

**LOUISIANA CIVIL CODE 2022**

Sample

## About the Book

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Sample



## PRELIMINARY TITLE

### CHAPTER 1: GENERAL PRINCIPLES

#### **Art. 1. Sources of law**

The sources of law are legislation and custom.  
Acts 1987, No. 124, §1, eff. Jan. 1, 1988.

#### **Art. 2. Legislation**

Legislation is a solemn expression of legislative will.  
Acts 1987, No. 124, §1, eff. Jan. 1, 1988.

#### **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.  
Acts 1987, No. 124, §1, eff. Jan. 1, 1988.

#### **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.  
Acts 1987, No. 124, §1, eff. Jan. 1, 1988.

#### **Art. 5. Ignorance of law**

No one may avail himself of ignorance of the law.  
Acts 1987, No. 124, §1, eff. Jan. 1, 1988.

#### **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.  
Acts 1987, No. 124, §1, eff. Jan. 1, 1988.

#### **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.  
Acts 1987, No. 124, §1, eff. Jan. 1, 1988.

#### **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Laws are repealed, either entirely or partially, by other laws.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.  
Acts 1987, No. 124, §1, eff. Jan. 1, 1988.

## 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.

Acts 1987, No. 124, §1, eff. Jan. 1, 1988.

### **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.

Acts 1987, No. 124, §1, eff. Jan. 1, 1988.

### **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.

Acts 1987, No. 124, §1, eff. Jan. 1, 1988.

### **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.

Acts 1987, No. 124, §1, eff. Jan. 1, 1988.

### **Art. 13. Laws on the same subject matter**

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

Acts 1987, No. 124, §1, eff. Jan. 1, 1988.

## 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.

Acts 1991, No. 923, §1, eff. Jan. 1, 1992.

**Art. 15. to Art. 23. [Repealed]**

Sample

## BOOK I. OF PERSONS

### TITLE I. NATURAL AND JURIDICAL PERSONS

#### **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.

Acts 1987, No. 125, §1, eff. Jan. 1, 1988.

#### **Art. 25. Commencement and end of natural personality**

Natural personality commences from the moment of live birth and terminates at death.

Acts 1987, No. 125, §1, eff. Jan. 1, 1988.

#### **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 purposes of actions resulting from its wrongful death.

Acts 1987, No. 125, §1, eff. Jan. 1, 1988.

#### **Art. 27. General legal capacity**

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

Acts 1987, No. 125, §1, eff. Jan. 1, 1988.

#### **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.

Acts 1987, No. 125, §1, eff. Jan. 1, 1988.

#### **Art. 29. Age of majority**

Majority is attained upon reaching the age of eighteen years.

Acts 1987, No. 125, §1, eff. Jan. 1, 1988.

#### **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.

Acts 1990, No. 989, §3, eff. Jan. 1, 1991.

**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.

Acts 1990, No. 989, §3, eff. Jan. 1, 1991.

**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.

Acts 2008, No. 801, §1, eff. Jan. 1, 2009; Acts 2012, No. 73, §2.

**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.

Acts 1985, No. 272, §1; Acts 2008, No. 801, §1, eff. Jan. 1, 2009.

**Art. 40. Domicile of spouses**

Spouses may have either a common domicile or separate domiciles.

Acts 2008, No. 801, §1, eff. Jan. 1, 2009.

**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.

Acts 2008, No. 801, §1, eff. Jan. 1, 2009.

**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.

Acts 2008, No. 801, §1, eff. Jan. 1, 2009.

**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**

A person holding a temporary position away from his domicile retains his domicile unless he demonstrates a contrary intent.

Acts 2008, No. 801, §1, eff. Jan. 1, 2009.

TITLE III. ABSENT PERSONS

CHAPTER I. 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.

Acts 1990, No. 989, §1, eff. Jan. 1, 1991.

**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.

Acts 1990, No. 989, §1, eff. Jan. 1, 1991.

**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.

Acts 1990, No. 989, §1, eff. Jan. 1, 1991.

**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.

Acts 1990, No. 989, §1, eff. Jan. 1, 1991.

**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.

Acts 1990, No. 989, §1, eff. Jan. 1, 1991.

**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.

Acts 1990, No. 989, §1, eff. Jan. 1, 1991; Acts 2006, No. 258, §1.

**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.

Acts 1990, No. 989, §1, eff. Jan. 1, 1991.

**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.

Acts 1990, No. 989, §1, eff. Jan. 1, 1991.

**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.

Acts 1990, No. 989, §1, eff. Jan. 1, 1991.

**Art. 58. Succession right 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.

Acts 1990, No. 989, §1, eff. Jan. 1, 1991.

**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.

Acts 1990, No. 989, §1, eff. Jan. 1, 1991.

**Art. 60 to Art. 85 [Repealed]**



## TITLE IV - HUSBAND AND WIFE

### CHAPTER 1 - MARRIAGE: GENERAL PRINCIPLES

#### **Art. 86. Marriage; definition**

Marriage is a legal relationship between a man and a woman that is created by civil contract. The relationship and the contract are subject to special rules prescribed by law. Acts 1987, No. 886, §1, eff. Jan. 1, 1988.

#### **Art. 87. Contract of marriage; requirements**

The requirements for the contract of marriage are:

The absence of legal impediment.

A marriage ceremony.

The free consent of the parties to take each other as husband and wife, expressed at the ceremony.

Acts 1987, No. 886, §1, eff. Jan. 1, 1988.

#### **Art. 88. Impediment of existing marriage**

A married person may not contract another marriage.

Acts 1987, No. 886, §1, eff. Jan. 1, 1988.

#### **Art. 89. Impediment of same sex**

Persons of the same sex may not contract marriage with each other. A purported marriage between persons of the same sex contracted in another state shall be governed by the provisions of Title II of Book II of the Civil Code.

Acts 1987, No. 886, §1, eff. Jan. 1, 1988; Acts 1999, No. 890, §1.

#### **Art. 90. Impediments of relationship**

A. The following persons may not contract marriage with each other:

(1) Ascendants and descendants.

(2) Collaterals within the fourth degree, whether of the whole or of the half blood.

