

**LOUISIANA CODE OF CIVIL PROCEDURE 2024**

Sample

## About the Book

Formatted and compiled with the practitioners and law students in mind, this edition of the Louisiana Code of Civil Procedure has easy to read text on letter size pages that reads across the whole page (no dual columns) and a detailed table of contents that allows you to quickly access the provision you need. Contains all articles as amended through the 2023 Legislative Sessions.

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# BOOK I. COURTS, ACTIONS, AND PARTIES

## TITLE I. COURTS

### CHAPTER 1. JURISDICTION

#### **Art. 1. Jurisdiction defined**

Jurisdiction is the legal power and authority of a court to hear and determine an action or proceeding involving the legal relations of the parties, and to grant the relief to which they are entitled.

#### **Art. 2. Jurisdiction over subject matter**

Jurisdiction over the subject matter is the legal power and authority of a court to hear and determine a particular class of actions or proceedings, based upon the object of the demand, the amount in dispute, or the value of the right asserted.

#### **Art. 3. Same; cannot be conferred by consent**

The jurisdiction of a court over the subject matter of an action or proceeding cannot be conferred by consent of the parties. A judgment rendered by a court which has no jurisdiction over the subject matter of the action or proceeding is void.

#### **Art. 4. Same; determination when dependent on amount in dispute or value of right asserted**

When the jurisdiction of a court over the subject matter of an action depends upon the amount in dispute, or value of the right asserted, it shall be determined by the amount demanded, including damages pursuant to Civil Code Articles 2315.3 and 2315.4, or value asserted in good faith by the plaintiff, but the amount in dispute does not include interest, court costs, attorney fees, or penalties, whether provided by agreement or by law.

Acts 1995, No. 409, §1.

#### **Art. 5. Same; effect of reduction of claim**

When a plaintiff reduces his claim on a single cause of action to bring it within the jurisdiction of a court and judgment is rendered thereon, he remits the portion of his claim for which he did not pray for judgment, and is precluded thereafter from demanding it judicially.

#### **Art. 6. Jurisdiction over the person**

A. Jurisdiction over the person is the legal power and authority of a court to render a personal judgment against a party to an action or proceeding. The exercise of this jurisdiction requires:

(1) The service of process on the defendant, or on his agent for the service of process, or the express waiver of citation and service under Article 1201.

(2) The service of process on the attorney at law appointed by the court to defend an action or proceeding brought against an absent or incompetent defendant who is domiciled in this state.

(3) The submission of the party to the jurisdiction of the court by commencing an action or by the waiver of objection to jurisdiction by failure to timely file the declinatory exception.

B. In addition to the provisions of Paragraph A, a court of this state may exercise personal jurisdiction over a nonresident on any basis consistent with the constitution of this state and with the Constitution of the United States.

Acts 1997, No. 578, §1; Acts 1999, No. 1263, §1, eff. Jan. 1, 2000.

**Art. 7. Repealed by Acts 1997, No. 578, §5.**

**Art. 8. Jurisdiction over property; in rem**

A court which is otherwise competent under the laws of this state has jurisdiction to enforce a right in, to, or against property having a situs in this state, claimed or owned by a nonresident.

Acts 1995, No. 1104, §1.

**Art. 9. Same; quasi in rem; attachment**

A court which is otherwise competent under the laws of this state has jurisdiction to render a money judgment against a nonresident if the action is commenced by an attachment of his property in this state. Unless the nonresident subjects himself personally to the jurisdiction of the court, the judgment may be executed only against the property attached.

Acts 1995, No. 1104, §1.

**Art. 10. Jurisdiction over status**

A. A court which is otherwise competent under the laws of this state has jurisdiction of the following actions or proceedings only under the following conditions:

(1) An adoption proceeding in accordance with Title XII of the Children's Code, if the surrendering parent or the child, a prospective adoptive parent, the adoptive parent or parents, or any parent of the child has been domiciled in this state for at least eight months, or if the child is in the custody of the Department of Children and Family Services; and an adoption proceeding in accordance with Civil Code Article 212, if either party to the adoption of an adult is domiciled in this state.

(2) An emancipation proceeding if the minor is domiciled in this state.

(3) An interdiction proceeding brought pursuant to the provisions of the Louisiana Uniform Adult Guardianship and Protective Proceedings Jurisdiction Act.

(4) A tutorship or curatorship proceeding if the minor or absentee, as the case may be, is domiciled in this state or has property herein.

(5) A proceeding to obtain the legal custody of a minor if he is domiciled in, or is in, this state.

(6) An action to annul a marriage if one or both of the parties are domiciled in this state.

(7) An action of divorce, if, at the time of filing, one or both of the spouses are domiciled in this state.

(8) Unless otherwise provided by law, an action to establish parentage and support or to disavow parentage if the child is domiciled in or is in this state, and was either born in this state,

born out of state while its mother was domiciled in this state, or acknowledged in this state. However, regardless of the location of the child or its place of birth, an action to disavow may be brought if the person seeking to disavow was domiciled in this state at the time of conception and birth and is presumed to be its parent under the laws of this state.

(9) A proceeding for support of an adult child with a disability, as provided in R.S. 9:315.22(E), if he is domiciled in, or is in, this state.

B. For purposes of Subparagraphs (6) and (7) of Paragraph A of this Article, if a spouse has established and maintained a residence in a parish of this state for a period of six months, there shall be a rebuttable presumption that he has a domicile in this state in the parish of such residence.

