in his assets.

"Conveyance" includes every payment of money, assignment, release, transfer, lease, mortgage or pledge of tangible or intangible property, and also the creation of any lien or encumbrance.

"Creditor" is a person having any claim, whether matured or unmatured, liquidated or unliquidated, absolute, fixed or contingent.

"Debt" includes any legal liability, whether matured or unmatured, liquidated or unliquidated, absolute, fixed or contingent.

[*1921 c. 415 s. 1*] (8475)

513.21 INSOLVENCY DEFINED. (1) A person is insolvent when the present fair salable value of his assets is less than the amount that will be required to pay his probable liability on his existing debts as they become absolute and matured.

(2) In determining whether a partnership is insolvent there shall be added to the partnership property the present fair salable value of the separate assets of each general partner in excess of the amount probably sufficient to meet the claims of his separate creditors, and also the amount of any unpaid subscription to the partnership of each limited partner, provided the present fair salable value of the assets of such limited partner is probably sufficient to pay his debts, including such unpaid subscription.

[*1921 c. 415 s. 2*] (8476)

513.22 FAIR CONSIDERATION DEFINED. Fair consideration is given for property, or obligation,

(1) When in exchange for such property, or obligation, as a fair equivalent therefor, and in good faith, property is conveyed or an antecedent debt is satisfied, or

(2) When such property, or obligation is received in good faith to secure a present advance or antecedent debt in amount not disproportionately small as compared with the value of the property, or obligation obtained.

[*1921 c. 415 s. 3*] (8477)

513.23 CONVEYANCE BY INSOLVENT. Every conveyance made and every obligation incurred by a person who is or will be thereby rendered insolvent is fraudulent as to creditors without regard to his actual intent if the conveyance is made or the obligation is incurred without a fair consideration.

[*1921 c. 415 s. 4*] (8478)

513.24 SPECIFICATIONS OF LEGAL FRAUD. Every conveyance made without fair consideration when the person making it is engaged or is about to engage in a business or transaction for which the property remaining in his hands after the conveyance is an unreasonably small capital, is fraudulent as to creditors and as to other persons who become creditors during the continuance of such business or transaction without regard to his actual intent.

[*1921 c. 415 s. 5*] (8479)

513.25 CONVEYANCE BY A PERSON ABOUT TO INCUR DEBTS. Every conveyance made and every obligation incurred without fair consideration when the person making the conveyance or entering into the obligation intends or believes that he will incur debts beyond his ability to pay as they mature, is fraudulent as to both present and future creditors.

[*1921 c. 415 s. 6*] (8480)

513.26 CONVEYANCE MADE WITH INTENT TO DEFRAUD. Every conveyance made and every obligation incurred with actual intent, as distinguished from intent presumed in law, to hinder, delay, or defraud either present or future creditors, is fraudulent as to both present and future creditors.

[*1921 c. 415 s. 7*] (8481)

513.27 CONVEYANCE OF PARTNERSHIP PROPERTY. Every conveyance of partnership property and every partnership obligation incurred when the partnership is or will be thereby rendered insolvent, is fraudulent as to partnership creditors, if the conveyance is made or obligation is incurred:

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(1) To a partner, whether with or without a promise by him to pay partnership debts, or

(2) To a person not a partner without fair consideration to the partnership as distinguished from consideration to the individual partners.

[1921 c. 415 s. 8] (8482)

513.28 RIGHTS OF CREDITORS WHOSE CLAIMS HAVE MATURED. (1) Where a conveyance or obligation is fraudulent as to a creditor, such creditor, when his claim has matured, may, as against any person except a purchaser for fair consideration without knowledge of the fraud at the time of the purchase, or one who has derived title immediately or mediately from such a purchaser:

(a) Have the conveyance set aside or obligation annulled to the extent necessary to satisfy his claim, or

(b) Disregard the conveyance and attach or levy execution upon the property conveyed.

(2) A purchaser who without actual fraudulent intent has given less than a fair consideration for the conveyance or obligation, may retain the property or obligation as security for repayment.

[1921 c. 415 s. 9] (8483)

513.29 RIGHTS OF CREDITORS WHOSE CLAIMS HAVE NOT MATURED. Where a conveyance made or obligation incurred is fraudulent as to a creditor whose claim has not matured he may proceed in a court of competent jurisdiction against any person against whom he could have proceeded had his claim matured, and the court may:

(1) Restrain the defendant from disposing of his property;

(2) Appoint a receiver to take charge of the property;

(3) Set aside the conveyance or annul the obligation; or

(4) Make any order which the circumstances of the case may require.

[1921 c. 415 s. 10] (8484)

513.30 CASES NOT PROVIDED FOR IN SECTIONS 513.20 to 513.32. In any case not provided for in sections 513.20 to 513.32 the rules of law and equity including the law merchant, and in particular the rules relating to the law of principal and agent, and the effect of fraud, misrepresentation, duress or coercion, mistake, bankruptcy or other invalidating cause shall govern.

[1921 c. 415 s. 11] (8485)

513.31 UNIFORMITY. Sections 513.20 to 513.32 shall be so interpreted and construed as to effectuate their general purpose to make uniform the law of those states which enact it.

[1921 c. 415 s. 12] (8486)

513.32 CITATION. Sections 513.20 to 513.32 may be cited as the uniform fraudulent conveyance act.

[1921 c. 415 s. 13] (8487)