B. The impediment exists whether the persons are related by consanguinity or by adoption. Nevertheless, persons related by adoption, though not by blood, in the collateral line within the fourth degree may marry each other if they obtain judicial authorization in writing to do so.

Acts 1987, No. 886, §1, eff. Jan. 1, 1988; Acts 2004, No. 26, §1.

#### **Art. 90.1. Impediments of age**

A minor under the age of sixteen may not contract marriage. A minor sixteen or seventeen years of age may not contract marriage with a person of the age of majority where there is an age difference of three years or greater between them.

Acts 2019, No. 401, §1.

**Art. 91. Marriage ceremony required**

The parties must participate in a marriage ceremony performed by a third person who is qualified, or reasonably believed by the parties to be qualified, to perform the ceremony. The parties must be physically present at the ceremony when it is performed. Acts 1987, No. 886, §1, eff. Jan. 1, 1988.

**Art. 92. Marriage by procuration prohibited**

A marriage may not be contracted by procuration. Acts 1987, No. 886, §1, eff. Jan. 1, 1988.

**Art. 93. Vices of consent**

Consent is not free when given under duress or when given by a person incapable of discernment. Acts 1987, No. 886, §1, eff. Jan. 1, 1988.

CHAPTER 2 - NULLITY OF MARRIAGE

**Art. 94. Absolutely null marriage**

A marriage is absolutely null when contracted without a marriage ceremony, by procuration, or in violation of an impediment. A judicial declaration of nullity is not required, but an action to recognize the nullity may be brought by any interested person. Acts 1987, No. 886, §1, eff. Jan. 1, 1988. {{NOTE: SEE ACTS 1987, NO. 886, §5.}}

**Art. 95. Relatively null marriage; confirmation**

A marriage is relatively null when the consent of one of the parties to marry is not freely given. Such a marriage may be declared null upon application of the party whose consent was not free. The marriage may not be declared null if that party confirmed the marriage after recovering his liberty or regaining his discernment. Acts 1987, No. 886, §1, eff. Jan. 1, 1988

**Art. 96. Civil effects of absolutely null marriage; putative marriage**

An absolutely null marriage nevertheless produces civil effects in favor of a party who contracted it in good faith for as long as that party remains in good faith.

When the cause of the nullity is one party's prior undissolved marriage, the civil effects continue in favor of the other party, regardless of whether the latter remains in good faith, until the marriage is pronounced null or the latter party contracts a valid marriage. When the cause of the nullity is an impediment of age, the marriage produces civil effects in favor of a child of the parties. When the cause of the nullity is another reason, a marriage contracted by a party in good faith produces civil effects in favor of a child of the parties. A purported marriage between parties of the same sex does not produce any civil effects.

## 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.

Acts 1978, No. 728, §1.

**Art. 449. Common things.**

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.

Acts 1978, No. 728, §1.

**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.

Acts 1978, No. 728, §1.

**Art. 451. Seashore.**

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

Acts 1978, No. 728, §1.

**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.

Acts 1978, No. 728, §1.

**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.

Acts 1978, No. 728, §1.

**Art. 454. Freedom of disposition by private persons.**

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

Acts 1978, No. 728, §1.

**Art. 455. Private things subject to public use.**

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

Acts 1978, No. 728, §1.

**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.

Acts 1978, No. 728, §1.

**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.

Acts 1978, No. 728, §1.

**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.

Acts 1978, No. 728, §1.

**Art. 459. Building encroaching on public way.**

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.

Acts 1978, No. 728, §1.

**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.

Acts 1978, No. 728, §1.

**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.

Acts 1978, No. 728, §1.

SECTION 12—IMMOVABLES

**Art. 462. Tracts of land.**

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

Acts 1978, No. 728, §1.

**Art. 463. Component parts of tracts of land.**

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.

Acts 1978, No. 728, §1.

**Art. 464. Buildings and standing timber as separate immovables.**

Buildings and standing timber are separate immovables when they belong to a person other than the owner of the ground.

Acts 1978, No. 728, §1.

**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.  
Acts 1978, No. 728, §1.

**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.

Acts 1978, No. 728, §1; Acts 2005, No. 301, §1, eff. June 29, 2005; Acts 2006, No. 765, §1; Acts 2008, No. 632, §1, eff. July 1, 2008.

**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.

Acts 1978, No. 728, §1.

**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 translatif 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.

Acts 1978, No. 728, §1. Amended by Acts 1979, No. 180, §2.

**Art. 469. Transfer or encumbrance of immovable.**

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

Acts 1978, No. 728, §1. Amended by Acts 1979, No. 180, §2.

**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.

Acts 1978, No. 728, §1.

## SECTION 3—MOVABLES

### **Art. 471. Corporeal movables.**

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

Acts 1978, No. 728, §1.

### **Art. 472. Building materials.**

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.

Acts 1978, No. 728, §1.

### **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.

Acts 1978, No. 728, §1.

### **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.

Acts 1978, No. 728, §1.

### **Art. 475. Things not immovable.**

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

Acts 1978, No. 728, §1.

## BOOK III. OF THE DIFFERENT MODES OF ACQUIRING THE OWNERSHIP OF THINGS

### PRELIMINARY TITLE--GENERAL DISPOSITIONS

#### **Art. 870. Modes of acquiring ownership**

A. The ownership of things or property is acquired by succession either testate or intestate, by the effect of obligations, and by the operation of law.

B. Testate and intestate succession rights, including the right to claim as a forced heir, are governed by the law in effect on the date of the decedent's death.

Acts 1981, No. 919, §1, eff. Jan. 1, 1982; Acts 2001, No. 560, §1, eff. June 22, 2001.

### TITLE I--OF SUCCESSIONS

#### CHAPTER 1--OF THE DIFFERENT SORTS OF SUCCESSIONS AND SUCCESSORS

#### **Art. 871. Meaning of succession.**

Succession is the transmission of the estate of the deceased to his successors. The successors thus have the right to take possession of the estate of the deceased after complying with applicable provisions of law.

Acts 1981 No. 919, §1, eff. Jan. 1, 1982.

