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TITLE V. REAL RIGHTS

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TITLE VII. DELICTUAL AND QUASI-DELICTUAL OBLIGATIONS

TITLE VIII. LIBERATIVE PRESCRIPTION
Extract
CHAPTER 1: GENERAL PRINCIPLES

Art. 1. Sources of law

The sources of law are legislation and custom.

Art. 2. Legislation

Legislation is a solemn expression of legislative will.

Art. 3. Custom

Custom results from practice repeated for a long time and generally accepted as having acquired the force of law. Custom may not abrogate legislation.

Art. 4. Absence of legislation or custom

When no rule for a particular situation can be derived from legislation or custom, the court is bound to proceed according to equity. To decide equitably, resort is made to justice, reason, and prevailing usages.

Art. 5. Ignorance of law

No one may avail himself of ignorance of the law.

Art. 6. Retroactivity of laws

In the absence of contrary legislative expression, substantive laws apply prospectively only. Procedural and interpretative laws apply both prospectively and retroactively, unless there is a legislative expression to the contrary.

Art. 7. Laws for the preservation of the public interest

Persons may not by their juridical acts derogate from laws enacted for the protection of the public interest. Any act in derogation of such laws is an absolute nullity.

Art. 8. Repeal of laws

Laws are repealed, either entirely or partially, by other laws.
A repeal may be express or implied. It is express when it is literally declared by a subsequent law. It is implied when the new law contains provisions that are contrary to, or irreconcilable with, those of the former law.

The repeal of a repealing law does not revive the first law.

CHAPTER 2: INTERPRETATION OF LAWS

Art. 9. Clear and unambiguous law
When a law is clear and unambiguous and its application does not lead to absurd consequences, the law shall be applied as written and no further interpretation may be made in search of the intent of the legislature.

Art. 10. Language susceptible of different meanings
When the language of the law is susceptible of different meanings, it must be interpreted as having the meaning that best conforms to the purpose of the law.

Art. 11. Meaning of words
The words of a law must be given their generally prevailing meaning.

Words of art and technical terms must be given their technical meaning when the law involves a technical matter.

Art. 12. Ambiguous words
When the words of a law are ambiguous, their meaning must be sought by examining the context in which they occur and the text of the law as a whole.

Art. 13. Laws on the same subject matter
Laws on the same subject matter must be interpreted in reference to each other.

CHAPTER 3: CONFLICT OF LAWS

Art. 14. Multistate cases
Unless otherwise expressly provided by the law of this state, cases having contacts with other states are governed by the law selected in accordance with the provisions of Book IV of this Code.
Art. 15. to Art. 23. [Repealed]
ART. 24. Kinds of persons
There are two kinds of persons: natural persons and juridical persons. A natural person is a human being. A juridical person is an entity to which the law attributes personality, such as a corporation or a partnership. The personality of a juridical person is distinct from that of its members.

ART. 25. Commencement and end of natural personality
Natural personality commences from the moment of live birth and terminates at death.

ART. 26. Unborn child
An unborn child shall be considered as a natural person for whatever relates to its interests from the moment of conception. If the child is born dead, it shall be considered never to have existed as a person, except for personal actions resulting from its wrongful death.

ART. 27. General legal capacity
All natural persons enjoy general legal capacity to have rights and duties.

ART. 28. Capacity to make juridical acts
A natural person who has reached majority has capacity to make all sorts of juridical acts, unless otherwise provided by legislation.

ART. 29. Age of majority
Majority is attained upon reaching the age of eighteen years.

ART. 30. Presumption of death
When a person has disappeared under circumstances such that his death seems certain, his death is considered to have been established even though his body has not been found.
Art. 31. Existence of a person at time of accrual of a right

One claiming a right that has accrued to another person is bound to prove that such person existed at the time when the right accrued.

Art. 32. to Art. 37. [Repealed]

TITLE II – DOMICILE

Art. 38. Domicile

The domicile of a natural person is the place of his habitual residence. The domicile of a juridical person may be either the state of its formation or the state of its principal place of business, whichever is most pertinent to the particular issue, unless otherwise specifically provided by law.

