

TITLE XXII.

Fraudulent Conveyances and Contracts.

CHAPTER 240.

FRAUDULENT CONVEYANCES AND CONTRACTS RELATING TO REAL ESTATE.

240.01	Conveyances, when void.	240.06	Conveyance of land, etc., to be in writing.
240.02	Conveyances not fraudulent, when.	240.07	Limitation of section 240.06.
240.03	Conveyances with power of revocation, void.	240.08	What contracts to be written.
240.04	Such conveyances valid, when.	240.09	Specific performance.
240.05	Same subject.	240.10	Real estate agency contracts.

240.01 Conveyances, when void. Every conveyance of any estate or interest in land, or the rents and profits of lands 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 such purchasers, shall be void.

240.02 Conveyances not fraudulent, when. No such conveyance or charge shall be deemed fraudulent in favor of a subsequent purchaser who shall have actual or legal notice thereof at the time of his purchase, unless it shall appear that the grantee in such conveyance or person to be benefited by such charge was privy to the fraud intended.

240.03 Conveyances with power of revocation, 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 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 so liable to be revoked or determined, although the same be not expressly revoked, determined or altered by such grantor by virtue of the power reserved or expressed in such prior conveyance or charge.

240.04 Such conveyances valid, when. Where a power to revoke a conveyance of any lands or the rents and profits thereof and to reconvey the same shall be given to any person other than the grantor in such conveyance, and such person shall thereafter convey the same lands, 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 were recited therein and the intent to revoke the former conveyance expressly declared.

240.05 Same subject. If a conveyance to a purchaser, under either section 240.03 or 240.04, shall be made before the person making the same shall be entitled to execute his power of revocation it shall nevertheless be valid from the time the power of revocation shall actually vest in such person in the same manner and to the same extent as if then made.

240.06 Conveyance of land, etc., to be in writing. 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 be created, granted, assigned, surrendered or declared unless by act or operation of law or by deed or conveyance in writing, subscribed by the party creating, granting, assigning, surrendering or declaring the same or by his lawful agent thereunto authorized by writing.

Where a wife, joint optionee with her husband under an option contract for the purchase of real estate, did not authorize the making of material alterations by the husband and the optionor, and the wife did not ratify the act of the husband by any writing nor by any conduct which might work an estoppel against her, and never did anything inconsistent with her asserted claim under the original option, she did not surrender her interest. To constitute a surrender of an interest, the act must be inconsistent

with the continuance of the former estate or interest, and must be actually accepted and acted on by the other party. Formality of writing is necessary to ratify agent's act. *Wyman v. Utech*, 256 W 234, 40 NW (2d) 373. If an agent fraudulently purchases with his own money property which he is orally employed to purchase for his principal, a constructive trust is created by operation of law which need not be in writing. *Shevel v. Warter*, 256 W 503, 41 NW (2d) 603.

240.07 Limitation of section 240.06. Section 240.06 shall not be construed to affect in any manner the power of a testator in the disposition of his real estate by a last will and testament nor to prevent any trust from arising or being extinguished by implication or operation of law.

240.08 What contracts to be written. 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, be in writing and be subscribed by the party by whom the lease or sale is to be made or by his lawfully authorized agent.

An instruction which assumed that a 3-year contract, constituting either a lease of land or an employment agreement, need not be in writing was error. An unwritten 3-year lease of land is invalid. Part performance does not make an oral lease within the statute of frauds fully enforceable. If the contract involved in the instant ejectment action should be found by a jury to be an oral 3-year, and hence invalid, lease of the plaintiffs' farm, rather than a valid oral contract for hire for an indefinite term, a defendant's counterclaim for breach of lease-contract could not be maintained even if there was sufficient performance by him, and his recovery would have to be on quantum meruit for services rendered. Under either finding defendant's recovery would be limited to services rendered to the date when the relationship of the parties was terminated, less offsets, if any, in the plaintiffs' favor. *Kirkpatrick v. Jackson*, 256 W 208, 40 NW (2d) 372.

240.09 Specific performance. Nothing in this chapter contained shall be construed to abridge the powers of courts to compel the specific performance of agreements in case of part performance of such agreements.

240.10 Real estate agency contracts. Every contract to pay a commission to a real estate agent or broker or to any other person for selling or buying real estate or negotiating lease therefor for a term or terms exceeding a period of three years shall be void unless such contract or note or memorandum thereof describing such real estate, expressing the price for which the same may be sold or purchased, or terms of rental, the commission to be paid and the period during which the agent or broker shall procure a buyer or seller or tenant, be in writing and be subscribed by the person agreeing to pay such commission.