#### **Art. 872. Meaning of estate.**

The estate of a deceased means the property, rights, and obligations that a person leaves after his death, whether the property exceeds the charges or the charges exceed the property, or whether he has only left charges without any property. The estate includes not only the rights and obligations of the deceased as they exist at the time of death, but all that has accrued thereto since death, and the new charges to which it becomes subject.

Acts 1981, No. 919, §1, eff. Jan. 1, 1982.

#### **Art. 873. Kinds of succession.**

There are two kinds of succession: testate and intestate.

Acts 1981, No. 919, §1, eff. Jan. 1, 1982.

#### **Art. 874. Testate succession.**

Testate succession results from the will of the deceased, contained in a testament executed in a form prescribed by law. This kind of succession is covered under the Title: *Of donations inter vivos and mortis causa.*

Acts 1981, No. 919, §1, eff. Jan. 1, 1982.



**Art. 875. Intestate succession.**

Intestate succession results from provisions of law in favor of certain persons, in default of testate successors. Intestate succession is the subject of the present title. Acts 1981, No. 919, §1, eff. Jan. 1, 1982.

**Art. 876. Kinds of successors.**

There are two kinds of successors corresponding to the two kinds of succession described in the preceding articles:

Testate successors, also called legatees.

Intestate successors, also called heirs.

Acts 1981, No. 919, §1, eff. Jan. 1, 1982.

**Art 877. to Art 879. [Repealed]**

CHAPTER 2--OF INTESTATE SUCCESSION

**Art. 880. Intestate succession.**

In the absence of valid testamentary disposition, the undisposed property of the deceased devolves by operation of law in favor of his descendants, ascendants, and collaterals, by blood or by adoption, and in favor of his spouse not judicially separated from him, in the order provided in and according to the following articles.

Acts 1981, No. 919, §1, eff. Jan. 1, 1982.

**Art. 881. Representation: effect.**

Representation is a fiction of the law, the effect of which is to put the representative in the place, degree, and rights of the person represented.

Acts 1981, No. 919, §1, eff. Jan. 1, 1982.

**Art. 882. Representation in direct line of descendants**

Representation takes place ad infinitum in the direct line of descendants. It is permitted in all cases, whether the children of the deceased concur with the descendants of the predeceased child, or whether, all the children having died before him, the descendants of the children be in equal or unequal degrees of relationship to the deceased. For purposes of forced heirship, representation takes place only as provided in Article 1493.

Acts 1981, No. 919, §1, eff. Jan. 1, 1982; Acts 1990, No. 147, §1, eff. July 1, 1990; Acts 1995, No. 1180, §1, eff. Jan. 1, 1996.

**Art. 883. Representation of ascendants not permissible.**

Representation does not take place in favor of the ascendants, the nearest relation in any degree always excluding those of a more remote degree.

Acts 1981, No. 919, §1, eff. Jan. 1, 1982.

**Art. 884. Representation in collateral line.**

In the collateral line, representation is permitted in favor of the children and descendants of the brothers and sisters of the deceased, whether they succeed in concurrence with their uncles and aunts, or whether, the brothers and sisters of the deceased having died, their descendants succeed in equal or unequal degrees.

Acts 1981, No. 919, §1, eff. Jan. 1, 1982.

**Art. 885. Basis of partition in cases of representation.**

In all cases in which representation is permitted, the partition is made by roots; if one root has produced several branches, the subdivision is also made by roots in each branch, and the members of the same branch take by heads.

Acts 1981, No. 919, §1, eff. Jan. 1, 1982.

**Art. 886. Representation of deceased persons only.**

Only deceased persons may be represented.

Acts 1981, No. 919, §1, eff. Jan. 1, 1982.

**Art. 887. Representation of decedent whose succession was renounced.**

One who has renounced his right to succeed to another may still enjoy the right of representation with respect to that other.

Acts 1981, No. 919, §1, eff. Jan. 1, 1982.

**Art. 888. Succession rights of descendants.**

Descendants succeed to the property of their ascendants. They take in equal portions and by heads if they are in the same degree. They take by roots if all or some of them succeed by representation.

Acts 1981, No. 919, §1, eff. Jan. 1, 1982.

**Art. 889. Devolution of community property.**

If the deceased leaves no descendants, his surviving spouse succeeds to his share of the community property.

Acts 1981, No. 919, §1, eff. Jan. 1, 1982.

**Art. 890. Usufruct of surviving spouse**

If the deceased spouse is survived by descendants, the surviving spouse shall have a usufruct over the decedent's share of the community property to the extent that the decedent has not disposed of it by testament. This usufruct terminates when the surviving spouse dies or remarries, whichever occurs first.

Acts 1981, No. 919, §1. Amended by Acts 1982, No. 445, §1; Acts 1990, No. 1075, §1, eff. July 27, 1990; Acts 1996, 1st Ex. Sess., No. 77, §1.

**Art. 891. Devolution of separate property; parents and brothers and sisters**

If the deceased leaves no descendants but is survived by a father, mother, or both, and by a brother or sister, or both, or descendants from them, the brothers and sisters or their descendants succeed to the separate property of the deceased subject to a usufruct in favor of the surviving parent or parents. If both parents survive the deceased, the usufruct shall be joint and successive.

Acts 1981, No. 919, §1, eff. Jan. 1, 1982; Acts 2004, No. 26, §1.

**Art. 892. Devolution of separate property in absence of parents or in absence of brothers and sisters.**

If the deceased leaves neither descendants nor parents, his brothers or sisters or descendants from them succeed to his separate property in full ownership to the exclusion of other ascendants and other collaterals.

If the deceased leaves neither descendants nor brothers or sisters, nor descendants from them, his parent or parents succeed to the separate property to the exclusion of other ascendants and other collaterals.

Acts 1981, No. 919, §1, eff. Jan. 1, 1982.

**Art. 893. Brothers and sisters related by half-blood.**

The property that devolves to the brothers or sisters is divided among them equally, if they are all born of the same parents. If they are born of different unions, it is equally divided between the paternal and maternal lines of the deceased: brothers or sisters fully related by blood take in both lines and those related by half-blood take each in his own line. If there are brothers or sisters on one side only, they take the entirety to the exclusion of all relations in the other line.