Art. 39. Domicile and residence

A natural person may reside in several places but may not have more than one domicile. In the absence of habitual residence, any place of residence may be considered one's domicile at the option of persons whose interests are affected.

Art. 40. Domicile of spouses

Spouses may have either a common domicile or separate domiciles.

Art. 41. Domicile of unemancipated minor

The domicile of an unemancipated minor is that of the parent or parents with whom the minor usually resides. If the minor has been placed by court order under the legal authority of a parent or other person, the domicile of that person is the domicile of the minor, unless the court directs otherwise.

The domicile of an unemancipated minor under tutorship is that of his tutor. In case of joint tutorship, the domicile of the minor is that of the tutor with whom the minor usually resides, unless the court directs otherwise.

Art. 42. Domicile of interdict

The domicile of a full interdict is that of the curator. A limited interdict retains his domicile, unless otherwise provided in the judgment of interdiction.
Art. 43. Domicile of person under continued or permanent tutorship
The domicile of a person under continued or permanent tutorship is that of his tutor. Acts 2008, No. 801, §1, eff. Jan. 1, 2009.

Art. 44. Change of domicile
Domicile is maintained until acquisition of a new domicile. A natural person changes domicile when he moves his residence to another location with the intent to make that location his habitual residence. Acts 2008, No. 801, §1, eff. Jan. 1, 2009.

Art. 45. Proof of intent to change domicile
Proof of one's intent to establish or change domicile depends on the circumstances. A sworn declaration of intent recorded in the parishes from which and to which he intends to move may be considered as evidence of intent. Acts 2008, No. 801, §1, eff. Jan. 1, 2009.

Art. 46. Person holding temporary position

CHAPTER 1. CURATORSHIP OF THE PROPERTY OF ABSENT PERSONS

Art. 47. Curator of an absent person's property
An absent person is one who has no representative in this state and whose whereabouts are not known and cannot be ascertained by diligent effort.
When an absent person owns property in this state, the court may, upon petition of any interested party and a showing of necessity, appoint a curator to manage the property of the absent person. Acts 1990, No. 989, §1, eff. Jan. 1, 1991.

Art. 48. Powers, rights, and duties of curator
The curator has power of administration and disposition over the property of the absent person as provided by legislation.
When the absent person is a spouse in community, the curatorship is limited to his separate property. Acts 1990, No. 989, §1, eff. Jan. 1, 1991.
Art. 49. Legal capacity of absent person

The establishment of the curatorship does not deprive the absent person of his capacity to make juridical acts. Nevertheless, his acts of disposition of immovable property are not effective towards third persons and the curator unless filed for registry in the public records of the parish in which the immovable property is located.

Art. 50. Termination of curatorship of right

The curatorship of the property of the absent person terminates of right when he appoints a person to represent him in this state, when his whereabouts become known, or when he dies.

Art. 51. Termination by judgment of declaration of death

The curatorship of the property of the absent person also terminates when a judgment of declaration of death is rendered.
When an absent person has no known heirs and is presumed dead, it shall be the duty of the curator to initiate proceedings for a declaration of death.

Art. 52. Effects of termination of curatorship

Upon termination of the curatorship, the curator is bound to account for his management and to restore the property to the formerly absent person or to his successors.

Art. 53. Validity of acts of curator after termination of the curatorship

When the curator acquires knowledge of the termination of his curatorship, he is bound to file a notice in the curatorship proceeding that his authority to manage the property of the formerly absent person has ceased.
Acts of administration or disposition made by the curator after the curatorship has terminated are valid toward third persons unless notice of the termination of the curatorship has been filed in the curatorship proceeding.

CHAPTER 2. DECLARATION OF DEATH

Art. 54. Absent person; declaration of death

One who has been an absent person for five years is presumed to be dead. If the absence commenced between August 26, 2005, and September 30, 2005, and was related to or caused by Hurricane Katrina or Rita, the absent person who is not currently charged with an offense that is defined as a felony under the laws of the state of Louisiana or the United States of America shall be presumed dead after the passage of two years. Upon
petition by an interested party, the court shall render judgment declaring the death of the absent person and shall determine the date on which the absence commenced and the date of death.

