Revised Statutes of 1846 (EXCERPT)
R.S. of 1846
USES AND TRUSTS.

555.1 Uses and trusts; extent of abolition; interests deemed legal.

Sec. 1.

Uses and trusts, except as authorized and modified in this chapter, are abolished, and every estate and interest in lands shall be deemed a legal right, cognizable as such in the courts of law, except when otherwise provided in this title.

History: R.S. 1846, Ch. 63 ;-- CL 1857, 2631 ;-- CL 1871, 4114 ;-- How. 5563 ;-- CL 1897, 8829 ;-- CL 1915, 11565 ;-- CL 1929, 12967 ;-- CL 1948, 555.1

555.2 Executed use confirmed as legal estate.

Sec. 2.

Every estate which is now held as an use, executed under the laws of this state as they formerly existed, is confirmed as a legal estate.

History: R.S. 1846, Ch. 63 ;-- CL 1857, 2632 ;-- CL 1871, 4115 ;-- How. 5564 ;-- CL 1897, 8830 ;-- CL 1915, 11566 ;-- CL 1929, 12968 ;-- CL 1948, 555.2

555.3 Right to possession deemed legal estate.

Sec. 3.

Every person who, by virtue of any grant, assignment or devise, now is, or hereafter shall be entitled to the actual possession of lands, and the receipt of the rents and profits thereof, in law or in equity shall be deemed to have a legal estate therein, of the same quality and duration, and subject to the same conditions as his beneficial interest.

History: R.S. 1846, Ch. 63 ;-- CL 1857, 2633 ;-- CL 1871, 4116 ;-- How. 5565 ;-- CL 1897, 8831 ;-- CL 1915, 11567 ;-- CL 1929, 12969 ;-- CL 1948, 555.3

555.4 Right to possession deemed legal estate; effect on existing active trust.

Sec. 4.

The last preceding section shall not divest the estate of any trustees, in any existing trust, where the title of such trustees is not merely nominal, but is connected with some power of actual disposition or management, in relation to the lands which are the subject of the trust.

History: R.S. 1846, Ch. 63 ;-- CL 1857, 2634 ;-- CL 1871, 4117 ;-- How. 5566 ;-- CL 1897, 8832 ;-- CL 1915, 11568 ;-- CL 1929, 12970 ;-- CL 1948, 555.4

555.5 Passive trust; disposition of lands, trustee interest.

Sec. 5.

Every disposition of lands, whether by deed or devise, hereafter made, except as otherwise provided in this chapter, shall be directly to the person in whom the right to the possession and the profits shall be intended to be vested, and not to any other, to the use of, or in trust for, such person; and if made to 1 or more persons, in trust for, or to the use of another, no estate or interest, legal or equitable, shall vest in the trustee.

History: R.S. 1846, Ch. 63 ;-- CL 1857, 2635 ;-- CL 1871, 4118 ;-- How. 5567 ;-- CL 1897, 8833 ;-- CL 1915, 11569 ;-- CL 1929, 12971 ;-- CL 1948, 555.5

555.6 Constructive, resulting or express trusts; preceding sections effect.

Sec. 6.

The preceding sections of this chapter, shall not extend to trusts arising or resulting by implication of law, nor be construed to prevent or affect the creation of such express trusts as are hereinafter authorized and defined.

History: R.S. 1846, Ch. 63 ;-- CL 1857, 2636 ;-- CL 1871, 4119 ;-- How. 5568 ;-- CL 1897, 8834 ;-- CL 1915, 11570 ;-- CL 1929, 12972 ;-- CL 1948, 555.6

555.7 Payment of consideration for conveyance to another; resulting trust, alienee title.

Sec. 7.

When a grant for a valuable consideration shall be made to 1 person, and the consideration therefor shall be paid by another, no use or trust shall result in favor of the person by whom such payment shall be made; but the title shall vest in the person named as the alienee in such conveyance, subject only to the provisions of the next section.

History: R.S. 1846, Ch. 63 ;-- CL 1857, 2637 ;-- CL 1871, 4120 ;-- How. 5569 ;-- CL 1897, 8835 ;-- CL 1915, 11571 ;-- CL 1929, 12973 ;-- CL 1948, 555.7

555.8 Payment of consideration for conveyance to another; presumption as fraudulent; resulting trust for creditors of payee.

Sec. 8.