Acts 1981, No. 919, §1, eff. Jan. 1, 1982.

**Art. 894. Separate property; rights of surviving spouse.**

If the deceased leaves neither descendants, nor parents, nor brothers, sisters, or descendants from them, his spouse not judicially separated from him shall succeed to his separate property to the exclusion of other ascendants and other collaterals.

Acts 1981, No. 919, §1, eff. Jan. 1, 1982.

**Art. 895. Separate property; rights of other ascendants**

If a deceased leaves neither descendants, nor brothers, sisters, or descendants from them, nor parents, nor spouse not judicially separated, his other ascendants succeed to his separate property. If the ascendants in the paternal and maternal lines are in the same degree, the property is divided into two equal shares, one of which goes to the ascendants on the paternal side, and the other to the ascendants on the maternal side, whether the number of ascendants on each side be equal or not. In this case, the ascendants in each line inherit by heads.

If there is in the nearest degree but one ascendant in the two lines, such ascendant excludes ascendants of a more remote degree.

Acts 1981, No. 919, §1, eff. Jan. 1, 1982.

**Art. 896. Separate property; rights of other collaterals.**

If the deceased leaves neither descendants, nor brothers, sisters, or descendants from them, nor parents, nor spouse not judicially separated, nor other ascendants, his other collaterals succeed to his separate property. Among the collateral relations, the nearest in degree excludes all the others. If there are several in the same degree, they take equally and by heads.

Acts 1981, No. 919, §1, eff. Jan. 1, 1982.

**Art. 897. Ascendant's right to inherit immovables donated to descendant**

Ascendants, to the exclusion of all others, inherit the immovables given by them to their children or their descendants of a more remote degree who died without descendants, when these objects are found in the succession.

If these objects have been alienated, and the price is yet due in whole or in part, the ascendants have the right to receive the price. They also succeed to the right of reversion on the happening of any event which the child or descendant may have imposed as a condition in his favor in disposing of those objects.

Acts 1981, No. 919, §1, eff. Jan. 1, 1982; Acts 2020, No. 15, §1.

**Art. 898. Reversion of property subject to encumbrances and succession debts.**

Ascendants inheriting the things mentioned in the preceding article, which they have given their children or descendants who die without issue, take them subject to all the mortgages which the donee may have imposed on them during his life.

Also ascendants exercising the right of reversion are bound to contribute to the payment of the debts of the succession, in proportion to the value of the objects given.

Acts 1981, No. 919, §1, eff. Jan. 1, 1982.

**Art. 899. Nearest in degree among more remote relations.**

Among the successors in each class the nearest relation to the deceased, according to the following articles, is called to succeed.

Acts 1981, No. 919, §1, eff. Jan. 1, 1982.

**Art. 900. Degrees of relationship.**

The propinquity of consanguinity is established by the number of generations, and each generation is called a degree.

Acts 1981, No. 919, §1, eff. Jan. 1, 1982.

**Art. 901. Direct and collateral relationship.**

The series of degrees forms the line. The direct line is the series of degrees between persons who descend one from another. The collateral line is the series of degrees between persons who do not descend one from another, but who descend from a common ancestor.

In the direct line, the number of degrees is equal to the number of generations between the heir and the deceased. In the collateral line, the number of degrees is equal to

regulated by the testament or by agreement of the successors. Nevertheless, the rights of creditors of the estate cannot be impaired by the testament or by agreement among the successors.

Acts 1997, No. 1421, §1, eff. July 1, 1999.

**Art. 1421. Estate debts, charged**

Unless otherwise provided by the testament, by agreement of the successors, or by law, estate debts are charged against the property of the estate and its fruits and products in accordance with the following articles.

Acts 1997, No. 1421, §1, eff. July 1, 1999.

**Art. 1422. Debts attributable to identifiable or encumbered property**

Estate debts that are attributable to identifiable property or to the production of its fruits or products are charged to that property and its fruits and products. Also, when the decedent has encumbered property to secure a debt, the debts are presumptively charged to that property and its fruits and products. The presumption may be rebutted, by a preponderance of the evidence that the secured debt is not attributable to the encumbered property.

Acts 1997, No. 1421, §1, eff. July 1, 1999.

**Art. 1423. Decedent's debts charged ratably**

Debts of the decedent are charged ratably to property that is the object of general or universal legacies and to property that devolves by intestacy, valued as of the date of death. When such property does not suffice, the debts remaining are charged in the following order:

(1) Ratably to the fruits and products of property that is the object of general or universal legacies and of property that devolves by intestacy; and

(2) Ratably to the fruits and products of property that is the object of particular legacies, and then ratably to such property.

Acts 1997, No. 1421, §1, eff. July 1, 1999.

**Art. 1424. Administration expenses, how charged**

Administration expenses are charged ratably to the fruits and products of property that is the object of the general or universal legacies and property that devolves by intestacy. When the fruits and products do not suffice to discharge the administration expenses, the remaining expenses are charged first to the property itself, next to the fruits and products of property that is the object of particular legacies, and then to the property itself.

Acts 1997, No. 1421, §1, eff. July 1, 1999.

**Art. 1425. Liability of successors for contribution or reimbursement**

A successor who has not received property of the estate or its fruits and products, is not liable for contribution or reimbursement. A successor who has received property of

The judicial depositary is the public official charged with the duty to execute the orders of the court. He is subject to the obligations of a conventional depositary. He is bound to deliver the thing to the person designated by the court. He is entitled to a fee to be paid by the person ordered to pay that fee by the court.  
Acts 2003, No. 491, §1, eff. Jan. 1, 2004.

## TITLE XIV--OF ALEATORY CONTRACTS

**Art. 2982. Repealed by Acts 2019, No. 106, §2.**

**Art. 2983. Repealed by Acts 2019, No. 106, §2.**

**Art. 2984. Repealed by Acts 2019, No. 106, §2.**

## TITLE XV. REPRESENTATION AND MANDATE

### CHAPTER 1. REPRESENTATION

#### **Art. 2985. Representation**

A person may represent another person in legal relations as provided by law or by juridical act. This is called representation.  
Acts 1997, No. 261, §1, eff. Jan. 1, 1998.

