

## CHAPTER 557

### REAL PROPERTY IN GENERAL

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### GENERAL PRINCIPLES

#### 557.1 Who deemed seized.

All persons owning real estate not held by an adverse possession shall be deemed to be seized and possessed of the same.

[C51, §1199; R60, §2207; C73, §1928; C97, §2912; C24, 27, 31, 35, 39, §10040; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §557.1]

#### 557.2 Estate in fee simple.

The term “*heirs*” or other technical words of inheritance are not necessary to create and convey an estate in fee simple.

[C51, §1200; R60, §2208; C73, §1929; C97, §2913; C24, 27, 31, 35, 39, §10041; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §557.2]

#### 557.3 Conveyance passes grantor's interest.

Every conveyance of real estate passes all the interest of the grantor therein, unless a contrary intent can be reasonably inferred from the terms used.

[C51, §1201; R60, §2209; C73, §1930; C97, §2914; C24, 27, 31, 35, 39, §10042; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §557.3]

#### 557.4 After-acquired interest — exception.

Where a deed purports to convey a greater interest than the grantor was at the time possessed of, any after-acquired interest of such grantor, to the extent of that which the deed purports to convey, inures to the benefit of the grantee. But if the spouse of such grantor joins in such conveyance for the purpose of relinquishing dower or homestead only, and subsequently acquires an interest therein as above defined, it shall not be held to inure to the benefit of the grantee.

[C51, §1202; R60, §2210; C73, §1931; C97, §2915; C24, 27, 31, 35, 39, §10043; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §557.4]

**557.5 Adverse possession.**

Adverse possession of real estate does not prevent any person from selling that person's interest in the same.

[C51, §1203; R60, §2211; C73, §1932; C97, §2916; C24, 27, 31, 35, 39, §10044; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §557.5]

**557.6 Future estates.**

Estates may be created to commence at a future day.

[C51, §1204; R60, §2212; C73, §1933; C97, §2917; C24, 27, 31, 35, 39, §10045; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §557.6]

**557.7 Contingent remainders.**

A contingent remainder shall take effect, notwithstanding any determination of the particular estate, in the same manner in which it would have taken effect if it had been an executory devise or a springing or shifting use, and shall, as well as such limitations, be subject to the rule respecting remoteness known as the rule against perpetuities, exclusive of any other supposed rule respecting limitations to successive generations or double possibilities.

[C24, 27, 31, 35, 39, §10046; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §557.7]

Referred to in §557.8

**557.8 Applicability.**

Section 557.7, except so far as declaratory of existing law, shall apply only to instruments executed on or after July 1, 1925, and to wills and codicils revived or confirmed by a will or codicil executed on or after said date.

[C24, 27, 31, 35, 39, §10047; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §557.8]

**557.9 Defeating expectant estate.**

No expectant estate shall be defeated or barred by an alienation or other act of the owner of the precedent estate, nor by the destruction of such precedent estate by disseizin, forfeiture, surrender, or merger; provided that on the petition of the life tenant, with the consent of the holder of the reversion, the district court may order the sale of the property in such estate and the proceeds shall be subject to the order of court until the right thereto becomes fully vested. The proceedings shall be as in an action for partition.

[C24, 27, 31, 35, 39, §10048; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §557.9]

**557.10 Declarations of trust.**

Declarations or creations of trusts or powers in relation to real estate must be executed in the same manner as deeds of conveyance; but this provision does not apply to trusts resulting from the operation or construction of law.

[C51, §1205; R60, §2213; C73, §1934; C97, §2918; C24, 27, 31, 35, 39, §10049; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §557.10]

Statute of frauds, §622.32

**557.11 Conveyances by married persons.**

A married person may convey or encumber any real estate or interest therein belonging to the person, and may control the same, or contract with reference thereto, to the same extent and in the same manner as other persons.

[C51, §1207; R60, §2215; C73, §1935; C97, §2919; C24, 27, 31, 35, 39, §10050; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §557.11]

**557.12 Conveyances by husband and wife.**

Every conveyance made by a husband and wife shall be sufficient to pass any and all right of either in the property conveyed, unless the contrary appears on the face of the conveyance.

[R60, §2255; C73, §1936; C97, §2920; C24, 27, 31, 35, 39, §10051; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §557.12]

**557.13 Covenants — spouse not bound.**

Where either the husband or wife joins in a conveyance of real estate owned by the other, the husband or wife so joining shall not be bound by the covenants of such conveyance, unless it is expressly so stated on the face thereof.

[C73, §1937; C97, §2921; C24, 27, 31, 35, 39, §10052; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §557.13]

**557.14 Title and possession of mortgagor.**

In absence of stipulations to the contrary, the mortgagor of real estate retains the legal title and right of possession thereto.

[C51, §1210; R60, §2217; C73, §1938; C97, §2922; C24, 27, 31, 35, 39, §10053; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §557.14]

**557.15 Common forms of co-ownership of real property.**

1. A conveyance of real property to two or more grantees each in their own right creates a tenancy in common, unless a contrary intent is expressed in the conveyance instrument or as provided in [subsection 2](#).

2. A conveyance of real property to two or more grantees in a conveyance instrument in any of the following circumstances creates a presumption of joint tenancy with rights of survivorship unless a contrary intent is expressed in the instrument and subject to [subsection 3](#):

a. The instrument identifies two grantees as married to each other at the time the instrument is executed.

b. The instrument describes the conveyance to the grantees with the phrase “joint tenants”, “joint tenancy”, or words of similar import.

c. The instrument describes the conveyance to the grantees with the phrase “or their survivor” with reference to the grantees, or words of similar import.

