

TITLE XVII.

FRAUDS AND PERJURIES.

CHAPTER 1.

FRAUDS AND PERJURIES.

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An Act for the prevention of frauds and perjuries.

Rev. 148.

Passed November 26, 1794.

1. BE IT ENACTED *by the Council and General Assembly of this state, and it is hereby enacted by the authority of the same,* That every deed of gift, and conveyance of goods and chattels, made or to be made, in trust to the use of the person or persons making the same deed of gift or conveyance, shall be and hereby is declared to be void and of no effect.

Deeds of gift of goods to the use of the person making them to be void.

2. *And,* for the avoiding and abolishing of all feigned, covenous, and fraudulent feoffments, gifts, grants, alienations, conveyances, bonds, suits, judgments, and executions, as well of lands and tenements as of goods and chattels, which have been and are devised and contrived of malice, fraud, covin, collusion, or guile, to the end, purpose, and intent to delay, hinder, or defraud creditors and others of their just and lawful actions, suits, debts, accounts, damages, penalties, forfeitures and demands, not only to the let or hinderance of the due course and execution of law and justice, but also to the overthrow of all true and plain dealing agreements, bargains, contracts, and traffic between man and man, without which no commonwealth or civil society can be maintained or continued—*be it enacted by the authority aforesaid,* that all and every feoffment, gift, grant, alienation, bargain and conveyance of lands, tenements, hereditaments, goods and chattels, or any of them, or of any lease, rent, common, or other profit or charge out of the same lands, tenements, hereditaments, goods and chattels, or any of them, by writing or otherwise, and all and every bond, suit, judgment and execution, at any time heretofore had or made, or

Preamble.

All bonds, judgments, conveyances etc., to defraud creditors and others of their just demands shall, as to them, be void and of no effect.

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hereafter to be had or made, to or for any intent or purpose before declared and expressed, shall be deemed and taken, (only as against that person or those persons, his, her, or their heirs, successors, executors, administrators, and assigns, and every of them, whose actions, suits, debts, accounts, damages, penalties, forfeitures and demands, by such guileful, covenous, or fraudulent devices and practices as aforesaid, are or shall, or may be in any wise disturbed, hindered, or defeated,) to be clearly and utterly void, frustrate, and of no effect; any pretence, colour, feigned consideration, expressing of use, or any other matter or thing to the contrary notwithstanding.

3. *And*, for as much as not only this state, but divers of the citizens thereof, and bodies politic and corporate, after conveyances obtained or to be obtained, and purchases made or to be made, of lands, tenements, leases, estates, and hereditaments, for money or other good considerations, may have, incur, and receive great loss and prejudice by reason of fraudulent and covenous conveyances, estates, gifts, grants, charges and limitations of uses heretofore made, or hereafter to be made, of, in, or out of the lands, tenements or hereditaments so purchased, or to be purchased; which said gifts, grants, charges, estates, uses, and conveyances were or hereafter shall be meant and intended by the parties who so make the same, to be fraudulent and covenous, of purpose and intent to deceive such as have purchased, or shall purchase the same; or else, by the secret intent of the parties, the same to be to their own proper use, and at their free disposal, coloured, nevertheless, by a feigned countenance and show of words and sentences, as though the same were made bona fide for good causes, and upon just and lawful considerations; for remedy of which inconveniences, and for the avoiding of such fraudulent, feigned and covenous conveyances, gifts, grants, charges, uses and estates, and for the maintenance of upright and just dealing, in the purchasing of lands, tenements, and hereditaments—*be it enacted by the authority aforesaid*, that all and every conveyance, grant, charge, lease, estate, encumbrance, and limitation of use or uses of, in, or out of any lands, tenements, or hereditaments whatsoever, at any time heretofore had or made, or hereafter to be had or made, for the intent and purpose to defraud and deceive such person or persons, bodies politic or corporate, as have purchased, or shall hereafter purchase, any estate of inheritance, or for life or lives, year or years, of or in the same lands, tenements, or hereditaments, or any part or parcel thereof, so before conveyed, granted, leased, charged, encumbered, or limited in use, or to defraud and deceive such as have or shall purchase any rent, profit, or commodity, in or out of the same, or

Conveyances made to defraud or deceive purchasers shall, as to them, be ineffectual and void.

any part thereof, shall be deemed and taken (only as against the person and persons, bodies politic and corporate, his, her, and their heirs, successors, executors, administrators and assigns, and against all and every other person and persons, lawfully having or claiming by, from, or under them, or any of them, who have purchased, or shall hereafter so purchase, for money or other good consideration, the same lands, tenements or hereditaments, or any part or parcel thereof, or any rent, profit, or commodity, in or out of the same) to be utterly void, frustrate, and of no effect; any pretence, colour, feigned consideration, or expressing of any use or uses, to the contrary notwithstanding.