Every such conveyance shall be presumed fraudulent, as against the creditors of the person paying the consideration; and when a fraudulent intent is not disproved, a trust shall result in favor of such creditors, to the extent that may be necessary to satisfy their just demands.

History: R.S. 1846, Ch. 63 ;-- CL 1857, 2638 ;-- CL 1871, 4121 ;-- How. 5570 ;-- CL 1897, 8836 ;-- CL 1915, 11572 ;-- CL 1929, 12974 ;-- CL 1948, 555.8

555.9 Payment of consideration for conveyance to another; fraudulent alienee exemption.

Sec. 9.

The preceding seventh section shall not extend to cases where the alienee named in the conveyance shall have taken the same as an absolute conveyance in his own name, without the knowledge or consent of the person paying the consideration, or when such alienee, in violation of some trust, shall have purchased the lands so conveyed, with moneys belonging to another person.

History: R.S. 1846, Ch. 63 ;-- CL 1857, 2639 ;-- CL 1871, 4122 ;-- How. 5571 ;-- CL 1897, 8837 ;-- CL 1915, 11573 ;-- CL 1929, 12975 ;-- CL 1948, 555.9

555.10 Implied or resulting trust; validity against bona fide purchaser.

Sec. 10.

No implied or resulting trust shall be alleged or established to defeat or prejudice the title of a purchase, for a valuable consideration, and without notice of such trust.

History: R.S. 1846, Ch. 63 ;-- CL 1857, 2640 ;-- CL 1871, 4123 ;-- How. 5572 ;-- CL 1897, 8838 ;-- CL 1915, 11574 ;-- CL 1929, 12976 ;-- CL 1948, 555.10
Compiler's Notes: The word â€œpurchaseâ€ in this section evidently should read â€œpurchaserâ€.

555.11 Express trust; purpose of creation.

Sec. 11.

Express trusts may be created for any or either of the following purposes:

First. To sell lands for the benefit of creditors:

Second. To sell, mortgage or lease lands, for the benefit of legatees, or for the purpose of satisfying any charge thereon:

Third. To receive the rents and profits of lands, and apply them to the use of any person, during the life of such person, or for any shorter term, subject to the rules prescribed in the last preceding chapter:

Fourth. To receive the rents and profits of lands, and to accumulate the same for the benefit of any married woman, or for either of the purposes, and within the limits prescribed in the preceding chapter:

Fifth. For the beneficial interest of any person or persons where such trust is fully expressed and clearly defined upon the face of the instrument creating it subject to the limitations as to time prescribed in this title.

History: R.S. 1846, Ch. 63 ;-- CL 1857, 2641 ;-- CL 1871, 4124 ;-- How. 5573 ;-- CL 1897, 8839 ;-- CL 1915, 11575 ;-- CL 1929, 12977 ;-- CL 1948, 555.11

555.12 Devise to trustee without power to receive rents and profits; estate of trustee; effect on trust.

Sec. 12.

A devise of lands to executors or other trustees, to be sold or mortgaged, when such trustees are not also empowered to receive the rents and profits, shall vest no estate in the trustees; but the trust shall be valid as a power, and the lands shall descend to the heirs, or pass to the devisees of the testator, subject to the execution of the power.

History: R.S. 1846, Ch. 63 ;-- CL 1857, 2642 ;-- CL 1871, 4125 ;-- How. 5574 ;-- CL 1897, 8840 ;-- CL 1915, 11576 ;-- CL 1929, 12978

;-- CL 1948, 555.12

555.13 Rents and profits; liability of surplus to claims of creditors of beneficiary.

Sec. 13.

When a trust is created to receive the rents and profits of lands, and no valid direction for accumulation is given, the surplus of such rents and profits, beyond the sum that may be necessary for the education and support of the person for whose benefit the trust is created, shall be liable in equity, to the claims of the creditors of such person, in the same manner as other personal property which cannot be reached by an execution at law.

History: R.S. 1846, Ch. 63 ;-- CL 1857, 2643 ;-- CL 1871, 4126 ;-- How. 5575 ;-- CL 1897, 8841 ;-- CL 1915, 11577 ;-- CL 1929, 12979 ;-- CL 1948, 555.13

555.14 Express trust for unauthorized purpose; estate of trustee; power in trust.

Sec. 14.

