

1960

# c 154 Fraudulent Conveyances Act

Ontario

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## CHAPTER 154

## The Fraudulent Conveyances Act

## 1. In this Act,

Interpre-  
tation

- (a) "conveyance" includes gift, grant, alienation, bargain, charge, encumbrance, limitation of use or uses of, in, to or out of real property or personal property by writing or otherwise;
- (b) "personal property" includes goods, chattels, effects, bills, bonds, notes and securities, and shares, dividends, premiums and bonuses in a bank, company or corporation, and any interest therein;
- (c) "real property" includes lands, tenements, hereditaments and any estate or interest therein. R.S.O. 1950, c. 148, s. 1.

2. Every conveyance of real property or personal property and every bond, suit, judgment and execution heretofore or hereafter made with intent to defeat, hinder, delay or defraud creditors or others of their just and lawful actions, suits, debts, accounts, damages, penalties or forfeitures are void as against such persons and their assigns. R.S.O. 1950, c. 148, s. 2, *revised*.

Where  
conveyances  
void as  
against  
creditors

3. Section 2 does not apply to an estate or interest in real property or personal property conveyed upon good consideration and *bona fide* to a person not having at the time of the conveyance to him notice or knowledge of the intent set forth in that section. R.S.O. 1950, c. 148, s. 4, *revised*.

Where s. 2  
does not  
apply

4. Section 2 applies to every conveyance executed with the intent set forth in that section notwithstanding that it was executed upon a valuable consideration and with the intention, as between the parties to it, of actually transferring to and for the benefit of the transferee the interest expressed to be thereby transferred, unless it is protected under section 3 by reason of *bona fides* and want of notice or knowledge on the part of the purchaser. R.S.O. 1950, c. 148, s. 5, *revised*.

Where s. 2  
applies

When fraudulent conveyances declared void as against purchasers

5. Every conveyance of real property heretofore or hereafter made with intent to defraud and deceive the purchaser shall be deemed to be void only as against that person and his assigns and all persons lawfully claiming under him or them who have purchased or hereafter purchase for money or other good consideration the same real property or a part thereof. R.S.O. 1950, c. 148, s. 6, *revised*.

Where s. 5 does not apply

6. Section 5 does not apply to and shall not be construed to impeach, defeat or make void a conveyance of real property made *bona fide* and for good consideration. R.S.O. 1950, c. 148, s. 7, *revised*.

Conveyances made revocable

7.—(1) If a person makes a conveyance of real property with a clause, provision, article, or condition of revocation, determination or alteration at his will or pleasure, and after such conveyance bargains, sells, demises, grants, conveys or charges such real property or a part thereof to a person for money or other good consideration paid or given, such first conveyance not being by him revoked, made void or altered according to the power and authority so reserved or expressed therein, then such first conveyance as touching the real property so after bargained, sold, conveyed, demised or charged is void against the bargainees, vendees, lessees, grantees, their heirs, successors, and their assigns and against every person lawfully claiming under them.

Saving as to mortgages

(2) No lawful mortgage made *bona fide*, and without fraud or covin, and upon good consideration shall be impeached or impaired by force of this Act, but it has the like force and effect as if this Act had not been passed. R.S.O. 1950, c. 148, s. 8, *revised*.

Validity of voluntary conveyance, etc., executed in good faith and duly registered

8.—(1) Nothing in section 5, 6 or 7 extends to a conveyance that is executed in good faith and duly registered in the proper registry or land titles office before the execution of the conveyance to, and before the creation of any binding contract for the conveyance to a subsequent purchaser from the same grantor of the same real property or a part thereof, nor is such a conveyance merely by reason of the absence of a valuable consideration void as against such purchaser or his heirs, executors, administrators or assigns or any person claiming by, from or under any of them. R.S.O. 1950, c. 148, s. 9, *revised*.

Effect of subs. 1

(2) Nothing in subsection 1 has the effect of making valid an instrument that is for any reason, other than or in addition to the absence of a valuable consideration, void under

section 5, 6 or 7 or otherwise, nor has the effect of making valid an instrument as against a purchaser who had before the 28th day of February, 1868, entered into a binding contract for or received his conveyance upon such purchase. R.S.O. 1950, c. 148, s. 10.

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