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4. *And be it enacted by the authority aforesaid,* That all and every the parties to such feigned, covenous, and fraudulent feoffment, gift, grant, alienation, bargain, lease, charge, conveyance, bonds, suits, judgments, executions, and other things before expressed, or being privy to and knowing of the same, or any of them, who, at any time hereafter shall wittingly and willingly put in use, avow, maintain, justify or defend the same, or any of them, as true, simple, and done, had, or made bona fide and upon good consideration, or shall alien or assign any the lands, tenements, goods, leases, or other things before mentioned, to him, her or them conveyed as aforesaid, or any part thereof, shall incur the penalty and forfeiture of one year's value of the said lands, tenements, and hereditaments, leases, rents, commons, or other profits, of or out of the same, and the whole value of the said goods and chattels, and also so much money as is or shall be contained in any such covenous and feigned bond; the one moiety whereof, to be to the state, and the other moiety to the party or parties grieved by such feigned and fraudulent feoffment, gift, grant, alienation, bargain, conveyance, bonds, suits, judgments, executions, leases, rents, commons, profits, charges, and other things aforesaid; to be recovered in any court of record, by action of debt, bill, plaint, or information.

Penalty on the parties to or making use of such fraudulent bonds, judgments, conveyances, etc., and how to be recovered and applied.

5. *And be it enacted by the authority aforesaid,* That if any person or persons have made, or hereafter shall make, any conveyance, gift, grant, demise, charge, limitation of use or uses, or assurance of, in, or out of any lands, tenements or hereditaments, with any clause, provision, article, or condition of revocation, determination, or alteration, at his, her, or their will or pleasure, of such conveyance or assurance, gift, grant, limitation of use or uses, or estates, of, in, or out of the said lands, tenements, or hereditaments, or of, in, or out of any part or parcel of them, contained or mentioned in any writing, deed, or indenture; and after such conveyance, gift, grant, demise, charge, limitation of use or uses, or assurance so made or had, shall or do bargain, sell, demise, grant, convey, or

A prior conveyance, with clause of revocation, shall be void against a posterior conveyance of the same lands, made by the same person, for a good consideration.

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charge the same lands, tenements, or hereditaments, or any part or parcel thereof, to any person or persons, bodies politic and corporate, for money or other good consideration paid or given, (the said first conveyance, assurance, gift, grant, demise, charge, or limitation, not by him, her, or them revoked, made void, or altered, according to the power and authority reserved or expressed unto him, her, or them, in or by the said secret conveyance, assurance, gift, or grant) then the said former conveyance, gift, grant, demise, charge, limitation of use or uses, or assurance, as touching the said lands, tenements, or hereditaments, so after bargained, sold, demised, granted, conveyed or charged, against the said bargainees, vendees, lessees, grantees, and every of them, their heirs, successors, executors, administrators, and assigns, and against all and every person or persons who have or claim, or shall or may lawfully have or claim any thing, by, from or under them, or any of them, shall be deemed, taken, and adjudged to be void, frustrate, and of no effect, by virtue and force of this act.

This act not to affect bona fide conveyances to persons not having notice or knowledge of the fraud, nor any bona fide mortgage.

6. *Provided always, and be it further enacted by the authority aforesaid*, That this act, or any thing therein contained, shall not extend to or be construed to impeach, defeat, make void or frustrate any conveyance, assignment of lease, assurance, grant, charge, lease, estate, interest, or limitation of use or uses, of, in, to, or out of any lands, tenements, or hereditaments, goods or chattels, at any time heretofore had or made, or hereafter to be had or made, upon or for good consideration, and bona fide, to any person or persons, bodies politic or corporate, not having, at the time of such conveyance or assurance to him, her, or them made, any manner of notice or knowledge of such covin, fraud, or collusion, as is aforesaid; and also, that no lawful mortgage, made or to be made, bona fide and without fraud or covin, and upon good consideration shall be impeached or impaired by force of this act; but every such mortgage shall stand in like force and effect, as the same should have done if this act had never been made; any thing before in this act to the contrary notwithstanding.

7. *And whereas* sundry common recoveries of lands, tenements and hereditaments, have heretofore been had, and hereafter may be had, against a tenant in tail, or other tenant of the freehold, the reversion or remainder, or the right of the reversion or remainder then being in some other person or persons—*be it enacted by the authority aforesaid*, that every such common recovery heretofore had, and hereafter to be had, of any lands, tenements or hereditaments, shall, as touching such person or persons, who then had any reversion or remainder, or right of reversion or remainder, and against the heirs of every of them, stand, remain, and be of such like force

Common recoveries against the tenant of the freehold not to be affected by this act.

and effect, and of no other, as the same should have been, if this act had never been made. TIT. XVII. CHAP. 1.