Amended by Acts 1968, No. 172, §1; Acts 1980, No. 764, §1; Acts 1990, No. 1009, §4, eff. Jan. 1, 1991; Acts 1999, No. 1243, §1, eff. Jan. 1, 2000; Acts 1999, No. 1263, §1, eff. Jan. 1, 2000; Acts 2001, No. 567, §2; Acts 2001, No. 1064, §1; Acts 2008, No. 351, §2, eff. Jan. 1, 2009; Acts 2015, No. 379, §2, eff. Aug. 1, 2016; Acts 2016, No. 333, §2.

### **Art. 11. Military personnel**

For the purpose of status jurisdiction provided for in Article 10, a person not domiciled elsewhere in this state who is serving in the armed forces of the United States and has been stationed at one or more military installations in this state for at least six months and has resided in the parish where an action has been filed in which he is a party, for at least ninety days immediately preceding the filing of such action, is considered to be a domiciliary of this state and of the parish during the period of his service at such installations.

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

### **Art. 12. to Art. 40 [Repealed]**

## CHAPTER 2. VENUE

### SECTION 1. GENERAL DISPOSITIONS

### **Art. 41. Definition**

Venue means the parish where an action or proceeding may properly be brought and tried under the rules regulating the subject.

### **Art. 42. General rules**

The general rules of venue are that an action against:

- (1) An individual who is domiciled in the state shall be brought in the parish of his domicile; or if he resides but is not domiciled in the state, in the parish of his residence.
- (2) A domestic corporation, a domestic insurer, or a domestic limited liability company shall be brought in the parish where its registered office is located.
- (3) A domestic partnership, or a domestic unincorporated association, shall be brought in the parish where its principal business establishment is located.
- (4) A foreign corporation or foreign limited liability company licensed to do business in this state shall be brought in the parish where its principal business establishment is located as designated in its application to do business in the state, or, if no such designation is made, then in the parish where its primary place of business in the state is located.

(5) A foreign corporation or a foreign limited liability company not licensed to do business in the state, or a nonresident who has not appointed an agent for the service of process in the manner provided by law, other than a foreign or alien insurer, shall be brought in the parish of the plaintiff's domicile or in a parish where the process may be, and subsequently is, served on the defendant.

(6) A nonresident, other than a foreign corporation or a foreign or alien insurer, who has appointed an agent for the service of process in the manner provided by law, shall be brought in the parish of the designated post office address of an agent for the service of process.

(7) A foreign or alien insurer shall be brought in the parish of East Baton Rouge.

Amended by Acts 1961, No. 23, §1; Acts 1990, No. 487, §1; Acts 1999, No. 145, §2; Acts 2001, No. 23, §1; Acts 2003, No. 545, §1; Acts 2012, No. 126, §1.

#### **Art. 43. Exceptions to general rules**

The general rules of venue provided in Article 42 are subject to the exceptions provided in Section 2 of Chapter 2 of Title 1 of Book 1 of this Code and otherwise provided by law.

Amended by Acts 1982, No. 649, §1; Acts 2013, No. 78, §1.

#### **Art. 44. Waiver of objections to venue**

A. An objection to the venue may not be waived prior to the institution of the action.

B. The venue provided in Articles 2006, 2811, 2812, 3901, 3993, 4031 through 4034, and 4542 may not be waived.

C. Except as otherwise provided in this article or by other law, any objection to the venue, including one based on any article in this Chapter, is waived by the failure of the defendant to plead the declinatory exception timely as provided in Article 928.

Amended by Acts 1961, No. 23, §1; Acts 2010, No. 185, §1.

#### **Art. 45. Conflict between two or more articles in Chapter**

The following rules determine the proper venue in cases where two or more articles in this Chapter may conflict:

(1) Article 78, 79, 80, 81, 82, 83, 84, 86, or 87 governs the venue exclusively, if this article conflicts with any of Articles 42 and 71 through 77;

(2) If there is a conflict between two or more of Articles 78, 79, 80, 81, 82, 83, 84, 86, or 87, the plaintiff may bring the action in any venue provided by any applicable article; and

(3) If Articles 78, 79, 80, 81, 82, 83, 84, 86, and 87 are not applicable, and there is a conflict between two or more of Articles 42 and 71 through 77, the plaintiff may bring the action in any venue provided by any applicable article.

Amended by Acts 1982, No. 649, §1; Acts 2013, No. 78, §1.

#### **Art. 46. to Art. 70 [Repealed]**

## SECTION 2. EXCEPTIONS TO GENERAL RULES

### **Art. 71. Action against individual who has changed domicile**

An action against an individual who has changed his domicile from one parish to another may be brought in either parish for a period of one year from the date of the change, unless he has filed a declaration of intention to change his domicile, in the manner provided by law.

### **Art. 72. Certain actions involving property**

An action in which a sequestration is sought, or an action to enforce a mortgage or privilege by an ordinary proceeding, may be brought in the parish where the property, or any portion thereof, is situated.

Acts 1997, No. 1055, §1.

### **Art. 73. Action against joint or solidary obligors**

A. An action against joint or solidary obligors may be brought in a parish of proper venue, under Article 42 only, as to any obligor who is made a defendant, provided that an action for the recovery of damages for an offense or quasi-offense against joint or solidary obligors may be brought in the parish where the plaintiff is domiciled if the parish of plaintiff's domicile would be a parish of proper venue against any defendant under either Article 76 or R.S. 13:3203.

B. If the action against this defendant is withdrawn prior to judgment, or dismissed after a trial on the merits, the venue shall remain proper as to the other defendants, unless the joinder was made for the sole purpose of establishing venue as to the other defendants.