3. An order of annulment, dissolution, or separate maintenance entered pursuant to [section 598.21](#) is a muniment of title to the real property described, and severs a joint tenancy with rights of survivorship and creates a tenancy in common in equal shares, unless otherwise provided in the order.

[C51, §1206; R60, §2214; C73, §1939; C97, §2923; C24, 27, 31, 35, 39, §10054; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §557.15]

[2014 Acts, ch 1054, §1, 2](#)

Section takes effect January 1, 2015, and applies to instruments executed and orders entered on or after that date; [2014 Acts, ch 1054, §2](#)

**557.16 Cotenant liable for rent.**

In all cases in which any real estate is now or shall be hereafter held by two or more persons as tenants in common, and one or more of said tenants shall have been or shall hereafter be in possession of said real estate, it shall be lawful for any one or more of said tenants in common, not in possession, to sue for and recover from such tenants in possession, their proportionate part of the rental value of said real estate for the time, not exceeding a period of five years, such real estate shall have been in possession as aforesaid.

[C24, 27, 31, 35, 39, §10055; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §557.16]

**557.17 Partition — cotenant charged with rent.**

In case of partition of such real estate held in common as aforesaid, the parties in possession shall have deducted from their distributive shares of said real estate the rental value thereof to which their cotenants are entitled.

[C24, 27, 31, 35, 39, §10056; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §557.17]

**557.18 Vendor's lien.**

No vendor's lien for unpaid purchase money shall be enforced in any court of this state after a conveyance by the vendee, unless such lien is reserved by conveyance, mortgage, or

other instrument duly acknowledged and recorded, or unless such conveyance by the vendee is made after suit by the vendor, the vendor's executor, or assigns to enforce such lien.

[C73, §1940; C97, §2924; C24, 27, 31, 35, 39, §10057; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §557.18]

Referred to in [§557.19](#)

#### **557.19 Fraudulent conveyances.**

Nothing in [section 557.18](#) shall be construed to deprive a vendor of any remedy now existing against conveyance procured through the fraud or collusion of the vendees therein, or persons purchasing of such vendees with notice of such fraud or lien.

[C73, §1940; C97, §2924; C24, 27, 31, 35, 39, §10058; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §557.19]

#### **557.20 Rule in Shelley's case.**

The rule or principle of the common law known as the rule in Shelley's case is hereby abolished and is declared not to be a part of the law of this state.

[S13, §2924-a; C24, 27, 31, 35, 39, §10059; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §557.20]

#### **557.21 Devise, bequest, or conveyance not enlarged.**

No express devise, bequest, or conveyance of an estate for life, or other limited estate in real or personal property shall be enlarged or construed to pass any greater estate to the devisee, legatee, or grantee thereof by reason of any devise, bequest, or conveyance to the heirs, heirs of the body, children, or issue of such devisee, legatee, or grantee; but [this section](#) shall not in any manner or under any circumstances be so construed as to impair or affect the vested rights of any person in or to any lands or estates acquired prior to July 4, 1907.

[S13, §2924-b; C24, 27, 31, 35, 39, §10060; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §557.21]

### RECORDING OF FARM NAMES

#### **557.22 Authorization.**

Any owner of a farm in the state may have the name of that farm, together with a description of the owner's lands to which the name applies, recorded in the office of the county recorder of the county in which the farm is located.

[S13, §2924-c; C24, 27, 31, 35, 39, §10061; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §557.22]

[2003 Acts, ch 5, §3](#)

Referred to in [§331.602](#), [331.607](#), [557.24](#)

#### **557.23 Vested interest.**

When any name shall have been recorded as the name of any farm in such county, such name shall not be recorded as the name of any other farm in the same county.

[S13, §2924-c; C24, 27, 31, 35, 39, §10062; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §557.23]

Referred to in [§331.602](#)

#### **557.24 Fee.**

A person having the name of the person's farm recorded as provided in [section 557.22](#) shall first pay to the county recorder the fees specified in [section 331.604](#), which shall be paid to the county treasurer as other fees are paid to the county treasurer by the recorder.

[S13, §2924-d; C24, 27, 31, 35, 39, §10063; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §557.24]

[85 Acts, ch 159, §6](#); [2009 Acts, ch 27, §32](#)

Referred to in [§331.602](#)

**557.25 Transfer of farm.**

When any owner of a farm, the name of which has been recorded as hereinbefore provided, transfers by deed or otherwise the whole of such farm, such transfer may include the registered name thereof; but if the owner shall transfer only a portion of such farm, then in that event, the registered name thereof shall not be transferred to the purchaser unless so stated in the deed of conveyance.

[S13, §2924-e; C24, 27, 31, 35, 39, §10064; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §557.25]

Referred to in [§331.602](#)

**557.26 Cancellation — fee.**

If the owner of a registered farm desires to cancel the registered name of the farm, the owner shall acknowledge cancellation of the name by execution of an instrument in writing referring to the farm name, and shall record the instrument. For the latter service the county recorder shall collect the fees specified in [section 331.604](#), which shall be paid to the county treasurer as other fees are paid to the county treasurer by the recorder.

[S13, §2924-f; C24, 27, 31, 35, 39, §10065; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §557.26]

[85 Acts, ch 159, §7](#); [2009 Acts, ch 27, §33](#)

Referred to in [§331.602](#)