

CHAPTER 513

FRAUDS

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STATUTE OF FRAUDS

513.01 NO ACTION ON AGREEMENT.

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.

History: (8456) RL s 3483

513.02 [Repealed, 1949 c 280 s 1]

513.03 GRANTS OF TRUST, 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 the party's lawfully authorized agent, shall be void.

History: (8458) RL s 3486; 1986 c 444

513.04 CONVEYANCE OF INTEREST IN LAND EXCEPT UP TO ONE-YEAR LEASE.

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 real estate by will; nor prevent any trust from arising or being extinguished by implication or operation of law.

History: (8459) RL s 3487; 1986 c 444

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 the party's 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.

History: (8460) RL s 3488; 1986 c 444

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.

History: (8461) RL s 3489

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 a 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.

History: (8462) RL s 3490; 1986 c 444

**COHABITATION; AGREEMENTS
AND CONTRACTS****513.075 COHABITATION; PROPERTY AND FINANCIAL AGREEMENTS.**

If sexual relations between the parties are contemplated, a contract between a man and a woman who are living together in this state out of wedlock, or who are about to commence living together in this state out of wedlock, is enforceable as to terms concerning the property and financial relations of the parties only if:

- (1) the contract is written and signed by the parties, and
- (2) enforcement is sought after termination of the relationship.

History: 1980 c 553 s 1

513.076 NECESSITY OF CONTRACT.

Unless the individuals have executed a contract complying with the provisions of section 513.075, the courts of this state are without jurisdiction to hear and shall dismiss as contrary to public policy any claim by an individual to the earnings or property of another individual if the claim is based on the fact that the individuals lived together in contemplation of sexual relations and out of wedlock within or without this state.

History: 1980 c 553 s 2

**CONVEYANCES FRAUDULENT AS
TO PURCHASERS****513.08 VOID WHEN MADE TO DEFRAUD, 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 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.

History: (8463) *RL s 3491; 1986 c 444*

513.09 PROVISION TO REVOKE, DETERMINE, OR ALTER; 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.

History: (8464) *RL s 3492*

513.10 POWER OF REVOCATION, WHEN VALID.

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.

History: (8465) *RL s 3493*

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 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.

History: (8466) *RL s 3494; 1986 c 444*

513.12 [Repealed, 1965 c 811 art 10 s 336.10-102]

513.13 [Repealed, 1965 c 811 art 10 s 336.10-102]

513.14 [Repealed, 1965 c 811 art 10 s 336.10-102]

513.15 [Repealed, 1965 c 811 art 10 s 336.10-102]

513.16 [Repealed, 1965 c 811 art 10 s 336.10-102]

513.17 [Repealed, 1965 c 811 art 10 s 336.10-102]

513.18 [Repealed, 1965 c 811 art 10 s 336.10-102]

513.19 [Repealed, 1965 c 811 art 10 s 336.10-102]

513.20 [Repealed, 1987 c 19 s 12]

513.21 [Repealed, 1987 c 19 s 12]

513.22 [Repealed, 1987 c 19 s 12]

513.23 [Repealed, 1987 c 19 s 12]

513.24 [Repealed, 1987 c 19 s 12]

513.25 [Repealed, 1987 c 19 s 12]

513.26 [Repealed, 1987 c 19 s 12]

513.27 [Repealed, 1987 c 19 s 12]

513.28 [Repealed, 1987 c 19 s 12]

513.29 [Repealed, 1987 c 19 s 12]

513.30 [Repealed, 1987 c 19 s 12]

513.31 [Repealed, 1987 c 19 s 12]

513.32 [Repealed, 1987 c 19 s 12]

CREDIT AGREEMENTS; WRITING REQUIREMENTS

513.33 CREDIT AGREEMENTS.

Subdivision 1. **Definitions.** For the purposes of this section, the following terms have the meanings given them:

(1) "credit agreement" means an agreement to lend or forbear repayment of money, goods, or things in action, to otherwise extend credit, or to make any other financial accommodation;

(2) "creditor" means a person who extends credit under a credit agreement with a debtor;

(3) "debtor" means a person who obtains credit or seeks a credit agreement with a creditor or who owes money to a creditor; and

(4) "signed" has the meaning specified in section 336.1-201(39).