Acts 1989, No. 117, §1.

### **Art. 74. Action on offense or quasi offense**

An action for the recovery of damages for an offense or quasi offense may be brought in the parish where the wrongful conduct occurred, or in the parish where the damages were sustained. An action to enjoin the commission of an offense or quasi offense may be brought in the parish where the wrongful conduct occurred or may occur.

As used herein, the words "offense or quasi offense" include a nuisance and a violation of Article 667 of the Civil Code.

Amended by Acts 1962, No. 92, §1.

### **Art. 74.1. Action to establish or disavow filiation**

An action to establish filiation and support of a child may be brought in the parish: (1) of the domicile of the child, (2) where conception occurred, (3) where either parent resided at the time of conception, (4) where an act of acknowledgement of the child occurred, or (5) where the birth of the child occurred.

An action to disavow filiation may be brought in the parish of the child's birth, or where either parent resided at the time of that birth.

Added by Acts 1980, No. 764, §3. Amended by Acts 1981, No. 722, §1.



**Art. 74.2. Custody proceedings; support; forum non conveniens**

A. A proceeding to obtain the legal custody of a child or to establish an obligation of support may be brought in the parish where a party is domiciled or in the parish of the last matrimonial domicile.

B. A proceeding for change of custody may be brought in the parish where the person awarded custody is domiciled or in the parish where the custody decree was rendered. If the person awarded custody is no longer domiciled in the state, the proceeding for change of custody may be brought in the parish where the person seeking a change of custody is domiciled or in the parish where the custody decree was rendered.

C. A proceeding for modification of support may be brought in any of the following:

(1) The parish where the person awarded support is domiciled if the award has been registered in that parish pursuant to the provisions of Article 2785 et seq., regardless of the provisions of Article 2786(A) relative to the domicile of the parties.

(2) The parish where the support award was rendered if it has not been registered and confirmed in another court of this state, pursuant to the provisions of Article 2785 et seq.

(3) The parish where the support award was last registered if registered in multiple courts of this state.

(4) Any of the following, if the person awarded support is no longer domiciled in the state:

(a) The parish where the other person is domiciled.

(b) The parish where the support award was rendered if not confirmed in another court of this state pursuant to Article 2785 et seq.

(c) The parish where the support order was last confirmed pursuant to the provisions of Article 2785 et seq.

D. A proceeding to register a child support, medical support, and income assignment order, or any such order issued by a court of this state for modification, may be brought in the parish where the person awarded support is domiciled.

E. For the convenience of the parties and the witnesses and in the interest of justice, a court, upon contradictory motion or upon its own motion after notice and hearing, may transfer the custody or support proceeding to another court where the proceeding might have been brought.

F. Notwithstanding any other provision of law, if after August 26, 2005, and before August 15, 2007, a party has changed his domicile within the state and the other party resided in another state prior to the hurricanes, custody or support proceeding shall be transferred to the parish of the domicile, upon motion made prior to December 31, 2007.

Acts 1987, No. 417, §1; Acts 1997, No. 603, §1; Acts 2007, No. 99, §1; Acts 2010, No. 689, §1, eff. June 29, 2010; Acts 2015, No. 379, §2, eff. Aug. 1, 2016.

**Art. 74.3. Marriage of persons related by adoption**

Persons related by adoption seeking judicial authorization to marry in accordance with Civil Code Article 90 shall request authorization of the district court in the parish of either party's domicile.

Acts 1987, No. 886, §2, eff. Jan. 1, 1988.

**Art. 74.4. Action on an open account or a promissory note**

A. An action to collect an open account may be brought in the parish where the open account was created or where the services that formed the basis of such open account were performed, or in the parish of the domicile of the debtor.

B. An action on a promissory note may be brought in the parish where the promissory note was executed or in the parish of the domicile of the debtor.

Acts 2007, No. 433, §1; Acts 2008, No. 357, §1, eff. June 26, 2008.

**Art. 74.5. Adult adoption**

An action to authorize an adult adoption in accordance with the second paragraph of Civil Code Article 212 may be brought in the parish of the domicile of either party to the adoption.

Acts 2008, No. 351, §2, eff. Jan. 1, 2009.

**Art. 74.6. Actions to seek court approval by parents during marriage**

During the marriage of a minor's parents, an action to seek court approval to alienate, encumber, or lease the property of the minor, incur an obligation of the minor, or compromise a claim of the minor may be brought in the domicile of the minor, or if the parents seek to compromise a claim of the minor in a pending action, in that action.

Acts 2015, No. 260, §2, eff. Jan. 1, 2016.

**Art. 75. Action on judicial bond**

A. An action against the principal or surety, or both, on a bond filed in a judicial proceeding may be brought in the court where the bond was filed.

B. An action against a legal surety may be brought in any parish where the principal obligor may be sued.

Acts 1987, No. 409, §2, eff. Jan. 1, 1988.

**Art. 76. Action on insurance policy**

An action on a life insurance policy may be brought in the parish where the deceased died, the parish where he was domiciled, or the parish where any beneficiary is domiciled.

An action on a health or accident insurance policy may be brought in the parish where the insured is domiciled, or in the parish where the accident or illness occurred.

An action on any other type of insurance policy may be brought in the parish where the loss occurred or the insured is domiciled.

**Art. 76.1. Action on contract**

An action on a contract may be brought in the parish where the contract was executed or the parish where any work or service was performed or was to be performed under the terms of the contract.

Acts 1991, No. 217, §2.