When an express trust shall be created for any purpose not enumerated in the preceding sections of this chapter, no estate shall vest in the trustees; but the trust, if directing or authorizing the performance of any act which may be lawfully performed under a power, shall be valid as a power in trust, subject to the provisions in relation to such powers contained in the next succeeding chapter.

History: R.S. 1846, Ch. 63 ;-- CL 1857, 2644 ;-- CL 1871, 4127 ;-- How. 5576 ;-- CL 1897, 8842 ;-- CL 1915, 11578 ;-- CL 1929, 12980 ;-- CL 1948, 555.14

555.15 Trust as valid power; land descent.

Sec. 15.

In every case where the trust shall be valid as a power, the land to which the trust relates, shall remain in, or descend to the persons otherwise entitled, subject to the execution of the trust as a power.

History: R.S. 1846, Ch. 63 ;-- CL 1857, 2645 ;-- CL 1871, 4128 ;-- How. 5577 ;-- CL 1897, 8843 ;-- CL 1915, 11579 ;-- CL 1929, 12981 ;-- CL 1948, 555.15

555.16 Express trust; beneficiary, trustee estates, beneficiary right.

Sec. 16.

Every express trust, valid as such in its creation, except as herein otherwise provided, shall vest the whole estate in the trustees, in law and in equity, subject only to the execution of the trust; and the person for whose benefit the trust was created, shall take no estate or interest in the lands, but may enforce the performance of the trust in equity.

History: R.S. 1846, Ch. 63 ;-- CL 1857, 2646 ;-- CL 1871, 4129 ;-- How. 5578 ;-- CL 1897, 8844 ;-- CL 1915, 11580 ;-- CL 1929, 12982 ;-- CL 1948, 555.16

555.17 Express trust; disposal of land in event of failure or termination of trust.

Sec. 17.

The preceding section shall not prevent any person creating a trust, from declaring to whom the lands to which the trust relates shall belong, in the event of the failure or termination of the trust, nor shall it prevent him from granting or devising such lands subject to the execution of the trust; and every such grantee shall have a legal estate in the lands, as against all persons except the trustees and those lawfully claiming under them.

History: R.S. 1846, Ch. 63 ;-- CL 1857, 2647 ;-- CL 1871, 4130 ;-- How. 5579 ;-- CL 1897, 8845 ;-- CL 1915, 11581 ;-- CL 1929, 12983 ;-- CL 1948, 555.17

555.18 Express trust; undisposed estate or interest.

Sec. 18.

When an express trust is created, every estate and interest not embraced in the trust, and not otherwise disposed of, shall remain in, or revert to the person creating the trust, or his heirs as a legal estate.

History: R.S. 1846, Ch. 63 ;-- CL 1857, 2648 ;-- CL 1871, 4131 ;-- How. 5580 ;-- CL 1897, 8846 ;-- CL 1915, 11582 ;-- CL 1929, 12984 ;-- CL 1948, 555.18

555.19 Express trust; assignability of interest of beneficiary.

Sec. 19.

No person beneficially interested in a trust for the receipt of the rents and profits of lands, can assign or in any manner dispose of such interest; but the rights and interest of every person for whose benefit a trust for the payment of a sum in gross is created, are assignable.

History: R.S. 1846, Ch. 63 ;-- CL 1857, 2649 ;-- CL 1871, 4132 ;-- How. 5581 ;-- CL 1897, 8847 ;-- CL 1915, 11583 ;-- CL 1929, 12985 ;-- CL 1948, 555.19

555.20 Express trust; omission from conveyance; validity as to subsequent creditor and bona fide purchaser from trustee.

Sec. 20.

When an express trust is created, but is not contained or declared in the conveyance to the trustees, such conveyance shall be deemed absolute as against the subsequent creditors of the trustees, not having notice of the trust, and as against purchasers from such trustees, without notice, and for a valuable consideration.

History: R.S. 1846, Ch. 63 ;-- CL 1857, 2650 ;-- CL 1871, 4133 ;-- How. 5582 ;-- CL 1897, 8848 ;-- CL 1915, 11584 ;-- CL 1929, 12986 ;-- CL 1948, 555.20

555.21 Express trust; mention in instrument; invalidity of certain acts of trustee.

Sec. 21.

When the trust shall be expressed in the instrument creating the estate, every sale, conveyance, or other acts of the trustees, in contravention of the trust, shall be absolutely void.

