Revised Statutes of 1846 (EXCERPT)
R.S. of 1846
Chapter 62
Chapter 62. Of The Nature And Qualities Of Estates In Real And Personal Property, And The Alienation Thereof.

554.1 Estates in lands; kinds as respects length of enjoyment.

Sec. 1.

Estates in lands are divided into estates of inheritance, estates for life, estates for years, and estates at will and by sufferance.

History: R.S. 1846, Ch. 62 ;-- CL 1857, 2585 ;-- CL 1871, 4068 ;-- How. 5517 ;-- CL 1897, 8783 ;-- CL 1915, 11519 ;-- CL 1929, 12921 ;-- CL 1948, 554.1

554.2 Estate of inheritance; fee simple.

Sec. 2.

Every estate of inheritance shall continue to be termed a fee simple, or fee; and every such estate, when not defeasible or conditional, shall be a fee simple absolute, or an absolute fee.

History: R.S. 1846, Ch. 62 ;-- CL 1857, 2586 ;-- CL 1871, 4069 ;-- How. 5518 ;-- CL 1897, 8784 ;-- CL 1915, 11520 ;-- CL 1929, 12922 ;-- CL 1948, 554.2

554.3 Estate of inheritance; fee tail; abolition, declaration as fee simple.

Sec. 3.

All estates tail are abolished, and every estate which would be adjudged a fee tail, according to the law of the territory of Michigan, as it existed before the second day of March, 1821, shall for all purposes be adjudged a fee simple; and if no valid remainder be limited thereon, shall be a fee simple absolute.

History: R.S. 1846, Ch. 62 ;-- CL 1857, 2587 ;-- CL 1871, 4070 ;-- How. 5519 ;-- CL 1897, 8785 ;-- CL 1915, 11521 ;-- CL 1929, 12923 ;-- CL 1948, 554.3
Former Law: See Act of March 2, 1821; Code of 1820, p. 393; 1 Terr. Laws 815; and Revision of 1827, p. 261.

554.4 Estate of inheritance; remainder in fee after a fee tail; validity.

Sec. 4.

When a remainder in fee shall be limited upon any estate which would be adjudged a fee tail according to the law of the territory of Michigan as it existed previous to the time mentioned in the preceding section, such remainder shall be valid as a contingent limitation upon a fee, and shall vest in possession, on the death of the first taker, without issue living at the time of such death.

History: R.S. 1846, Ch. 62 ;-- CL 1857, 2588 ;-- CL 1871, 4071 ;-- How. 5520 ;-- CL 1897, 8786 ;-- CL 1915, 11522 ;-- CL 1929, 12924 ;-- CL 1948, 554.4

554.5 Freehold estates; chattels real; chattel interests.

Sec. 5.

Estates of inheritance and for life shall be denominated estates of freehold; estates for years shall be denominated chattels real; and estates at will or by sufferance shall be chattel interests, but shall not be liable as such to sale on executions.

History: R.S. 1846, Ch. 62 ;-- CL 1857, 2589 ;-- CL 1871, 4072 ;-- How. 5521 ;-- CL 1897, 8787 ;-- CL 1915, 11523 ;-- CL 1929, 12925 ;-- CL 1948, 554.5

554.6 Estate for life of another; nature.

Sec. 6.

An estate for the life of a third person, whether limited to heirs or otherwise, shall be deemed a freehold only during the life of the grantee or devisee, but after his death it shall be deemed a chattel real.

History: R.S. 1846, Ch. 62 ;-- CL 1857, 2590 ;-- CL 1871, 4073 ;-- How. 5522 ;-- CL 1897, 8788 ;-- CL 1915, 11524 ;-- CL 1929, 12926 ;-- CL 1948, 554.6

554.7 Estates in land; kinds as respects time of enjoyment.

Sec. 7.

Estates, as respects the time of their enjoyment, are divided into estates in possession, and estates in expectancy.

History: R.S. 1846, Ch. 62 ;-- CL 1857, 2591 ;-- CL 1871, 4074 ;-- How. 5523 ;-- CL 1897, 8789 ;-- CL 1915, 11525 ;-- CL 1929, 12927 ;-- CL 1948, 554.7

554.8 Estates in possession and in expectancy; definition.

Sec. 8.

An estate in possession, is where the owner has an immediate right to the possession of the land; an estate in expectancy is where the right to the possession is postponed to a future period.

History: R.S. 1846, Ch. 62 ;-- CL 1857, 2592 ;-- CL 1871, 4075 ;-- How. 5524 ;-- CL 1897, 8790 ;-- CL 1915, 11526 ;-- CL 1929, 12928 ;-- CL 1948, 554.8

554.9 Estates in expectancy; classifications.

Sec. 9.