**Art. 77. Action against person doing business in another parish**

An action against a person having a business office or establishment in a parish other than that where he may be sued under Article 42 only, on a matter over which this office or establishment had supervision, may be brought in the parish where this office or establishment is located.

Acts 1989, No. 117, §1.

**Art. 78. Action against partners of existing partnership**

Except as provided in Article 79, an action against a partner of an existing partnership on an obligation of the latter, or on an obligation growing out of the partnership, shall be brought in any parish of proper venue as to the partnership.

**Art. 79. Action to dissolve partnership**

An action for the dissolution of a partnership shall be brought in the parish where it has or had its principal business establishment.

**Art. 80. Action involving immovable property**

A. The following actions may be brought in the parish where the immovable property is situated or in the parish where the defendant in the action is domiciled:

(1) An action to assert an interest in immovable property, or a right in, to, or against immovable property.

(2) An action to partition immovable property, except as otherwise provided in Articles 81, 82, and 83.

(3) An action arising from the breach of a lease of immovable property, including the enforcing of a lessor's privilege or securing the payment of rent. The venue authorized by this Subparagraph shall be in addition to any other venue provided by law for such action.

B. If the immovable property, consisting of one or more tracts, is situated in more than one parish, the action may be brought in any of these parishes.

C. Any action by the sheriff after rendition of judgment shall be by the sheriff of the parish in which the immovable property is situated; however, if the immovable property, consisting of one or more tracts, is situated in more than one parish, the action may be brought by the sheriff of any of the parishes in which a portion of the immovable property is situated.

D. Any action to revoke a donation of immovable property shall be brought in the parish in which the property is located. If the property is located in more than one parish, the action may be brought in any one of them. When such an action is filed a notice of pendency shall be filed in accordance with the provisions of Article 3751.

Amended by Acts 1984, No. 732, §1; Acts 1989, No. 393, §1; Acts 1989, No. 541, §1; Acts 2021, No. 259, §2.

**Art. 81. Action involving succession**

When a succession has been opened judicially, until rendition of the judgment of possession, the following actions shall be brought in the court in which the succession proceeding is pending:

- (1) A personal action by a creditor of the deceased; but an action brought against the deceased prior to his death may be prosecuted against his succession representative in the court in which it was brought;
- (2) An action to partition the succession;
- (3) An action to annul the testament of the deceased; and
- (4) An action to assert a right to the succession of the deceased, either under his testament or by effect of law.

**Art. 82. Action to partition community property**

A. Except as otherwise provided in this Article, an action to partition community property and to settle the claims between the parties arising from either a matrimonial regime or from co-ownership of former community property shall be brought either as an incident of the action which would result in the termination of the community property regime or as a separate action in the parish where the judgment terminating the community property regime was rendered.

B. If the spouses own community immovable property, the action to partition the community property, movable and immovable, and to settle the claims between the parties arising either from a matrimonial regime or from co-ownership of former community property may be brought in the parish in which any of the community immovable property is situated.

C. If the spouses do not own community immovable property, the action to partition the community property and to settle the claims between the parties arising either from a matrimonial regime or from co-ownership of former community property may be brought in the parish where either party is domiciled.

Acts 1997, No. 1055, §1.

**Art. 83. Action to partition partnership property**

Except as otherwise provided in the second paragraph of this article, an action to partition partnership property shall be brought either as an incident of the action to dissolve the partnership, or as a separate action in the court which rendered the judgment dissolving the partnership.

If the partnership owns immovable property, the action to partition the partnership property, movable and immovable, may be brought in the parish where any of the immovable property is situated.

**Art. 84. Action involving certain retirement systems and employee benefit programs**

Actions involving the Louisiana State Employees' Retirement System, Office of Group Benefits, State Police Pension and Relief Fund, Louisiana School Employees' Retirement System, Louisiana School Lunch Employees' Retirement System, Teachers' Retirement System of Louisiana, Assessors' Retirement Fund, Clerks of Court Retirement and Relief Fund, District Attorneys' Retirement System, Municipal Employees' Retirement System of Louisiana, Parochial Employees' Retirement System of Louisiana, Registrar of Voters Employees' Retirement System, Sheriffs' Pension and Relief Fund, Municipal Police Employees' Retirement System, or the Firefighters' Retirement System shall be brought in the parish of East Baton Rouge or in the parish of the domicile of the retirement system or employee benefit program.

Added by Acts 1980, No.164, §1.

Amended by Acts 1982, No.103, §1; Acts 2001, No. 1178, §8, eff. June 29, 2001.

**Art. 85. Action against domestic corporation; charter revoked by secretary of state**

An action against a domestic corporation, the charter and franchise of which have been administratively revoked by the secretary of state in accordance with R.S. 12:163, may be brought in any parish where the suit could have been brought prior to revocation.

Added by Acts 1982, No.649, §1.

**Art. 86. Action involving voting trusts**

An action against a voting trust or trustee of the voting trust, or both, may be brought:

- (1) In the parish or parishes where the document or documents creating the voting trust were executed.
- (2) If stock transferred to the voting trust was held by an inter vivos trust, in the parish or parishes where the inter vivos trust documents were executed.
- (3) If stock transferred to the voting trust was held by a mortis causa trust, in the parish having jurisdiction over the settlor's estate.

Acts 1998, 1st Ex. Sess., No. 102, §2, eff. May 5, 1998.

**Art. 87. [Repealed.]**

**Art. 88. to Art. 120 [Repealed]**

SECTION 12. CHANGE OF VENUE

**Art. 121. Action brought in improper venue; transfer**

When an action is brought in a court of improper venue, the court may dismiss the action, or in the interest of justice transfer it to a court of proper venue.