Subd. 2. **Credit agreements to be in writing.** A debtor may not maintain an action on a credit agreement unless the agreement is in writing, expresses consideration, sets forth the relevant terms and conditions, and is signed by the creditor and the debtor.

Subd. 3. **Actions not considered agreements.** (a) The following actions do not give rise to a claim that a new credit agreement is created, unless the agreement satisfies the requirements of subdivision 2:

(1) the rendering of financial advice by a creditor to a debtor;

(2) the consultation by a creditor with a debtor; or

(3) the agreement by a creditor to take certain actions, such as entering into a new credit agreement, forbearing from exercising remedies under prior credit agreements, or extending installments due under prior credit agreements.

(b) A credit agreement may not be implied from the relationship, fiduciary or otherwise, of the creditor and the debtor.

History: 1985 c 245 s 1; 1991 c 329 s 1

FRAUDULENT TRANSFERS

513.41 DEFINITIONS.

As used in sections 513.41 to 513.51:

(1) "Affiliate" means:

(i) a person who directly or indirectly owns, controls, or holds with power to vote, 20 percent or more of the outstanding voting securities of the debtor, other than a person who holds the securities,

(A) as a fiduciary or agent without sole discretionary power to vote the securities; or

(B) solely to secure a debt, if the person has not exercised the power to vote;

(ii) a corporation 20 percent or more of whose outstanding voting securities are directly or indirectly owned, controlled, or held with power to vote, by the debtor or a person who directly or indirectly owns, controls, or holds with power to vote, 20 percent or more of the outstanding voting securities of the debtor, other than a person who holds the securities,

(A) as a fiduciary or agent without sole power to vote the securities; or

(B) solely to secure a debt, if the person has not in fact exercised the power to vote;
 (iii) a person whose business is operated by the debtor under a lease or other agreement, or a person substantially all of whose assets are controlled by the debtor; or
 (iv) a person who operates the debtor's business under a lease or other agreement or controls substantially all of the debtor's assets.

(2) "Asset" means property of a debtor, but the term does not include:

(i) property to the extent it is encumbered by a valid lien;
 (ii) property to the extent it is generally exempt under nonbankruptcy law; or
 (iii) an interest in property held in tenancy by the entireties to the extent it is not subject to process by a creditor holding a claim against only one tenant.

(3) "Claim" means a right to payment, whether or not the right is reduced to judgment, liquidated, unliquidated, fixed, contingent, matured, unmatured, disputed, undisputed, legal, equitable, secured, or unsecured.

(4) "Creditor" means a person who has a claim.

(5) "Debt" means liability on a claim.

(6) "Debtor" means a person who is liable on a claim.

(7) "Insider" includes:

(i) if the debtor is an individual,

(A) a relative of the debtor or of a general partner of the debtor;

(B) a partnership in which the debtor is a general partner;

(C) a general partner in a partnership described in clause (B); or

(D) a corporation of which the debtor is a director, officer, or a person in control;

(ii) if the debtor is a corporation,

(A) a director of the debtor;

(B) an officer of the debtor;

(C) a person in control of the debtor;

(D) a partnership in which the debtor is a general partner;

(E) a general partner in a partnership described in clause (D); or

(F) a relative of a general partner, director, officer, or person in control of the debtor;

(iii) if the debtor is a partnership,

(A) a general partner in the debtor;

(B) a relative of a general partner in, or a general partner of, or a person in control of the debtor;

(C) another partnership in which the debtor is a general partner;

(D) a general partner in a partnership described in clause (C); or

(E) a person in control of the debtor;

(iv) an affiliate, or an insider of an affiliate as if the affiliate were the debtor; and

(v) a managing agent of the debtor.

(8) "Lien" means a charge against or an interest in property to secure payment of a debt or performance of an obligation, and includes a security interest created by agreement, a judicial lien obtained by legal or equitable process or proceedings, a common-law lien, or a statutory lien.

(9) "Person" means an individual, partnership, corporation, association, organization, government or governmental subdivision or agency, business trust, estate, trust, or any other legal or commercial entity.

(10) "Property" means anything that may be subject of ownership.

(11) "Relative" means an individual related by consanguinity within the third degree as determined by the common law, a spouse, or an individual related to a spouse within the third degree as so determined, and includes an individual in an adoptive relationship within the third degree.