#### **Art. 2986. The authority of the representative**

The authority of the representative may be conferred by law, by contract, such as mandate or partnership, or by the unilateral juridical act of procuration.  
Amended by Acts 1871, No. 87; Acts 1997, No. 261, §1, eff. Jan. 1, 1998.

#### **Art. 2987. Procuracy defined; person to whom addressed**

A procuration is a unilateral juridical act by which a person, the principal, confers authority on another person, the representative, to represent the principal in legal relations.  
The procuration may be addressed to the representative or to a person with whom the representative is authorized to represent the principal in legal relations.  
Acts 1997, No. 261, §1, eff. Jan. 1, 1998.

#### **Art. 2988. Applicability of the rules of mandate**

A procuration is subject to the rules governing mandate to the extent that the application of those rules is compatible with the nature of the procuration.  
Acts 1997, No. 261, §1, eff. Jan. 1, 1998.

## CHAPTER 2. MANDATE

### SECTION 1. GENERAL PRINCIPLES

#### **Art. 2989. Mandate defined**

A mandate is a contract by which a person, the principal, confers authority on another person, the mandatary, to transact one or more affairs for the principal.  
Acts 1997, No. 261, §1, eff. Jan. 1, 1998.

#### **Art. 2990. Applicability of the rules governing obligations**

In all matters for which no special provision is made in this Title, the contract of mandate is governed by the Titles of "Obligations in General" and "Conventional Obligations or Contracts".  
Acts 1997, No. 261, §1, eff. Jan. 1, 1998.

#### **Art. 2991. Interest served**

The contract of mandate may serve the exclusive or the common interest of the principal, the mandatary, or a third person.  
Acts 1997, No. 261, §1, eff. Jan. 1, 1998.

#### **Art. 2992. Onerous or gratuitous contract**

The contract of mandate may be either onerous or gratuitous. It is gratuitous in the absence of contrary agreement.  
Acts 1997, No. 261, §1, eff. Jan. 1, 1998.

#### **Art. 2993. Form**

The contract of mandate is not required to be in any particular form.  
Nevertheless, when the law prescribes a certain form for an act, a mandate authorizing the act must be in that form.  
Acts 1997, No. 261, §1, eff. Jan. 1, 1998.

#### **Art. 2994. General authority**

The principal may confer on the mandatary general authority to do whatever is appropriate under the circumstances.  
Acts 1997, No. 261, §1, eff. Jan. 1, 1998.

#### **Art. 2995. Incidental, necessary, or professional acts**

The mandatary may perform all acts that are incidental to or necessary for the performance of the mandate.

The authority granted to a mandatary to perform an act that is an ordinary part of his profession or calling, or an act that follows from the nature of his profession or calling, need not be specified.

Acts 1997, No. 261, §1, eff. Jan. 1, 1998.

**Art. 2996. Authority to alienate, acquire, encumber, or lease**

The authority to alienate, acquire, encumber, or lease a thing must be given expressly. Neither the property nor its location need be specifically described.

Acts 1997, No. 261, §1, eff. Jan. 1, 1998.

**Art. 2997. Express authority required**

Authority also must be given expressly to:

(1) Make an inter vivos donation, either outright or to a new or existing trust or other custodial arrangement, and, when also expressly so provided, to impose such conditions on the donation, including, without limitation, the power to revoke, that are not contrary to the other express terms of the mandate.

(2) Accept or renounce a succession.

(3) Contract a loan, acknowledge or make renunciation of a debt, or become a surety.

(4) Draw or endorse promissory notes and negotiable instruments.

(5) Enter into a compromise or refer a matter to arbitration.

(6) Make health care decisions, such as surgery, medical expenses, nursing home residency, and medication.

(7) Prevent or limit reasonable communication, visitation, or interaction between the principal and a relative by blood, adoption, or affinity within the third degree, or another individual who has a relationship based on or productive of strong affection.

Amended by Acts 1991, No. 572, §1; Acts 1990, No. 184, §1; Acts 1992, No. 304, §1; Acts 1997, No. 261, §1, eff. Jan. 1, 1998; Acts 2001, No. 594, §1; Acts 2016, No. 110, §1, eff. May 19, 2016.

**Art. 2998. Contracting with one's self**

A mandatary who represents the principal as the other contracting party may not contract with himself unless he is authorized by the principal, or, in making such contract, he is merely fulfilling a duty to the principal.

Acts 1997, No. 261, §1, eff. Jan. 1, 1998.

**Art. 2999. Person of limited capacity**

A person of limited capacity may act as a mandatary for matters for which he is capable of contracting. In such a case, the rights of the principal against the mandatary are subject to the rules governing the obligations of persons of limited capacity.

Acts 1997, No. 261, §1, eff. Jan. 1, 1998.



**Art. 3000. Mandatary of both parties**

A person may be the mandatary of two or more parties, such as a buyer and a seller, for the purpose of transacting one or more affairs involving all of them. In such a case, the mandatary must disclose to each party that he also represents the other.

Acts 1997, No. 261, §1, eff. Jan. 1, 1998.

SECTION 2. RELATIONS BETWEEN THE PRINCIPAL AND THE MANDATARY

**Art. 3001. Mandatary's duty of performance; standard of care**

The mandatary is bound to fulfill with prudence and diligence the mandate he has accepted. He is responsible to the principal for the loss that the principal sustains as a result of the mandatary's failure to perform.

Amended by Acts 1979, No. 711, §1; Acts 1997, No. 261, §1, eff. Jan. 1, 1998.

**Art. 3002. Gratuitous mandate; liability of a mandatary**

When the mandate is gratuitous, the court may reduce the amount of loss for which the mandatary is liable.

Acts 1997, No. 261, §1, eff. Jan. 1, 1998.

**Art. 3003. Obligation to provide information**

At the request of the principal, or when the circumstances so require, the mandatary is bound to provide information and render an account of his performance of the mandate. The mandatary is bound to notify the principal, without delay, of the fulfillment of the mandate.

Acts 1997, No. 261, §1, eff. Jan. 1, 1998.