**Art. 122. Change of proper venue**

Any party by contradictory motion may obtain a change of venue upon proof that he cannot obtain a fair and impartial trial because of the undue influence of an adverse party, prejudice existing in the public mind, or some other sufficient cause. If the motion is granted, the action shall be transferred to a parish wherein no party is domiciled.

**Art. 123. Forum non conveniens**

A.(1) For the convenience of the parties and the witnesses, in the interest of justice, a district court upon contradictory motion, or upon the court's own motion after contradictory hearing, may transfer a civil case to another district court where it might have been brought; however, no suit brought in the parish in which the plaintiff is domiciled, and in a court which is otherwise a court of competent jurisdiction and proper venue, shall be transferred to any other court pursuant to this Article.

(2) For purposes of Subparagraph (1) of this Paragraph, domicile shall be the location pursuant to Article 42 where the plaintiff would be subject to suit had he been a defendant.

B. Upon the contradictory motion of any defendant in a civil case filed in a district court of this state in which a claim or cause of action is predicated upon acts or omissions originating outside the territorial boundaries of this state, when it is shown that there exists a more appropriate forum outside of this state, taking into account the location where the acts giving rise to the action occurred, the convenience of the parties and witnesses, and the interest of justice, the court may dismiss the suit without prejudice; however, no suit in which the plaintiff is domiciled in this state, and which is brought in a court which is otherwise a court of competent jurisdiction and proper venue, shall be dismissed pursuant to this Article.

C. In the interest of justice, and before the rendition of the judgment of dismissal, the court shall require the defendant or defendants to file with the court a waiver of any defense based upon prescription that has matured since the commencement of the action in Louisiana, provided that a suit on the same cause of action or on any cause of action arising out of the same transaction or occurrence is commenced in a court of competent jurisdiction in an appropriate foreign forum within sixty days from the rendition of the judgment of dismissal. Such waiver shall be null and of no effect if such suit is not filed within this sixty-day period. The court may further condition the judgment of dismissal to allow for reinstatement of the same cause of action in the same forum in the event a suit on the same cause of action or on any cause of action arising out of the same transaction or occurrence is commenced in an appropriate foreign forum within sixty days after the rendition of the judgment of dismissal and such foreign forum is unable to assume jurisdiction over the parties or does not recognize such cause of action or any cause of action arising out of the same transaction or occurrence.

Added by Acts 1970, No. 294, §1; Acts 1985, No. 818, §1, eff. July 18, 1988; Acts 1999, No. 536, §1, eff. June 30, 1999; Acts 2012, No. 712, §1.

#### **Art. 124. Forum non conveniens; transfer to city court**

If a party has filed separate suits in a district court and a city court within the territorial jurisdiction of the district court relating to the same cause of action but placing a claim for property damage in one court and a claim for personal injury in the other court, the district court upon contradictory motion, or upon the court's own motion after contradictory hearing, may transfer the suit in its court to the city court if the transfer serves the convenience of the parties and the witnesses and is in the interest of justice.

Acts 1985, No. 600, §1.

#### **Art. 125. to Art. 150 [Repealed]**

#### **Art. 151. Grounds**

A. A judge of any trial or appellate court shall be recused upon any of the following grounds:

(1) The judge is a witness in the cause.

(2) The judge has been employed or consulted as an attorney in the cause or has previously been associated with an attorney during the latter's employment in the cause, and the judge participated in representation in the cause.

(3) The judge is the spouse of a party, or of an attorney employed in the cause or the judge's parent, child, or immediate family member is a party or attorney employed in the cause.

(4) The judge is biased, prejudiced, or interested in the cause or its outcome or biased or prejudiced toward or against the parties or the parties' attorneys or any witness to such an extent that the judge would be unable to conduct fair and impartial proceedings.

B. A judge of any trial or appellate court shall also be recused when there exists a substantial and objective basis that would reasonably be expected to prevent the judge from conducting any aspect of the cause in a fair and impartial manner.

C. In any cause in which the state or a political subdivision thereof is interested, the fact that the judge is a citizen of the state or a resident of the political subdivision, or pays taxes thereto, is not a ground for recusal. In any cause in which a religious body or religious corporation is interested, the fact that the judge is a member of the religious body or religious corporation is not alone a ground for recusal.

Acts 1983, No. 106, §1; Acts 1987, No. 579, §1; Acts 1988, No. 515, §2, eff. Jan. 1, 1989; Acts 2008, No. 663, §1; Acts 2021, No. 143, §1.

**Art. 152. Recusation on court's own motion or by supreme court**

A. A judge of any trial or appellate court shall disclose to the best of his information and belief, the existence of any of the following to all attorneys and represented parties in the cause:

(1) The judge has been associated with an attorney during the latter's employment in the cause.

(2) At the time of the hearing of any contested issue in the cause, the judge has continued to employ, to represent him personally, the attorney actually handling the cause or a member of that attorney's firm.

(3) The judge performed a judicial act in the cause in another court.

(4) The judge is related to any of the following:

(a) A party or the spouse of a party, within the fourth degree.

(b) An attorney employed in the cause, the spouse of the attorney, or any member of the attorney's law firm, within the second degree.

(5) The judge, spouse, parent, child, or immediate family member has a substantial economic interest in the subject matter in controversy.

B. Upon disclosure, a party may file a motion that sets forth a ground for recusal under Article 151.

Acts 1985, No. 967, §1; Acts 2001, No. 932, §1; Acts 2021, No. 143, §1.

