

Revised Statutes of 1846

R.S. of 1846

Chapter 81

Chapter 81. Of Fraudulent Conveyances And Contracts, Relative To Goods, Chattels, And Things In Action.

566.131 Transfers in trust of property void as against creditors; exceptions.

Sec. 1.

(1) Except as provided in subsections (2) to (4), a deed of gift, conveyance, transfer, or assignment, verbal or written, of property made in trust for the use of the person making the gift, conveyance, transfer, or assignment is void as against the creditors, existing or subsequent, of the person.

(2) Subsection (1) does not apply to the lapse, release, waiver, or disclaimer of a power of appointment given to a donee by a third party. As used in this subsection, "donee" means that term as defined in section 2 of the powers of appointment act of 1967, 1967 PA 224, MCL 556.112.

(3) Subsection (1) does not apply to the creation of a trust by an individual if all of the following apply:

(a) The individual created the trust for the benefit of the individual's spouse.

(b) The trust is treated as qualified terminable interest property under section 2523(f) of the internal revenue code, 26 USC 2523.

(c) The individual retains a beneficial interest in the trust income, trust principal, or both, which beneficial interest follows the termination of the individual's spouse's prior beneficial interest in the trust.

(4) Subsection (1) does not apply to a gift, conveyance, transfer, or assignment from a trust to a person who created the trust if all of the following apply:

(a) The trust is an irrevocable trust for the benefit of third parties.

(b) The trust is a grantor trust with regard to the person for income tax purposes under sections 671 to 679 of the internal revenue code, 26 USC 671 to 679.

(c) The trustee has the discretionary authority to reimburse or advance trust property to the person for taxes concerning income attributable to the trust property.

(d) The gift, conveyance, transfer, or assignment is the exercise by the trustee of the discretionary authority described in subdivision (c).

History: R.S. 1846, Ch. 81 ;-- CL 1857, 3182 ;-- CL 1871, 4697 ;-- How. 6184 ;-- CL 1897, 9514 ;-- CL 1915, 11980 ;-- CL 1929, 13416 ;-- CL 1948, 566.131 ;-- Am. 2009, Act 42, Eff. Apr. 1, 2010

566.132 Agreements, contracts, or promises required to be in writing and signed; enforcement; "financial institution" defined.

Sec. 2.

(1) In the following cases an agreement, contract, or promise is void unless that agreement, contract, or promise, or a note or memorandum of the agreement, contract, or promise, is in writing and signed with an authorized signature by the party to be charged with the agreement, contract, or promise:

(a) An agreement that, by its terms, is not to be performed within 1 year from the making of the agreement.

(b) A special promise to answer for the debt, default, or misdoings of another person.

(c) An agreement, promise, or undertaking made upon consideration of marriage, except mutual promises to marry.

(d) A special promise made by a personal representative to answer damages out of his or her own estate.

(e) An agreement, promise, or contract to pay a commission for or upon the sale of an interest in real estate.

(f) An assignment of things in action, whether intended as a transfer for sale, for security, or otherwise.

(g) An agreement, promise, contract, or warranty of cure relating to medical care or treatment. This subdivision does not affect the right to sue for malpractice or negligence.

(2) A person shall not bring an action against a financial institution to enforce any of the following promises or commitments of the financial institution unless the promise or commitment is in writing and signed with an authorized signature by the financial institution:

(a) A promise or commitment to lend money, grant or extend credit, or make any other financial accommodation.

(b) A promise or commitment to renew, extend, modify, or permit a delay in repayment or performance of a loan, extension of credit, or other financial accommodation.

(c) A promise or commitment to waive a provision of a loan, extension of credit, or other financial accommodation.

(3) A person shall not bring an action to enforce an agreement, promise, or contract to pay a commission for or upon the sale of an interest in real estate against the owner or purchaser of the real estate unless the agreement, promise, or contract is in writing signed by the party to be charged.

(4) As used in this section, "financial institution" means a state or national chartered bank, a state or federal chartered savings bank or savings and loan association, a state or federal chartered credit union, a person licensed or registered under the mortgage brokers, lenders, and servicers licensing act, 1987 PA 173, MCL 445.1651 to 445.1684, or the secondary mortgage loan act, 1981 PA 125, MCL 493.51 to 493.81, or an affiliate or subsidiary thereof.

History: R.S. 1846, Ch. 81 ;-- CL 1857, 3183 ;-- CL 1871, 4698 ;-- How. 6185 ;-- CL 1897, 9515 ;-- Am. 1913, Act 238, Eff. Aug. 14, 1913 ;-- CL 1915, 11981 ;-- CL 1929, 13417 ;-- Am. 1945, Act 261, Eff. Sept. 6, 1945 ;-- CL 1948, 566.132 ;-- Am. 1974, Act 343, Imd. Eff. Dec. 21, 1974 ;-- Am. 1992, Act 245, Eff. Jan. 1, 1993 ;-- Am. 2020, Act 63, Imd. Eff. Mar. 17, 2020

566.134 Auction sales; memorandum of contract.

Sec. 4.

Whenever any goods shall be sold at auction and the auctioneer or the clerk of the auction at the time of sale enters in a sale book a memorandum specifying the nature and price of the property sold and the name of the purchaser, such memorandum, together with the auction bills, catalogue, or written or printed notice of sale containing the name of the person on whose account the sale is made and the terms of sale, shall be deemed a memorandum of the contract of sale within the meaning of the last section.

History: R.S. 1846, Ch. 81 ;-- CL 1857, 3185 ;-- CL 1871, 4700 ;-- How. 6187 ;-- CL 1897, 9517 ;-- Am. 1907, Act 237, Eff. Sept. 28, 1907 ;-- CL 1915, 11982 ;-- CL 1929, 13418 ;-- CL 1948, 566.134

566.135 Representation concerning character; business or credit of another.

Sec. 5.

No action shall be brought to charge any person, upon or by reason of any favorable representation or assurance, made concerning the character, conduct, credit, ability, trade or dealings of any other person, unless such representation or assurance be made in writing, and signed by the party to be charged thereby, or by some person thereunto by him lawfully authorized.

History: R.S. 1846, Ch. 81 ;-- CL 1857, 3186 ;-- CL 1871, 4701 ;-- How. 6188 ;-- CL 1897, 9518 ;-- CL 1915, 11983 ;-- CL 1929, 13419 ;-- CL 1948, 566.135

566.136 Consideration; evidence.

Sec. 6.

The consideration of any contract, agreement or promise required by this chapter to be in writing, need not be expressed in the written contract, agreement or promise, or in any note or memorandum thereof, but may be proved by any other legal evidence.

History: R.S. 1846, Ch. 81 ;-- CL 1857, 3187 ;-- CL 1871, 4702 ;-- How. 6189 ;-- CL 1897, 9519 ;-- CL 1915, 11984 ;-- CL 1929, 13420 ;-- CL 1948, 566.136

566.137-566.146 Repealed. 1962, Act 174, Eff. Jan. 1, 1964.

Compiler's Notes: The repealed sections pertained to fraudulent conveyances and contracts with respect to goods, chattels, and things in action.