**Art. 3004. Obligation to deliver; right of retention**

The mandatary is bound to deliver to the principal everything he received by virtue of the mandate, including things he received unduly.

The mandatary may retain in his possession sufficient property of the principal to pay the mandatary's expenses and remuneration.

Acts 1997, No. 261, §1, eff. Jan. 1, 1998.

**Art. 3005. Interest on money used by mandatary**

The mandatary owes interest, from the date used, on sums of money of the principal that the mandatary applies to his own use.

Acts 1997, No. 261, §1, eff. Jan. 1, 1998.

**Art. 3006. Fulfillment of the mandate by the mandatary**

In the absence of contrary agreement, the mandatary is bound to fulfill the mandate himself.

Nevertheless, if the interests of the principal so require, when unforeseen circumstances prevent the mandatary from performing his duties and he is unable to communicate with the principal, the mandatary may appoint a substitute.  
Acts 1997, No. 261, §1, eff. Jan. 1, 1998.

**Art. 3007. Mandatary's liability for acts of the substitute**

When the mandatary is authorized to appoint a substitute, he is answerable to the principal for the acts of the substitute only if he fails to exercise diligence in selecting the substitute or in giving instructions.

When not authorized to appoint a substitute, the mandatary is answerable to the principal for the acts of the substitute as if the mandatary had performed the mandate himself.

In all cases, the principal has recourse against the substitute.  
Acts 1997, No. 261, §1, eff. Jan. 1, 1998.

**Art. 3008. Liability for acts beyond authority; ratification**

If the mandatary exceeds his authority, he is answerable to the principal for resulting loss that the principal sustains.

The principal is not answerable to the mandatary for loss that the mandatary sustains because of acts that exceed his authority unless the principal ratifies those acts.  
Acts 1997, No. 261, § 1, eff. Jan. 1, 1998.

**Art. 3009. Liability of multiple mandataries**

Multiple mandataries are not solidarily liable to their common principal, unless the mandate provides otherwise.  
Acts 1997, No. 261, §1, eff. Jan. 1, 1998.

**Art. 3010. Performance of obligations contracted by the mandatary**

The principal is bound to the mandatary to perform the obligations that the mandatary contracted within the limits of his authority. The principal is also bound to the mandatary for obligations contracted by the mandatary after the termination of the mandate if at the time of contracting the mandatary did not know that the mandate had terminated.

The principal is not bound to the mandatary to perform the obligations that the mandatary contracted which exceed the limits of the mandatary's authority unless the principal ratifies those acts.  
Acts 1997, No. 261, §1, eff. Jan. 1, 1998.

**Art. 3011. Advantageous performance despite divergence from authority**

The mandatary acts within the limits of his authority even when he fulfills his duties in a manner more advantageous to the principal than was authorized.  
Acts 1997, No. 261, §1, eff. Jan. 1, 1998.

**Art. 3012. Reimbursement of expenses and remuneration**

The principal is bound to reimburse the mandatary for the expenses and charges he has incurred and to pay him the remuneration to which he is entitled.

The principal is bound to reimburse and pay the mandatary even though without the mandatary's fault the purpose of the mandate was not accomplished.  
Acts 1997, No. 261, §1, eff. Jan. 1, 1998.

**Art. 3013. Compensation for loss sustained by the mandatary**

The principal is bound to compensate the mandatary for loss the mandatary sustains as a result of the mandate, but not for loss caused by the fault of the mandatary.  
Acts 1997, No. 261, §1, eff. Jan. 1, 1998.

**Art. 3014. Interest on sums expended by the mandatary**

The principal owes interest from the date of the expenditure on sums expended by the mandatary in performance of the mandate.  
Acts 1997, No. 261, §1, eff. Jan. 1, 1998.

**Art. 3015. Liability of several principals**

Multiple principals for an affair common to them are solidarily bound to their mandatary.  
Acts 1997, No. 261, §1, eff. Jan. 1, 1998.

SECTION 3. RELATIONS BETWEEN THE PRINCIPAL, THE MANDATARY, AND THIRD PERSONS

Subsection A. Relations Between the Mandatary and Third Persons

**Art. 3016. Disclosed mandate and principal**

A mandatary who contracts in the name of the principal within the limits of his authority does not bind himself personally for the performance of the contract.  
Acts 1997, No. 261, §1, eff. Jan. 1, 1998.

**Art. 3017. Undisclosed mandate**

A mandatary who contracts in his own name without disclosing his status as a mandatary binds himself personally for the performance of the contract.  
Acts 1997, No. 261, §1, eff. Jan. 1, 1998.

**Art. 3018. Disclosed mandate; undisclosed principal**

A mandatary who enters into a contract and discloses his status as a mandatary, though not his principal, binds himself personally for the performance of the contract. The mandatary ceases to be bound when the principal is disclosed.  
Acts 1997, No. 261, §1, eff. Jan. 1, 1998.

**Art. 3019. Liability when authority is exceeded**

A mandatory who exceeds his authority is personally bound to the third person with whom he contracts, unless that person knew at the time the contract was made that the mandatory had exceeded his authority or unless the principal ratifies the contract.  
Acts 1997, No. 261, §1, eff. Jan. 1, 1998.

#### Subsection B. Relations Between the Principal and Third Persons

##### **Art. 3020. Obligations of the principal to third persons**

The principal is bound to perform the contract that the mandatory, acting within the limits of his authority, makes with a third person.  
Acts 1997, No. 261, §1, eff. Jan. 1, 1998.

##### **Art. 3021. Putative mandatory**

One who causes a third person to believe that another person is his mandatory is bound to the third person who in good faith contracts with the putative mandatory.  
Acts 1997, No. 261, §1, eff. Jan. 1, 1998.

##### **Art. 3022. Disclosed mandate or principal; third person bound**

A third person with whom a mandatory contracts in the name of the principal, or in his own name as mandatory, is bound to the principal for the performance of the contract.  
Acts 1997, No. 261, §1, eff. Jan. 1, 1998.