**Art. 153. Judge may act until recused or motion for recusation filed**

A. A judge may recuse himself in any cause in which a ground for recusal exists, whether or not a motion for his recusal has been filed by a party.

B. A district judge may recuse himself in any cause objecting to the candidacy or contesting the election for any office in which the district or jurisdiction of such office lies wholly within the judicial district of the court on which the district judge serves.

C. Prior to the cause being allotted to another judge, a judge who recuses himself for any reason shall contemporaneously file in the record the order of recusal and written reasons that provide the factual basis for recusal under Article 151. The judge shall also provide a copy of the recusal and the written reasons therefor to the judicial administrator of the supreme court.

Acts 2010, No. 262, §1; Acts 2021, No. 143, §1.

**Art. 154. Procedure for recusal of district court judge**

A. A party desiring to recuse a judge of a district court shall file a written motion therefor assigning the ground for recusal under Article 151. This motion shall be filed no later than thirty days after discovery of the facts constituting the ground upon which the motion is based, but in all cases prior to the scheduling of the matter for trial. In the event that the facts constituting the ground upon which the motion to recuse is based occur after the matter is scheduled for trial or the party moving for recusal could not, in the exercise of due diligence, have discovered such facts, the motion to recuse shall be filed immediately after such facts occur or are discovered.

B. If the motion to recuse sets forth a ground for recusal under Article 151, not later than seven days after the judge's receipt of the motion from the clerk of court, the judge shall either recuse himself or make a written request to the supreme court for the appointment of an ad hoc judge as provided in Article 155.

C. If the motion to recuse is not timely filed in accordance with Paragraph A of this Article or fails to set forth a ground for recusal under Article 151, the judge may deny the motion without the appointment of an ad hoc judge or a hearing but shall provide written reasons for the denial.

Acts 2021, No. 143, §1; Acts 2022, No. 38, §1.

**Art. 155. Selection of judge to try motion to recuse**

Once a motion that sets forth a ground for recusal under Article 151 is referred for hearing, the supreme court shall appoint an ad hoc judge to hear the motion to recuse, and only the ad hoc judge to whom the motion is assigned shall have the power and authority to act in the cause pending disposition of the motion.

Acts 2001, No. 417, §1; Acts 2021, No. 143, §1.

**Art. 156. Selection of judge after recusal**

A. When a district court judge of a court having two or more judges voluntarily recuses himself or is recused after a motion to recuse is heard, the cause shall be randomly assigned to another division or section of that court.

B. When a district court judge in a single-judge district voluntarily recuses himself, the judge shall make a written request to the supreme court for the appointment of an ad hoc judge to hear the cause. When an ad hoc judge appointed by the supreme court to hear a recusal grants the motion to recuse, that judge shall request that an ad hoc judge be appointed to hear the cause.

Amended by Acts 1962, No. 409, §1; Acts 2021, No. 143, §1.

**Art. 157. Recusal of supreme court justice**

A. A party desiring to recuse a justice of the supreme court shall file a written motion therefor assigning the ground for recusal under Article 151. When a written motion is filed to recuse a justice of the supreme court, the justice may recuse himself or the motion shall be heard by the other justices of the court.

B. When a justice of the supreme court recuses himself or is recused, the court may do one of the following:

- (1) Have the cause argued before and disposed of by the other justices.



(2) Appoint a sitting or retired judge of a district court or a court of appeal having the qualifications of a justice of the supreme court to act for the recused justice in the hearing and disposition of the cause.

Acts 1985, No. 967, §1; Acts 2001, No. 417, §1; redesignated from C.C.P. Art. 159 as amended by Acts 2021, No. 143, §1.

**Art. 158. Recusal of judge of court of appeal**

A. A party desiring to recuse a judge of a court of appeal shall file a written motion therefor assigning the ground for recusal under Article 151. When a written motion is filed to recuse a judge of a court of appeal, the judge may recuse himself or the motion shall be heard by an ad hoc judge appointed by the supreme court.

B. When a judge of a court of appeal recuses himself or is recused, the court shall randomly allot another of its judges to sit on the panel in place of the recused judge.

C. If the motion to recuse fails to set forth a ground for recusal under Article 151, the judge may deny the motion without the appointment of an ad hoc judge or a hearing but shall provide written reasons for the denial.

Redesignated from C.C.P. Art. 160 and amended by Acts 2021, No. 143, §1; Acts 2022, No. 38, §1.

**Art. 159. Recusal of ad hoc judge**

An ad hoc judge appointed to try a motion to recuse a judge, or appointed to try the cause, may be recused on the grounds and in the manner provided in this Chapter for the recusal of judges. Redesignated from C.C.P. Art. 161 and amended by Acts 2021, No. 143, §1.

**Art. 160. Redesignated as Article 158**

**Art. 161. Redesignated as Article 158**

**Art. 162. to Art. 190 [Repealed]**

CHAPTER 4. POWER AND AUTHORITY

SECTION 1. GENERAL DISPOSITIONS

**Art. 191. Inherent judicial power**

A court possesses inherently all of the power necessary for the exercise of its jurisdiction even though not granted expressly by law.

**Art. 192. Appointment of expert witnesses; expenses**

A. The appointment of expert witnesses is controlled by Louisiana Code of Evidence Article 706.

B. The reasonable fees and expenses of these experts shall be taxed as costs of court.  
Amended by Acts 1988, No. 515, §2, eff. Jan. 1, 1989.