Estates in expectancy are divided into,
First. Estates commencing at a future day, denominated future estates; and,
Second. Reversions.

History: R.S. 1846, Ch. 62 ;-- CL 1857, 2593 ;-- CL 1871, 4076 ;-- How. 5525 ;-- CL 1897, 8791 ;-- CL 1915, 11527 ;-- CL 1929, 12929 ;-- CL 1948, 554.9

554.10 Future estate; definition.

Sec. 10.

A future estate is an estate limited to commence in possession at a future day, either without the intervention of a precedent estate, or on the determination, by lapse of time or otherwise, of a precedent estate, created at the same time.

History: R.S. 1846, Ch. 62 ;-- CL 1857, 2594 ;-- CL 1871, 4077 ;-- How. 5526 ;-- CL 1897, 8792 ;-- CL 1915, 11528 ;-- CL 1929, 12930 ;-- CL 1948, 554.10

554.11 Future estate; remainder.

Sec. 11.

When a future estate is dependent upon a precedent estate, it may be termed a remainder, and may be created and transferred by that name.

History: R.S. 1846, Ch. 62 ;-- CL 1857, 2595 ;-- CL 1871, 4078 ;-- How. 5527 ;-- CL 1897, 8793 ;-- CL 1915, 11529 ;-- CL 1929, 12931 ;-- CL 1948, 554.11

554.12 Reversion; definition.

Sec. 12.

A reversion is the residue of an estate left in the grantor or his heirs, or in the heirs of a testator, commencing in possession on the determination of a particular estate granted or devised.

History: R.S. 1846, Ch. 62 ;-- CL 1857, 2596 ;-- CL 1871, 4079 ;-- How. 5528 ;-- CL 1897, 8794 ;-- CL 1915, 11530 ;-- CL 1929, 12932 ;-- CL 1948, 554.12

554.13 Future estates; classifications, definitions.

Sec. 13.

Future estates are either vested or contingent:
They are vested when there is a person in being who would have an immediate right to the possession of the lands, upon the ceasing of the intermediate or precedent estate.
They are contingent whilst the person to whom, or the event upon which they are limited to take effect remains uncertain.

History: R.S. 1846, Ch. 62 ;-- CL 1857, 2597 ;-- CL 1871, 4080 ;-- How. 5529 ;-- CL 1897, 8795 ;-- CL 1915, 11531 ;-- CL 1929, 12933 ;-- CL 1948, 554.13

554.14-554.20 Repealed. 1949, Act 38, Eff. Sept. 23, 1949.

Compiler's Notes: The repealed sections pertained to suspension of power of alienation; contingent remainder in fee on prior remainder in fee; successive life estates; remainders upon certain life estates; and contingent remainder on terms for years.

554.21 Repealed. 1988, Act 417, Imd. Eff. Dec. 27, 1988.

Compiler's Notes: The repealed section pertained to life estates.

554.22 Heirs and issue; construction as used in remainders.

Sec. 22.

When a remainder shall be limited to take effect on the death of any person without heirs, or heirs of his body, or without issue, the words "heirs" or "issues" shall be construed to mean heirs or issue living at the death of the person named as ancestor.

History: R.S. 1846, Ch. 62 ;-- CL 1857, 2606 ;-- CL 1871, 4089 ;-- How. 5538 ;-- CL 1897, 8804 ;-- CL 1915, 11540 ;-- CL 1929, 12942 ;-- CL 1948, 554.22

554.23 Repealed. 1949, Act 38, Eff. Sept. 23, 1949.

Compiler's Notes: The repealed section pertained to limitations of chattels real.

554.24 Estates to commence in future; estates in term for years.

Sec. 24.

Subject to the rules established in the preceding sections of this chapter, a freehold estate, as well as a chattel real, may be created to commence at a future day, an estate for life may be created in a term of years, and a remainder limited thereon.

History: R.S. 1846, Ch. 62 ;-- CL 1857, 2608 ;-- CL 1871, 4091 ;-- How. 5540 ;-- CL 1897, 8806 ;-- CL 1915, 11542 ;-- CL 1929, 12944 ;-- CL 1948, 554.24

554.25 Alternative future estates.

Sec. 25.

Two or more future estates may also be created to take effect in the alternative, so that if the first in order should fail to vest, the next in succession shall be substituted for it, and take effect accordingly.

History: R.S. 1846, Ch. 62 ;-- CL 1857, 2609 ;-- CL 1871, 4092 ;-- How. 5541 ;-- CL 1897, 8807 ;-- CL 1915, 11543 ;-- CL 1929, 12945 ;-- CL 1948, 554.25

554.26 Future estates; validity as affected by probability of contingency.

Sec. 26.

No future estate, otherwise valid, shall be void on the ground of the probability or improbability of the contingency on which it is limited to take effect.