(12) "Transfer" means every mode, direct or indirect, absolute or conditional, voluntary or involuntary, of disposing of or parting with an asset or an interest in an asset, and includes payment of money, release, lease, and creation of a lien or other encumbrance.

(13) "Valid lien" means a lien that is effective against the holder of a judicial lien subsequently obtained by legal or equitable process or proceedings.

History: 1987 c 19 s 1

513.42 INSOLVENCY.

(a) A debtor is insolvent if the sum of the debtor's debts is greater than all of the debtor's assets, at a fair valuation.

(b) A debtor who is generally not paying debts as they become due is presumed to be insolvent.

(c) A partnership is insolvent under subsection (a) if the sum of the partnership's debts is greater than the aggregate, at a fair valuation, of all of the partnership's assets and the sum of the excess of the value of each general partner's nonpartnership assets over the partner's nonpartnership debts.

(d) Assets under this section do not include property that has been transferred, concealed, or removed with intent to hinder, delay, or defraud creditors or that has been transferred in a manner making the transfer voidable under sections 513.41 to 513.51.

(e) Debts under this section do not include an obligation to the extent it is secured by a valid lien on property of the debtor not included as an asset.

History: 1986 c 444; 1987 c 19 s 2

513.43 VALUE.

(a) Value is given for a transfer or an obligation if, in exchange for the transfer or obligation, property is transferred or an antecedent debt is secured or satisfied, but value does not include an unperformed promise made otherwise than in the ordinary course of the promisor's business to furnish support to the debtor or another person.

(b) For the purposes of sections 513.44(a)(2) and 513.45, a person gives a reasonably equivalent value if the person acquires an interest of the debtor in an asset pursuant to a regularly conducted, noncollusive foreclosure sale or execution of a power of sale for the acquisition or disposition of the interest of the debtor upon default under a mortgage, deed of trust, or security agreement.

(c) A transfer is made for present value if the exchange between the debtor and the transferee is intended by them to be contemporaneous and is in fact substantially contemporaneous.

History: 1987 c 19 s 3

513.44 TRANSFERS FRAUDULENT AS TO PRESENT AND FUTURE CREDITORS.

(a) A transfer made or obligation incurred by a debtor is fraudulent as to a creditor, whether the creditor's claim arose before or after the transfer was made or the obligation was incurred, if the debtor made the transfer or incurred the obligation:

(1) with actual intent to hinder, delay, or defraud any creditor of the debtor; or

(2) without receiving a reasonably equivalent value in exchange for the transfer or obligation, and the debtor:

(i) was engaged or was about to engage in a business or a transaction for which the remaining assets of the debtor were unreasonably small in relation to the business or transaction; or

(ii) intended to incur, or believed or reasonably should have believed that the debtor would incur, debts beyond the debtor's ability to pay as they became due.

(b) In determining actual intent under subsection (a)(1), consideration may be given, among other factors, to whether:

(1) the transfer or obligation was to an insider;

(2) the debtor retained possession or control of the property transferred after the transfer;

- (3) the transfer or obligation was disclosed or concealed;
 - (4) before the transfer was made or obligation was incurred, the debtor had been sued or threatened with suit;
 - (5) the transfer was of substantially all the debtor's assets;
 - (6) the debtor absconded;
 - (7) the debtor removed or concealed assets;
 - (8) the value of the consideration received by the debtor was reasonably equivalent to the value of the asset transferred or the amount of the obligation incurred;
 - (9) the debtor was insolvent or became insolvent shortly after the transfer was made or the obligation was incurred;
 - (10) the transfer occurred shortly before or shortly after a substantial debt was incurred;
- and
- (11) the debtor transferred the essential assets of the business to a lienor who transferred the assets to an insider of the debtor.

History: 1986 c 444; 1987 c 19 s 4

513.45 TRANSFERS FRAUDULENT AS TO PRESENT CREDITORS.

(a) A transfer made or obligation incurred by a debtor is fraudulent as to a creditor whose claim arose before the transfer was made or the obligation was incurred if the debtor made the transfer or incurred the obligation without receiving a reasonably equivalent value in exchange for the transfer or obligation and the debtor was insolvent at that time or the debtor became insolvent as a result of the transfer or obligation.

(b) A transfer made by a debtor is fraudulent as to a creditor whose claim arose before the transfer was made if the transfer was made to an insider for an antecedent debt, the debtor was insolvent at that time, and the insider had reasonable cause to believe that the debtor was insolvent.