**Art. 192.1. Interpreters for deaf and severely hearing-impaired persons**

A. In all civil cases and in the taking of any deposition where a party or a witness is a deaf or severely hearing-impaired person, the proceedings of the trial shall be interpreted to him in a language that he can understand by a qualified interpreter appointed by the court. The qualification of an interpreter as an expert is governed by the Louisiana Code of Evidence.

B. In any case in which an interpreter is required to be appointed by the court under the provisions of this Article, the court shall not commence proceedings until the appointed interpreter is in court. The interpreter so appointed shall take an oath or affirmation that he will make a true interpretation to the deaf or severely hearing-impaired person of all the proceedings of the case in a language that he understands, and that he will repeat the deaf or severely hearing-impaired person's answer to questions to counsel, court or jury to the best of his skill and judgment.

C.(1) Interpreters appointed in accordance with the provisions of this Article shall be paid an amount determined by the judge presiding. In the event travel of the interpreter is necessary, all of the actual expenses of travel, lodging, and meals incurred by the interpreter in connection with the case at which the interpreter is appointed to serve shall be paid at the same rate applicable to state employees.

(2) The costs of such interpreter shall be borne by the court.  
Added by Acts 1968, No. 319, §1. Acts 1988, No. 515, §2, eff. Jan. 1, 1989; Acts 1989, No. 109, §1; Acts 1995, No. 285, §1, eff. June 14, 1995.

**Art. 192.2. Appointment of interpreter for non-English-speaking persons**

A. If a non-English-speaking person who is a principal party in interest or a witness in a proceeding before the court has requested an interpreter, a judge shall appoint, after consultation with the non-English-speaking person or his attorney, a competent interpreter to interpret or to translate the proceedings to him and to interpret or translate his testimony.

B. Notwithstanding any other provision of law to the contrary, the court shall order payment to the interpreter for his services at a fixed reasonable amount, and that amount shall be paid out of the appropriate court fund.

C. In a proceeding alleging abuse under R.S. 46:2134 et seq., an interpreter if necessary shall be appointed prior to a rule to show cause hearing.  
Acts 2008, No. 882, §1; Acts 2019, No. 406, §1, eff. June 20, 2019; Acts 2021, No. 207, §1, eff. June 11, 2021.

**Art. 193. Power to adopt local rules; publication**

A. A court may adopt rules for the conduct of judicial business before it, including those governing matters of practice and procedure that are not contrary to the rules provided by law. When a court has more than one judge, its rules shall be adopted or amended by a majority of the judges thereof, sitting en banc.

B. The rules shall be entered on the minutes of the court. Rules adopted by an appellate court shall be published in the manner that the court considers most effective and practicable.  
Amended by Acts 2021, No. 68, §1, eff. Jan. 1, 2022.

**Art. 194. Power of district court to act; signing orders and judgments**

The following orders and judgments may be signed by the district judge in any place where the judge is physically located:

(1) Order directing the taking of an inventory; judgment decreeing or homologating a partition, when unopposed; judgment probating a testament ex parte; order directing the execution of a testament; order confirming or appointing a legal representative, when unopposed; order appointing an undertutor or an undercurator; order appointing an attorney at law to represent an absent, incompetent, or unrepresented person, or an attorney for an absent heir; order authorizing the sale of property of an estate administered by a legal representative; order directing the publication of the notice of the filing of a tableau of distribution, or of an account, by a legal representative; judgment recognizing heirs or legatees and sending them into possession, when unopposed; all orders for the administration and settlement of a succession, or for the administration of an estate by a legal representative.

(2) Order to show cause; order directing the issuance and providing the security to be furnished by a party for the issuance of a writ of attachment or sequestration; order directing the release of property seized under a writ of attachment or sequestration and providing the security to be furnished therefor; order for the issuance of a temporary restraining order and providing the security therefor; order for the issuance of a writ, or alternative writ, or habeas corpus, mandamus, or quo warranto.

(3) Order for the seizure and sale of property in an executory proceeding.

(4) Order for the taking of testimony by deposition; for the production of documentary evidence; for the production of documents and things for inspection, copying, or photographing; for permission to enter land for the purpose of measuring, surveying, or photographing.

(5) Order or judgment deciding on, or otherwise disposing of an action, proceeding, or matter that may be tried or heard in chambers.

(6) Order or judgment that may be granted on ex parte motion or application, except an order of appeal on an oral motion.

(7) Any other order or judgment not specifically required by law to be signed in open court. Acts 2018, No. 195, §1; Acts 2021, No. 68, §1, eff. Jan. 1, 2022.

**Art. 195. Same; judicial proceedings**

The following judicial proceedings may be conducted by the district judge in chambers or by any audio-visual means:

(1) Hearing on an application by a legal representative for authority, whether opposed or unopposed, and on a petition for emancipation.

(2) Homologation of a tableau of distribution, or of an account, filed by a legal representative, so far as unopposed.

(3) Trial of a rule to determine the nonexempt portion of wages, salaries, or commissions seized under garnishment and to direct the payment thereof periodically by the garnishee to the sheriff.

(4) Examination of a judgment debtor.

(5) Trial of or hearing on any other action, proceeding, or matter that the law expressly provides may be tried or heard in chambers.

Amended by Acts 2021, No. 68, §1, eff. Jan. 1, 2022.

**Art. 195.1. Judicial proceedings by audio-visual means**

A. A hearing on any motion or exception may be conducted by any audio-visual means at the discretion of the court. If witness testimony is necessary, a party may request that the hearing be conducted in person.

B. A judge trial may be conducted by any audio-visual means with the consent of all parties and permission of the court.

Acts 2022, No. 372, §1.