History: R.S. 1846, Ch. 63 ;-- CL 1857, 2651 ;-- CL 1871, 4134 ;-- How. 5583 ;-- CL 1897, 8849 ;-- CL 1915, 11585 ;-- CL 1929, 12987 ;-- CL 1948, 555.21

555.22 Authorized payment to trustee; protection of payor.

Sec. 22.

No person who shall actually and in good faith make any payment to a trustee, which the trustee as such is authorized to receive, shall be responsible for the application thereof according to the trust; nor shall any right or title derived by such person from the trustee, in consideration of such payment, be impeached or called in question, in consequence of any misapplication of such payment by the trustee.

History: R.S. 1846, Ch. 63 ;-- CL 1857, 2652 ;-- CL 1871, 4135 ;-- How. 5584 ;-- CL 1897, 8850 ;-- CL 1915, 11586 ;-- CL 1929, 12988 ;-- CL 1948, 555.22

555.23 Express trust; termination of estate of trustee.

Sec. 23.

When the purposes for which an express trust shall have been created, shall have ceased, the estate of the trustee shall also cease.

History: R.S. 1846, Ch. 63 ;-- CL 1857, 2653 ;-- CL 1871, 4136 ;-- How. 5585 ;-- CL 1897, 8851 ;-- CL 1915, 11587 ;-- CL 1929, 12989 ;-- CL 1948, 555.23

555.24 Express trust; death of all trustees; execution of trust.

Sec. 24.

Upon the death of the surviving trustee of an express trust, the trust estate shall not descend to his heirs, nor pass to his personal representatives; but the trust if then unexecuted, shall vest in the court of chancery, with all the powers and duties of the original trustees, and shall be executed by some person appointed for that purpose, under the direction of the court.

History: R.S. 1846, Ch. 63 ;-- CL 1857, 2654 ;-- CL 1871, 4137 ;-- How. 5586 ;-- CL 1897, 8852 ;-- CL 1915, 11588 ;-- CL 1929, 12990 ;-- CL 1948, 555.24

555.25 Express trust; trustee resignation.

Sec. 25.

Upon the petition of any trustee of an express trust, the court of chancery may accept his resignation, and discharge him from the trust, under such regulations as shall be established by the court for that purpose, and upon such terms as the rights and interests of the persons interested in the execution of the trust may require.

History: R.S. 1846, Ch. 63 ;-- CL 1857, 2655 ;-- CL 1871, 4138 ;-- How. 5587 ;-- CL 1897, 8853 ;-- CL 1915, 11589 ;-- CL 1929, 12991 ;-- CL 1948, 555.25

555.26 Express trust; trustee removal.

Sec. 26.

Upon the petition or bill of any person interested in the execution of an express trust, and under such regulations as shall be established by the court for that purpose, the court of chancery may remove any trustee who shall have violated or threatened to violate his trust, or who shall be insolvent, or whose insolvency shall be apprehended, or who, for any other cause, shall be deemed an unsuitable person to execute the trust.

History: R.S. 1846, Ch. 63 ;-- CL 1857, 2656 ;-- CL 1871, 4139 ;-- How. 5588 ;-- CL 1897, 8854 ;-- CL 1915, 11590 ;-- CL 1929, 12992 ;-- CL 1948, 555.26

555.27 Express trust; appointment of new trustee.

Sec. 27.

The chancellor shall have full power to appoint a new trustee, in the place of a trustee resigned or removed; and when, in consequence of such resignation or removal, there shall be no acting trustee, the court, in its discretion, may appoint new trustees, or cause the trust to be executed by 1 of its officers, under its direction.

History: R.S. 1846, Ch. 63 ;-- CL 1857, 2657 ;-- CL 1871, 4140 ;-- How. 5589 ;-- CL 1897, 8855 ;-- CL 1915, 11591 ;-- CL 1929, 12993 ;-- CL 1948, 555.27
Compiler's Notes: The office of chancellor, referred to in this section, was abolished by Act 23 of 1847.

555.28 Conflicting provisions.

Sec. 28.

If a provision of this chapter conflicts with a provision of article VII of the estates and protected individuals code, 1998 PA 386, MCL 700.7101 to 700.7913, article VII of the estates and protected individuals code, 1998 PA 386, MCL 700.7101 to 700.7913, prevails.

History: Add. 2009, Act 43, Eff. Apr. 1, 2010