Art. 55. Declaration of death; effect
The succession of the person declared dead shall be opened as of the date of death fixed in the judgment, and his estate shall devolve in accordance with the law of successions.

Art. 56. New evidence as to time of death
If there is clear and convincing new evidence establishing a date of death other than that determined in the judgment of declaration of death, the judgment shall be amended accordingly.
Persons previously recognized as successors are bound to restore the estate to the new successors but may keep the fruits they have gathered.

Art. 57. Reappearance of absent person; recovery of his property
If a person who has been declared dead reappears, he shall be entitled to recover his property that still exists in the condition in which it is found from those who took it as his successors or from their transferees by gratuitous title. He may also recover the net proceeds of things alienated and for the diminution of the value of things that has resulted from their encumbrance.

Art. 58. Succession rights of person presumed dead or declared dead
A person who is presumed to be dead or who has been declared dead at a time a succession would have been opened in his favor cannot be a successor. The estate of the deceased devolves as if that person were dead at the time of the opening of the succession.

Art. 59. Reappearance of absent person; recovery of his inheritance
If the person who is presumed to be dead or who has been declared dead reappears, he shall be entitled to recover his inheritance in the condition in which it is found from those who succeeded in his default and from their transferees by gratuitous title. He may also recover the net proceeds of things alienated and for the diminution of the value of things that has resulted from their encumbrance.

Art. 60 to Art. 85 [Repealed]
BOOK II. THINGS AND THE DIFFERENT MODIFICATIONS OF OWNERSHIP

TITLE I—THINGS

CHAPTER 1—DIVISION OF THINGS

SECTION 1—GENERAL PRINCIPLES

Art. 448. Division of things.

Things are divided into common, public, and private; corporeals and incorporeals; and movables and immovables.


Common things may not be owned by anyone. They are such as the air and the high seas that may be freely used by everyone conformably with the use for which nature has intended them.

Art. 450. Public things.

Public things are owned by the state or its political subdivisions in their capacity as public persons.

Public things that belong to the state are such as running waters, the waters and bottoms of natural navigable water bodies, the territorial sea, and the seashore.

Public things that may belong to political subdivisions of the state are such as streets and public squares.


Seashore is the space of land over which the waters of the sea spread in the highest tide during the winter season.

Art. 452. Public things and common things subject to public use.

Public things and common things are subject to public use in accordance with applicable laws and regulations. Everyone has the right to fish in the rivers, ports, roadsteads, and harbors, and the right to land on the seashore, to fish, to shelter himself, to moor ships, to dry nets, and the like, provided that he does not cause injury to the property of adjoining owners.

The seashore within the limits of a municipality is subject to its police power, and the public use is governed by municipal ordinances and regulations.

Art. 453. Private things.

Private things are owned by individuals, other private persons, and by the state or its political subdivisions in their capacity as private persons.

Art. 454. Freedom of disposition by private persons.

Owners of private things may freely dispose of them under modifications established by law.

Art. 455. Private things subject to public use.

Private things may be subject to public use in accordance with law or by dedication.

Art. 456. Banks of navigable rivers or streams.

The banks of navigable rivers or streams are private things that are subject to public use.

The bank of a navigable river or stream is the land lying between the ordinary low and the ordinary high stage of the water. Nevertheless, when there is a levee in proximity to the water, established according to law, the levee shall form the bank.

Art. 457. Roads; public or private.

A road may be either public or private.

A public road is one that is subject to public use. The public may own the land on which the road is built or merely have the right to use it.

A private road is one that is not subject to public use.

Art. 458. Works obstructing the public use.

Works built without lawful permit on public things, including the sea, the seashore, and the bottom of natural navigable waters, or on the banks of navigable rivers, that obstruct the public use may be removed at the expense of the persons who built or own them at the instance of the public authorities, or of any person residing in the state.

The owner of the works may not prevent their removal by alleging prescription or possession.