8. *Provided always, and be it enacted by the authority aforesaid,* Nor any voucher in writs of formedon. That this act, or any thing herein before contained, shall not extend to make void any estate or conveyance, by reason whereof any person or persons shall use any voucher in any writ of formedon, now depending, or hereafter to be depending; but that all and every such voucher and vouchers, in any writ of formedon, shall stand and be in like force and effect as if this act had never been made.

9. *And, for the prevention of many fraudulent practices, which are commonly endeavoured to be upheld by perjury and subornation of perjury—be it enacted by the authority aforesaid,* All estates by livery and seisin only, or by parol, to have the effect of estates at will, that all leases, estates, interests of freehold or terms of years, or any uncertain interests of, in, to, or out of any messuages, lands, tenements or hereditaments, made or created, or hereafter to be made or created, by livery and seisin only, or by parol, and not put in writing, and signed by the parties so making or treating the same, or their agents thereunto lawfully authorized by writing, shall have the force and effect of leases, or estates at will only, and shall not, either in law or equity, be deemed or taken to have any other or greater force or effect, any consideration for making any such parol leases or estates, or any former law or usage to the contrary notwithstanding; except leases for three years. except, nevertheless, all leases, not exceeding the term of three years from the making thereof, whereupon the rent reserved to the landlord, during such term, shall amount to two third parts, at the least, of the full improved value of the thing demised.

10. *And be it enacted by the authority aforesaid,* No lease or interest in lands to be granted or assigned but by writing. That no leases, estates or interests, or term or terms of year or years, or any uncertain interest of, in, to, or out of any messuages, lands, tenements or hereditaments, shall, at any time hereafter, be assigned, granted or surrendered, unless it be by deed or note in writing, signed by the party so assigning, granting or surrendering the same, or his, her, or their agent or agents, thereunto lawfully authorized by writing or by act and operation of law.

11. *And be it enacted by the authority aforesaid,* All declarations and creations of trusts of lands to be in writing. That all declarations or creations of trusts or confidences of any lands, tenements or hereditaments, shall be manifested and proved by some writing, signed by the party, who is or shall be by law enabled to declare such trust, or by his or her last will in writing, or else they shall be utterly void and of no effect; but all declarations or creations of uses, trusts or confidences of any fines, or common recoveries of any lands, tenements or hereditaments, manifested and proved, or

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which hereafter shall be manifested and proved, by any deed already made, or hereafter to be made, by the party who is or shall be by law enabled to declare such uses or trusts, after the levying or suffering of any such fines or recoveries, are and shall be as good and effectual in the law as if this clause of this act had never been made.

This act not to affect trusts arising by construction, or transferred or extinguished by operation of law.

12. *Provided always, and be it further enacted by the authority aforesaid,* That where any conveyance hath been, or shall be made of any lands, tenements or hereditaments, by which a trust or confidence shall or may arise or result by implication or construction of law, or be transferred or extinguished by act or operation of law, then and in every such case, such trust or confidence shall be of the like force and effect as the same would have been if this act had not been made.

Grants and assignments of trusts to be in writing.

13. *And be it enacted by the authority aforesaid,* That all grants and assignments of any trust or confidence shall likewise be in writing, signed by the party granting or assigning the same, or by his or her last will in writing, or else shall likewise be utterly void and of no effect.

Certain contracts, agreements, and promises not binding and available in law, unless made in writing.

14. *And be it enacted by the authority aforesaid,* That no action shall be brought, whereby to charge any executor or administrator, upon any special promise, to answer damages out of his own estate; or whereby to charge the defendant, upon any special promise, to answer for the debt, default or miscarriages of another person; or to charge any person upon any agreement made upon consideration of marriage; or upon any contract or sale of lands, tenements or hereditaments, or any interest in or concerning them; or upon any agreement, that is not to be performed within the space of one year from the making thereof, unless the agreement upon which such action shall be brought, or some memorandum or note thereof, shall be in writing, and signed by the party to be charged therewith, or some other person thereunto by him or her lawfully authorized.

No contract for the sale of goods for the price of thirty dollars to be binding, unless goods be delivered, earnest given, or note in writing be made.

15. *And be it enacted by the authority aforesaid,* That no contract for the sale of any goods, wares and merchandise, for the price of thirty dollars or upwards, shall be allowed to be good, except the buyer shall accept part of the goods so sold, and actually receive the same, or give something in earnest to bind the bargain, or in part of payment, or that some note or memorandum in writing of the said bargain be made and signed by the parties, to be charged by such contract, or their agents, thereunto lawfully authorized.