

CHAPTER 136.

[H. B. 112.]

FRAUDULENT CONVEYANCES.

AN ACT concerning fraudulent conveyances, to make uniform the law relating thereto, and repealing all laws in conflict herewith.

Be it enacted by the Legislature of the State of Washington:

SECTION 1. (Definition of terms.) In this act "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.

Definitions.

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 incumbrance, except when given to a trustee or assignee for the benefit of all unsecured creditors.

Conveyance.

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

Creditor.

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

Debt.

SEC. 2. (Insolvency.) (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.

Insolvency.

(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.

Fair consideration.

SEC. 3. (Fair Consideration.) Fair consideration is given for property, or obligation,

(a) 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

(b) 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.

Conveyances by insolvents.

SEC. 4. (Conveyances 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.

Persons in business.

SEC. 5. (Conveyances by Persons in Business.) 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.

Persons about to incur debts.

SEC. 6. (Conveyances 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.

SEC. 7. (Conveyance of Partnership Property.) Every conveyance made and every obligation in-

curred 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.

Partnership property.

SEC. 8. (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,

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

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

SEC. 9. (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,

Rights of creditors.

(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.

SEC. 10. (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,

(a) Restrain the defendant from disposing of his property,

(b) Appoint a receiver to take charge of the property,

(c) Set aside the conveyance or annul the obligation, or

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

Cases not provided for.

SEC. 11. (Cases not Provided for in Act.) In any case not provided for in this act 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.

Construction of act.

SEC. 12. (Construction of Act.) This act shall be so interpreted and construed as to effectuate its general purpose to make uniform the law of those states which enact it.

Name of act.

SEC. 13. (Name of Act.) This act may be cited as the Uniform Fraudulent Conveyance Act.

Inconsistent acts repealed

SEC. 14. (Inconsistent Legislation Repealed.) All acts or parts of acts inconsistent with this act are hereby repealed.

Passed the House February 7, 1945.

Passed the Senate March 7, 1945.

Approved by the Governor March 15, 1945.