A building that merely encroaches on a public way without preventing its use, and which cannot be removed without causing substantial damage to its owner, shall be permitted to remain. If it is demolished from any cause, the owner shall be bound to restore to the public the part of the way upon which the building stood.

Art. 460. Construction of navigation facilities on public places by port commissions or municipalities.

Port commissions of the state, or in the absence of port commissions having jurisdiction, municipalities may, within the limits of their respective jurisdictions, construct and maintain on public places, in beds of natural navigable water bodies, and on their banks or shores, works necessary for public utility, including buildings, wharves, and other facilities for the mooring of vessels and the loading or discharging of cargo and passengers.

Art. 461. Corporeals and incorporeals.

Corporeals are things that have a body, whether animate or inanimate, and can be felt or touched.

Incorporeals are things that have no body, but are comprehended by the understanding, such as the rights of inheritance, servitudes, obligations, and right of intellectual property.

Art. 462. Tracts of land.

Tracts of land, with their component parts, are immovables.


Buildings, other constructions permanently attached to the ground, standing timber, and unharvested crops or ungathered fruits of trees, are component parts of a tract of land when they belong to the owner of the ground.


Buildings and standing timber are separate immovables when they belong to a person other than the owner of the ground.
Art. 465. Things incorporated into an immovable.

Things incorporated into a tract of land, a building, or other construction, so as to become an integral part of it, such as building materials, are its component parts.

Art. 466. Component parts of a building or other construction

Things that are attached to a building and that, according to prevailing usages, serve to complete a building of the same general type, without regard to its specific use, are its component parts. Component parts of this kind may include doors, shutters, gutters, and cabinetry, as well as plumbing, heating, cooling, electrical, and similar systems.

Things that are attached to a construction other than a building and that serve its principal use are its component parts.

Other things are component parts of a building or other construction if they are attached to such a degree that they cannot be removed without substantial damage to themselves or to the building or other construction.

Art. 467. Immovables by declaration.

The owner of an immovable may declare that machinery, appliances, and equipment owned by him and placed on the immovable, other than his private residence, for its service and improvement are deemed to be its component parts. The declaration shall be filed for registry in the conveyance records of the parish in which the immovable is located.

Art. 468. Deimmobilization.

Component parts of an immovable so damaged or deteriorated that they can no longer serve the use of lands or buildings are deimmobilized.

The owner may deimmobilize the component parts of an immovable by an act translative of ownership and delivery to acquirers in good faith.

In the absence of rights of third persons, the owner may deimmobilize things by detachment or removal.

Art. 469. Transfer or encumbrance of immovable.

The transfer or encumbrance of an immovable includes its component parts.

Art. 470. Incorporeal immovables.

Rights and actions that apply to immovable things are incorporeal immovables. Immovables of this kind are such as personal servitudes established on immovables, predial servitudes, mineral rights, and petitory or possessory actions.
Art. 471. Corporeal movables.

Corporeal movables are things, whether animate or inanimate, that normally move or can be moved from one place to another.


Materials gathered for the erection of a new building or other construction, even though deriving from the demolition of an old one, are movables until their incorporation into the new building or after construction.

Materials separated from a building or other construction for the purpose of repair, addition, or alteration to it, with the intention of putting them back, remain immovables.

Art. 473. Incorporeal movables.

Rights, obligations, and actions that apply to a movable thing are incorporeal movables. Movables of this kind are such as bonds, annuities, and interests or shares in entities possessing juridical personality.

Interests or shares in a juridical person that owns immovables are considered as movables as long as the entity exists; upon its dissolution, the right of each individual to a share in the immovables is an immovable.

Art. 474. Movables by anticipation.

Unharvested crops and ungathered fruits of trees are movables by anticipation when they belong to a person other than the landowner. When encumbered with security rights of third persons, they are movables by anticipation insofar as the creditor is concerned.

The landowner may, by act translative of ownership or by pledge, mobilize by anticipation unharvested crops and ungathered fruits of trees that belong to him.

Art. 475. Things not immovable.

All things, corporeal or incorporeal, that the law does not consider as immovables, are movables.