History: 1987 c 19 s 5

513.46 WHEN TRANSFER IS MADE OR OBLIGATION IS INCURRED.

For the purposes of sections 513.41 to 513.51:

- (1) a transfer is made:
 - (i) with respect to an asset that is real property other than a fixture, but including the interest of a seller or purchaser under a contract for the sale of the asset, when the transfer is so far perfected that a good-faith purchaser of the asset from the debtor against whom applicable law permits the transfer to be perfected cannot acquire an interest in the asset that is superior to the interest of the transferee; and
 - (ii) with respect to an asset that is not real property or that is a fixture, when the transfer is so far perfected that a creditor on a simple contract cannot acquire a judicial lien otherwise than under sections 513.41 to 513.51 that is superior to the interest of the transferee;
- (2) if applicable law permits the transfer to be perfected as provided in paragraph (1) and the transfer is not so perfected before the commencement of an action for relief under sections 513.41 to 513.51, the transfer is deemed made immediately before the commencement of the action;
- (3) if applicable law does not permit the transfer to be perfected as provided in paragraph (1), the transfer is made when it becomes effective between the debtor and the transferee;
- (4) a transfer is not made until the debtor has acquired rights in the asset transferred;
- (5) an obligation is incurred:
 - (i) if oral, when it becomes effective between the parties; or
 - (ii) if evidenced by a writing, when the writing executed by the obligor is delivered to or for the benefit of the obligee.

History: 1987 c 19 s 6

513.47 REMEDIES OF CREDITORS.

(a) In an action for relief against a transfer or obligation under sections 513.41 to 513.51, a creditor, subject to the limitations in section 513.48, may obtain:

(1) avoidance of the transfer or obligation to the extent necessary to satisfy the creditor's claim;

(2) an attachment or other provisional remedy against the asset transferred or other property of the transferee in accordance with the procedure prescribed by chapter 570;

(3) subject to applicable principles of equity and in accordance with applicable rules of civil procedure:

(i) an injunction against further disposition by the debtor or a transferee, or both, of the asset transferred or of other property;

(ii) appointment of a receiver to take charge of the asset transferred or of other property of the transferee; or

(iii) any other relief the circumstances may require.

(b) If a creditor has obtained a judgment on a claim against the debtor, the creditor, if the court so orders, may levy execution on the asset transferred or its proceeds.

History: 1987 c 19 s 7

513.48 DEFENSES, LIABILITY, AND PROTECTION OF TRANSFeree.

(a) A transfer or obligation is not voidable under section 513.44(a)(1) against a person who took in good faith and for a reasonably equivalent value or against any subsequent transferee or obligee.

(b) Except as otherwise provided in this section, to the extent a transfer is voidable in an action by a creditor under section 513.47(a)(1), the creditor may recover judgment for the value of the asset transferred, as adjusted under subsection (c), or the amount necessary to satisfy the creditor's claim, whichever is less. The judgment may be entered against:

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

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

(c) If the judgment under subsection (b) is based upon the value of the asset transferred, the judgment must be for an amount equal to the value of the asset at the time of the transfer, subject to adjustment as the equities may require.

(d) Notwithstanding voidability of a transfer or an obligation under sections 513.41 to 513.51, a good-faith transferee or obligee is entitled, to the extent of the value given the debtor for the transfer or obligation, to

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

(2) enforcement of any obligation incurred; or

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

(e) A transfer is not voidable under section 513.44(a)(2) or 513.45 if the transfer results from:

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

(2) enforcement of a security interest in compliance with article 9 of the Uniform Commercial Code.

(f) A transfer is not voidable under section 513.45(b):

(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; or

(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.

History: 1987 c 19 s 8

513.50 SUPPLEMENTARY PROVISIONS.

Unless displaced by the provisions of sections 513.41 to 513.51, the principles of law and equity, including the law merchant and the law relating to principal and agent, estoppel,

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laches, fraud, misrepresentation, duress, coercion, mistake, insolvency, or other validating or invalidating cause, supplement its provisions.

History: *1987 c 19 s 9*

513.51 SHORT TITLE.

Sections 513.41 to 513.51 may be cited as the "uniform fraudulent transfer act."

History: *1987 c 19 s 10*