History: R.S. 1846, Ch. 62 ;-- CL 1857, 2610 ;-- CL 1871, 4093 ;-- How. 5542 ;-- CL 1897, 8808 ;-- CL 1915, 11544 ;-- CL 1929, 12946 ;-- CL 1948, 554.26

554.27 Remainder on contingency defeating prior estate; construction.

Sec. 27.

A remainder may be limited on a contingency, which in case it should happen, will operate to abridge or determine the precedent estate; and every such remainder shall be construed a conditional limitation and shall have the same effect as such a limitation would have by law.

History: R.S. 1846, Ch. 62 ;-- CL 1857, 2611 ;-- CL 1871, 4094 ;-- How. 5543 ;-- CL 1897, 8809 ;-- CL 1915, 11545 ;-- CL 1929, 12947 ;-- CL 1948, 554.27

554.28 Rule in Shelly's Case; abolition.

Sec. 28.

When a remainder shall be limited to the heir, or heirs of the body of a person to whom a life estate in the same premises shall be given, the persons who, on the termination of the life estate, shall be the heir, or heirs of the body of such tenant for life, shall be entitled to take as purchasers, by virtue of the remainder so limited to them.

History: R.S. 1846, Ch. 62 ;-- CL 1857, 2612 ;-- CL 1871, 4095 ;-- How. 5544 ;-- CL 1897, 8810 ;-- CL 1915, 11546 ;-- CL 1929, 12948 ;-- CL 1948, 554.28

554.29 Remainder not contingency defeating prior estate; construction.

Sec. 29.

When a remainder on an estate for life, or for years, shall not be limited on a contingency, defeating or avoiding such precedent estate, it shall be construed as intended to take effect only on the death of the first taker, or the expiration, by lapse of time, of such term of years.

History: R.S. 1846, Ch. 62 ;-- CL 1857, 2613 ;-- CL 1871, 4096 ;-- How. 5545 ;-- CL 1897, 8811 ;-- CL 1915, 11547 ;-- CL 1929, 12949 ;-- CL 1948, 554.29

554.30 Posthumous child; right to take estate.

Sec. 30.

When a future estate shall be limited to heirs, or issue, or children, posthumous children shall be entitled to take, in the same manner as if born before the death of their parents.

History: R.S. 1846, Ch. 62 ;-- CL 1857, 2614 ;-- CL 1871, 4097 ;-- How. 5546 ;-- CL 1897, 8812 ;-- CL 1915, 11548 ;-- CL 1929, 12950 ;-- CL 1948, 554.30

554.31 Posthumous child; effect of birth on certain future estates.

Sec. 31.

A future estate depending on the contingency of the death of any person without heirs or issue, or children, shall be defeated by the birth of a posthumous child of such person, capable of taking by descent.

History: R.S. 1846, Ch. 62 ;-- CL 1857, 2615 ;-- CL 1871, 4098 ;-- How. 5547 ;-- CL 1897, 8813 ;-- CL 1915, 11549 ;-- CL 1929, 12951 ;-- CL 1948, 554.31

554.32 Expectant estates; effect of alienation or destruction of precedent estate.

Sec. 32.

No expectant estate can be defeated or barred by any alienation or other act of the owner of the intermediate or precedent estate, nor by any destruction of such precedent estate by disseizin, forfeiture, surrender, merger, or otherwise.

History: R.S. 1846, Ch. 62 ;-- CL 1857, 2616 ;-- CL 1871, 4099 ;-- How. 5548 ;-- CL 1897, 8814 ;-- CL 1915, 11550 ;-- CL 1929, 12952 ;-- CL 1948, 554.32

554.33 Expectant estates; authorized method of defeasance, effect on original validity.

Sec. 33.

The last preceding section shall not be construed to prevent an expectant estate from being defeated in any manner, or by any act or means which the party creating such estate shall, in the creation thereof, have provided or authorized; nor shall an expectant estate thus liable to be defeated, be on that ground adjudged void in its creation.

History: R.S. 1846, Ch. 62 ;-- CL 1857, 2617 ;-- CL 1871, 4100 ;-- How. 5549 ;-- CL 1897, 8815 ;-- CL 1915, 11551 ;-- CL 1929, 12953

;-- CL 1948, 554.33

554.34 Contingent remainder; effect of premature determination of precedent estate.

Sec. 34.

No remainder, valid in its creation, shall be defeated by the determination of the precedent estate, before the happening of the contingency on which the remainder is limited to take effect; but should such contingency afterwards happen, the remainder shall take effect in the same manner, and to the same extent, as if the precedent estate had continued to the same period.