##### **Art. 3023. Undisclosed mandate or principal obligations of third person**

A third person with whom a mandatory contracts without disclosing his status or the identity of the principal is bound to the principal for the performance of the contract unless the obligation is strictly personal or the right non-assignable. The third person may raise all defenses that may be asserted against the mandatory or the principal.  
Acts 1997, No. 261, §1, eff. Jan. 1, 1998.

#### SECTION 4. TERMINATION OF THE MANDATE AND OF THE AUTHORITY OF THE MANDATARY

##### **Art. 3024. Termination of the mandate and of the mandatory's authority**

In addition to causes of termination of contracts under the Titles governing "Obligations in General" and "Conventional Obligations or Contracts", both the mandate and the authority of the mandatory terminate upon the:

- (1) Death of the principal or of the mandatory.
- (2) Interdiction of the mandatory.
- (3) Qualification of the curator after the interdiction of the principal.

Acts 1997, No. 261, §1, eff. Jan. 1, 1998.

##### **Art. 3025. Termination by principal**

The principal may terminate the mandate and the authority of the mandatary at any time. A mandate in the interest of the principal, and also of the mandatary or of a third party, may be irrevocable, if the parties so agree, for as long as the object of the contract may require.

Acts 1997, No. 261, §1, eff. Jan. 1, 1998.

**Art. 3026. Incapacity of the principal**

In the absence of contrary agreement, neither the contract nor the authority of the mandatary is terminated by the principal's incapacity, disability, or other condition that makes an express revocation of the mandate impossible or impractical.

Acts 1997, No. 261, §1, eff. Jan. 1, 1998.

**Art. 3027. Reliance on public records**

Until filed for recordation, a revocation or modification of a recorded mandate is ineffective as to the persons entitled to rely upon the public records.

Amended by Acts 1882, No. 19; Acts 1981, No. 303, §1; Acts 1997, No. 261, §1, eff. Jan. 1, 1998.

**Art. 3028. Rights of third persons without notice of revocation**

The principal must notify third persons with whom the mandatary was authorized to contract of the revocation of the mandate or of the mandatary's authority. If the principal fails to do so, he is bound to perform the obligations that the mandatary has undertaken.

Amended by Acts 1882, No. 19; Acts 1997, No. 261, §1, eff. Jan. 1, 1998.

**Art. 3029. Termination by the mandatary**

The mandate and the authority of the mandatary terminate when the mandatary notifies the principal of his resignation or renunciation of his authority. When a mandatary has reasonable grounds to believe that the principal lacks capacity, the termination is effective only when the mandatary notifies another mandatary or a designated successor mandatary. In the absence of another mandatary or a designated successor mandatary, the termination is effective when the mandatary notifies a person with a sufficient interest in the welfare of the principal.

Acts 1997, No. 261, §1, eff. Jan. 1, 1998; Acts 2014, No. 356, §2.

**Art. 3030. Acts of the mandatary after principal's death**

The mandatary is bound to complete an undertaking he had commenced at the time of the principal's death if delay would cause injury.

Acts 1997, No. 261, §1, eff. Jan. 1, 1998.

**Art. 3031. Contracts made after termination of the mandate or the mandatary's authority**

If the mandatary does not know that the mandate or his authority has terminated and enters into a contract with a third person who is in good faith, the contract is enforceable.

Acts 1997, No. 261, §1, eff. Jan. 1, 1998.

**Art. 3032. Obligation to account**

Upon termination of the mandate, unless this obligation has been expressly dispensed with, the mandatary is bound to account for his performance to the principal.

Acts 1997, No. 261, §1, eff. Jan. 1, 1998.

**Art. 3033. to Art. 3034. [Blank]**

## TITLE XVI. SURETYSHIP

### CHAPTER 1. NATURE AND EXTENT OF SURETYSHIP

**Art. 3035. Definition of suretyship**

Suretyship is an accessory contract by which a person binds himself to a creditor to fulfill the obligation of another upon the failure of the latter to do so.

Acts 1987, No. 409, §1, eff. Jan. 1, 1988.

**Art. 3036. Obligations for which suretyship may be established**

Suretyship may be established for any lawful obligation, which, with respect to the suretyship, is the principal obligation.

The principal obligation may be subject to a term or condition, may be presently existing, or may arise in the future.

Amended by Acts 1977, No. 711, §1; Acts 1987, No. 409, §1, eff. Jan. 1, 1988.

**Art. 3037. Surety ostensibly bound as a principal with another; effect of knowledge of the creditor**

One who ostensibly binds himself as a principal obligor to satisfy the present or future obligations of another is nonetheless considered a surety if the principal cause of the contract with the creditor is to guarantee performance of such obligations.

A creditor in whose favor a surety and principal obligor are bound together as principal obligors in solido may presume they are equally concerned in the matter until he clearly knows of their true relationship.

Acts 1987, No. 409, §1, eff. Jan. 1, 1988.

**Art. 3038. Formal requirements of suretyship**

Suretyship must be express and in writing.

Acts 1987, No. 409, §1, eff. Jan. 1, 1988.

**Art. 3039. Suretyship requires no formal acceptance**

Suretyship is established upon receipt by the creditor of the writing evidencing the surety's obligation. The creditor's acceptance is presumed and no notice of acceptance is required.

Acts 1987, No. 409, §1, eff. Jan. 1, 1988.

**Art. 3040. Rules may be varied**

Suretyship may be qualified, conditioned, or limited in any lawful manner.

Acts 1987, No. 409, §1, eff. Jan. 1, 1988.

## CHAPTER 2. KINDS OF SURETYSHIP

**Art. 3041. Kinds of suretyship**

There are three kinds of suretyship: commercial suretyship, legal suretyship, and ordinary suretyship.

Acts 1987, No. 409, §1, eff. Jan. 1, 1988.

**Art. 3042. Commercial suretyship**

A commercial suretyship is one in which:

- (1) The surety is engaged in a surety business;
- (2) The principal obligor or the surety is a business corporation, partnership, or other business entity;
- (3) The principal obligation arises out of a commercial transaction of the principal obligor; or
- (4) The suretyship arises out of a commercial transaction of the surety.

Acts 1987, No. 409, §1, eff. Jan. 1, 1988.

