

## No. 378.

## AN ACT

Authorizing a city of the third class to provide by ordinance for the payment for public work or improvements heretofore made for and accepted by such city where no legal or valid contract was entered into as required by law.

Section 1. Be it enacted, &c., That whenever heretofore any public work or improvement has been done for any city of the third class at the request of the council of such city or the head of any department of such city, without the entering into of any legal or valid contract as required by law, and such work or improvement has been accepted and used by such city, it shall be lawful for such city, by ordinance, to provide for payment of such work or improvement, out of any funds of such city, at the price agreed upon between the council of such city or the head of such department and the contractor, together with interest from the date of the acceptance of such work or improvement.

Cities of the third class.  
Public improvements.

Made without legal contract.

Payment.

APPROVED—The 20th day of May, A. D. 1921.

WM. C. SPROUL.

## No. 379.

## AN ACT

Concerning fraudulent conveyances, and to make uniform the law relating thereto.

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Section 1. Be it enacted, &c., That: *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.

“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.

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

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

Section 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.

(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.

Section 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.

Section 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.

Section 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.

Section 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.

Section 7. *Conveyance Made with Intent To Defraud.*—Every conveyance made and every obligation incurred 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.

Section 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.

Section 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:

(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.

(3) Knowledge that a conveyance has been made as a gift or for nominal consideration shall not by itself be deemed to be knowledge that the conveyance was a fraud on any creditor of the grantor, or impose any duty on the person purchasing the property from the grantee to make inquiry as to whether such conveyance was or was not a fraud on any such creditor.

Section 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.

Section 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.

Section 12. *Construction of Act.*—This act shall be so interpreted and construed as to effectuate its general purposes to make uniform the law of those States which enact it.

Section 13. *Name of Act.*—This act may be cited as the Uniform Fraudulent Conveyance Act.

Section 14. *Inconsistent Legislation Repealed.*—All acts or parts of acts inconsistent with this act are hereby repealed; but nothing herein shall be deemed to modify or repeal the act, approved the twenty-eighth day of March, one thousand nine hundred and five (Pamphlet Laws, sixty-two), entitled "An act relative to the sale in bulk of the whole, or a large part, of a stock of merchandise and fixtures, or merchandise, or fixtures, not in the ordinary course of business; providing certain requirements therefor; imposing certain duties upon the seller; and making their violation a misdemeanor."

APPROVED—The 21st day of May, A. D. 1921.  
—This bill relating to fraudulent conveyances is a meritorious measure, making for clarity and uniformity of the laws upon this subject in the various States, and it puts into statute form the law as construed by our courts. There is, however a formal defect in the fourteenth section of this bill in that it recites the so-called "Bulk Sales Act," of March 28, 1905, which was repealed by the act of May 23, 1919. I am approving the bill, notwithstanding this error, in the belief that its general effect will be good.

WM. C. SPROUL.