

REVISED JUDICATURE ACT OF 1961 (EXCERPT)
Act 236 of 1961

600.1405 Rights of third party beneficiaries; contracts included; time promise becomes legally binding; exceptions; promisee's rights; retroactive construction of section.

Sec. 1405.

Any person for whose benefit a promise is made by way of contract, as hereinafter defined, has the same right to enforce said promise that he would have had if the said promise had been made directly to him as the promisee.

(1) A promise shall be construed to have been made for the benefit of a person whenever the promisor of said promise has undertaken to give or to do or refrain from doing something directly to or for said person.

(2)(a) The rights of a person for whose benefit a promise has been made, as defined in (1), shall be deemed to have become vested, subject always to such express or implied conditions, limitations, or infirmities of the contract to which the rights of the promisee or the promise are subject, without any act or knowledge on his part, the moment the promise becomes legally binding on the promisor, unless there is some stipulation, agreement or understanding in the contract to the contrary.

(b) If such person is not in being or ascertainable at the time the promise becomes legally binding on the promisor then his rights shall become vested the moment he comes into being or becomes ascertainable if the promise has not been discharged by agreement between the promisor and the promisee in the meantime.

(c) If the promisee is indebted or otherwise obligated to the person for whose benefit the promise was made and the promise in question is intended when performed to discharge that debt or obligation, then the promisor and the promisee may, by mutual agreement, divest said person of his rights, if this is done without intent to hinder, delay or defraud said person in the collection or enforcement of the said debt or other obligation which the promisee owes him and before he has taken any legal steps to enforce said promise made for his benefit.

(3) Nothing herein contained shall be held to abridge, impair or destroy the rights which the promisee of a promise made for the benefit of another person would otherwise have as a result of such promise.

(4) The provisions of this section shall be construed to be applicable to contracts made prior to its enactment as well as to those made subsequent thereto, unless such construction is held to be unconstitutional, in which case they shall be held to be applicable only to contracts made subsequent to its enactment.

History: 1961, Act 236, Eff. Jan. 1, 1963