**Art. 3043. Legal suretyship**

A legal suretyship is one given pursuant to legislation, administrative act or regulation, or court order.

Acts 1987, No. 409, §1, eff. Jan. 1, 1988.

**Art. 3044. Ordinary suretyship; interpretation**

An ordinary suretyship is one that is neither a commercial suretyship nor a legal suretyship.

An ordinary suretyship must be strictly construed in favor of the surety.

Acts 1987, No. 409, §1, eff. Jan. 1, 1988.

## CHAPTER 3.- THE EFFECTS OF SURETYSHIP BETWEEN THE SURETY AND CREDITOR

### **Art. 3045. Liability of sureties to creditor; division and discussion abolished**

A surety, or each surety when there is more than one, is liable to the creditor in accordance with the provisions of this Chapter, for the full performance of the obligation of the principal obligor, without benefit of division or discussion, even in the absence of an express agreement of solidarity.

Acts 1987, No. 409, §1, eff. Jan. 1, 1988.

### **Art. 3046. Defenses available to surety**

The surety may assert against the creditor any defense to the principal obligation that the principal obligor could assert except lack of capacity or discharge in bankruptcy of the principal obligor.

Acts 1987, No. 409, §1, eff. Jan. 1, 1988.

## CHAPTER 4. THE EFFECTS OF SURETYSHIP BETWEEN THE SURETY AND PRINCIPAL OBLIGOR

### **Art. 3047. Rights of the surety**

A surety has the right of subrogation, the right of reimbursement, and the right to require security from the principal obligor.

Acts 1987, No. 409, §1, eff. Jan. 1, 1988.

### **Art. 3048. Surety's right of subrogation**

The surety who pays the principal obligation is subrogated by operation of law to the rights of the creditor.

Acts 1987, No. 409, §1, eff. Jan. 1, 1988.

### **Art. 3049. Surety's right of reimbursement for payment of obligation**

A surety who pays the creditor is entitled to reimbursement from the principal obligor. He may not recover reimbursement until the principal obligation is due and exigible.

A surety for multiple solidary obligors may recover from any of them reimbursement of the whole amount he has paid the creditor.

Acts 1987, No. 409, §1, eff. Jan. 1, 1988.

### **Art. 3050. Surety's right of reimbursement for payment of obligation not owed**

A surety who in good faith pays the creditor when the principal obligation is extinguished, or when the principal obligor had the means of defeating it, is nevertheless entitled to reimbursement from the principal obligor if the surety made a reasonable effort to notify the principal obligor that the creditor was insisting on payment or if the principal obligor was apprised that the creditor was insisting on payment.

The surety's rights against the creditor are not thereby excluded.



## BOOK IV. CONFLICT OF LAWS

### TITLE I. GENERAL PROVISIONS

#### **Art. 3515. Determination of the applicable law; general and residual rule**

Except as otherwise provided in this Book, an issue in a case having contacts with other states is governed by the law of the state whose policies would be most seriously impaired if its law were not applied to that issue.

That state is determined by evaluating the strength and pertinence of the relevant policies of all involved states in the light of: (1) the relationship of each state to the parties and the dispute; and (2) the policies and needs of the interstate and international systems, including the policies of upholding the justified expectations of parties and of minimizing the adverse consequences that might follow from subjecting a party to the law of more than one state.

Acts 1991, No. 923, §1, eff. Jan. 1, 1992.

#### **Art. 3516. Meaning of "State"**

As used in this Book, the word "state" denotes, as may be appropriate: the United States or any state, territory, or possession thereof; the District of Columbia; the Commonwealth of Puerto Rico; and any foreign country or territorial subdivision thereof that has its own system of law.

Acts 1991, No. 923, §1, eff. Jan. 1, 1992.

#### **Art. 3517. Renvoi**

Except as otherwise indicated, when the law of another state is applicable under this Book, that law shall not include the law of conflict of laws of that state.

Nevertheless, in determining the state whose law is applicable to an issue under Articles 3515, 3519, 3537, and 3542, the law of conflict of laws of the involved foreign states may be taken into consideration.

Acts 1991, No. 923, §1, eff. Jan. 1, 1992.

#### **Art. 3518. Domicile**

For the purposes of this Book, the domicile of a person is determined in accordance with the law of this state. A juridical person may be treated as a domiciliary of either the state of its formation or the state of its principal place of business, whichever is most pertinent to the particular issue.

Acts 1991, No. 923, §1, eff. Jan. 1, 1992.

## TITLE II. STATUS

### **Art. 3519. Status of natural persons; general principle**

The status of a natural person and the incidents and effects of that status are governed by the law of the state whose policies would be most seriously impaired if its law were not applied to the particular issue.

That state is determined by evaluating the strength and pertinence of the relevant policies of the involved states in the light of: (1) the relationship of each state, at any pertinent time, to the dispute, the parties, and the person whose status is at issue; (2) the policies referred to in Article 3515; and (3) the policies of sustaining the validity of obligations voluntarily undertaken, of protecting children, minors, and others in need of protection, and of preserving family values and stability.

Acts 1991, No. 923, §1, eff. Jan. 1, 1992.

### **Art. 3520. Marriage**

A. A marriage that is valid in the state where contracted, or in the state where the parties were first domiciled as husband and wife, shall be treated as a valid marriage unless to do so would violate a strong public policy of the state whose law is applicable to the particular issue under Article 3519.

B. A purported marriage between persons of the same sex violates a strong public policy of the state of Louisiana and such a marriage contracted in another state shall not be recognized in this state for any purpose, including the assertion of any right or claim as a result of the purported marriage.

Acts 1991, No. 923, §1, eff. Jan. 1, 1992; Acts 1999, No. 890, §1.

### **Art. 3521. Divorce or separation**

A court of this state may grant divorce or separation only for grounds provided by the law of this state.

Acts 1991, No. 923, §1, eff. Jan. 1, 1992.

### **Art. 3522. Effects and incidents of marriage and of divorce**

Unless otherwise provided by the law of this state, the effects and incidents of marriage and of divorce with regard to an issue are governed by the law applicable to that issue under Article 3519.

Acts 1991, No. 923, §1, eff. Jan. 1, 1992.