History: R.S. 1846, Ch. 62 ;-- CL 1857, 2618 ;-- CL 1871, 4101 ;-- How. 5550 ;-- CL 1897, 8816 ;-- CL 1915, 11552 ;-- CL 1929, 12954 ;-- CL 1948, 554.34

554.35 Expectant estates; qualities.

Sec. 35.

Expectant estates are descendible, devisable and alienable, in the same manner as estates in possession.

History: R.S. 1846, Ch. 62 ;-- CL 1857, 2619 ;-- CL 1871, 4102 ;-- How. 5551 ;-- CL 1897, 8817 ;-- CL 1915, 11553 ;-- CL 1929, 12955 ;-- CL 1948, 554.35

554.36 Rents and profits to accrue; disposition.

Sec. 36.

Dispositions of the rents and profits of lands, to accrue and be received at any time subsequent to the execution of the instrument creating such disposition, shall be governed by the rules established in this chapter in relation to future estates in lands.

History: R.S. 1846, Ch. 62 ;-- CL 1857, 2620 ;-- CL 1871, 4103 ;-- How. 5552 ;-- CL 1897, 8818 ;-- CL 1915, 11554 ;-- CL 1929, 12956 ;-- CL 1948, 554.36

554.37, 554.38 Repealed. 1952, Act 6, Eff. Sept. 18, 1952.

Compiler's Notes: The repealed sections pertained to valid and invalid accumulations of rents and profits of real estate.

554.39, 554.40 Repealed. 1952, Act 7, Eff. Sept. 18, 1952.

Compiler's Notes: The repealed sections pertained to accumulation of rents and profits of real estate for benefit of infants entitled to expectant estate and of person entitled in absence of disposition of rents and profits of real estate.

554.41 Expectant estates; time of creation.

Sec. 41.

The delivery of the grant, where an expectant estate is created by grant; and where it is created by devise, the death of the testator, shall be deemed the time of the creation of the estate.

History: R.S. 1846, Ch. 62 ;-- CL 1857, 2625 ;-- CL 1871, 4108 ;-- How. 5557 ;-- CL 1897, 8823 ;-- CL 1915, 11559 ;-- CL 1929, 12961 ;-- CL 1948, 554.41

554.42 Expectant estates; abolition, exceptions.

Sec. 42.

All expectant estates, except such as are enumerated and defined in this chapter, are abolished.

History: R.S. 1846, Ch. 62 ;-- CL 1857, 2626 ;-- CL 1871, 4109 ;-- How. 5558 ;-- CL 1897, 8824 ;-- CL 1915, 11560 ;-- CL 1929, 12962 ;-- CL 1948, 554.42

554.43 Estates; kinds in respect to number and connection of owners; nature.

Sec. 43.

Estates, in respect to the number and connection of their owners, are divided into estates in severalty, in joint tenancy, and in common; the nature and properties of which respectively, shall continue to be such as are now established by law, except so far as the same may be modified by the provisions of this chapter.

History: R.S. 1846, Ch. 62 ;-- CL 1857, 2627 ;-- CL 1871, 4110 ;-- How. 5559 ;-- CL 1897, 8825 ;-- CL 1915, 11561 ;-- CL 1929, 12963 ;-- CL 1948, 554.43

554.44 Land conveyance to two or more persons; estate created.

Sec. 44.

All grants and devises of lands, made to 2 or more persons, except as provided in the following section, shall be construed to create estates in common, and not in joint tenancy, unless expressly declared to be in joint tenancy.

History: R.S. 1846, Ch. 62 ;-- CL 1857, 2628 ;-- CL 1871, 4111 ;-- How. 5560 ;-- CL 1897, 8826 ;-- CL 1915, 11562 ;-- CL 1929, 12964 ;-- CL 1948, 554.44

554.45 Land conveyance; exceptions to preceding section.

Sec. 45.

The preceding section shall not apply to mortgages, nor to devises or grants made in trust, or made to executors, or to husband and wife.

History: R.S. 1846, Ch. 62 ;-- CL 1857, 2629 ;-- CL 1871, 4112 ;-- How. 5561 ;-- CL 1897, 8827 ;-- CL 1915, 11563 ;-- CL 1929, 12965 ;-- CL 1948, 554.45

554.46 Land conveyance; nominal conditions; effect of failure to perform.

Sec. 46.

When any conditions annexed to a grant or conveyance of lands are merely nominal and evince no intention of actual and substantial benefit to the party to whom or in whose favor they are to be performed, they may be wholly disregarded, and a failure to perform the same shall in no case operate as a forfeiture of the lands conveyed subject thereto.

History: R.S. 1846, Ch. 62 ;-- CL 1857, 2630 ;-- CL 1871, 4113 ;-- How. 5562 ;-- CL 1897, 8828 ;-- CL 1915, 11564 ;-- CL 1929, 12966 ;-- CL 1948, 554.46