**Art. 196. Repealed by Acts 2021, No. 68, §3, eff. Jan. 1, 2022.**

**Art. 196.1. Power of judges to sign orders and judgments while outside of the court's territorial jurisdiction**

The judge of a district court or a court of limited jurisdiction may sign orders and judgments while outside of the court's territorial jurisdiction.

Acts 2018, No. 275, §1; Acts 2021, No. 68, §1, eff. Jan. 1, 2022.

**Art. 196.2. Power of supreme court to extend deadlines during emergencies**

In the event that the governor declares a state of emergency or disaster pursuant to R.S. 29:721 through 775, the Supreme Court of Louisiana, rather than the governor, may issue orders suspending or extending deadlines applicable to legal proceedings in courts, including periods of time applicable for abandonment of action, in all or part of the state of Louisiana. A court order suspending or extending deadlines applicable to legal proceedings in courts shall have the effect of extending only those deadlines that would have otherwise accrued during the period of time specified in the order. After the period of suspension or extension has expired, a party shall have an amount of time as specified in the court order to file any pleading affected by the suspension or extension. If no amount of time is specified, a party shall have thirty days after the period of suspension or extension has expired.

Acts 2022, No. 469, §2.

**Art. 197. Testimony of inmates**

A. As used in this Article, "inmate" means a person confined in any prison, jail, correctional or training institution operated by the state, any of its political subdivisions, or any sheriff either while awaiting disposition of contemplated or pending criminal charges, pursuant to a sentence imposed by a court following the conviction of a crime, or pursuant to the judgment of a juvenile court.

B. When in any judicial proceeding the testimony of an inmate is required by law to be given in open court, when an inmate is a party to a judicial proceeding under circumstances giving him the legal right to be present in open court at any stage of the proceeding, or when the presence of an inmate witness in open court is requested timely by a party to litigation and is justified under

the facts and circumstances of the case, the trial judge, in his discretion, may order any of the following:

- (1) The court be convened and the testimony of the inmate be taken, or the proceedings conducted at the institution wherein the inmate is confined.
- (2) The testimony of the inmate be taken, or the proceedings conducted, by teleconference, video link, or other available remote technology approved by the judge, or by telephone if agreed to by all parties and approved by the judge.
- (3) If the interests of justice require the presence of the inmate in open court and if no other methodology authorized hereunder is feasible, the court may order that the prisoner be transported to the courthouse pursuant to R.S. 15:706(D).

Added by Acts 1975, No. 403, §1; Acts 2001, No. 842, §1, eff. June 26, 2001.

### **Art. 198. to Art. 220 [Repealed]**

## SECTION 2. POWER TO PUNISH FOR CONTEMPT

### **Art. 221. Kinds of contempt**

A contempt of court is any act or omission tending to obstruct or interfere with the orderly administration of justice, or to impair the dignity of the court or respect for its authority.

Contempts of court are of two kinds, direct and constructive.

### **Art. 222. Direct contempt**

A direct contempt of court is one committed in the immediate view and presence of the court and of which it has personal knowledge, or a contumacious failure to comply with a subpoena or summons, proof of service of which appears of record.

Any of the following acts constitute a direct contempt of court:

- (1) Contumacious, insolent, or disorderly behavior toward the judge, or an attorney or other officer of the court, tending to interrupt or interfere with the business of the court, or to impair its dignity or respect for its authority;
- (2) Breach of the peace, boisterous conduct, or violent disturbance tending to interrupt or interfere with the business of the court, or to impair its dignity or respect for its authority;
- (3) Use of insulting, abusive, or discourteous language by an attorney or other person in open court, or in a pleading, brief, or other document filed with the court in irrelevant criticism of another attorney or of a judge or officer of the court;
- (4) Violation of a rule of the court adopted to maintain order and decorum in the court room;
- (5) Contumacious failure to comply with a subpoena, proof of service of which appears of record, or refusal to take the oath or affirmation as a witness, or refusal of a witness to answer a non-incriminating question when ordered to do so by the court; and
- (6) Contumacious failure to attend court to serve as a juror after being accepted as such, or to attend court as a member of a jury venire, when proof of service of the summons appears of record.

**Art. 222.1. Direct contempt; fingerprinting and photographing; exception**

No person arrested or found guilty for the first offense of direct contempt of court either for failure to attend court as a member of a jury venire when proof of service of the summons appears on the record or for failure to comply with a subpoena to attend court to serve as a witness when proof of service of the subpoena appears on the record shall be subject to fingerprinting or have his photograph taken in any arrest or postsentence procedure.

Acts 1985, No. 937, §1.

**Art. 223. Same; procedure for punishing**

A person who has committed a direct contempt of court may be found guilty and punished therefor by the court forthwith, without any trial other than affording him an opportunity to be heard orally by way of defense or mitigation. The court shall render an order reciting the facts constituting the contempt, adjudging the person guilty thereof, and specifying the punishment imposed.

**Art. 224. Constructive contempt**

A constructive contempt of court is any contempt other than a direct one. Any of the following acts constitutes a constructive contempt of court:

- (1) Wilful neglect or violation of duty by a clerk, sheriff, or other person elected, appointed, or employed to assist the court in the administration of justice;
- (2) Wilful disobedience of any lawful judgment, order, mandate, writ, or process of the court;
- (3) Removal or attempted removal of any person or property in the custody of an officer acting under authority of a judgment, order, mandate, writ, or process of the court;
- (4) Deceit or abuse of the process or procedure of the court by a party to an action or proceeding, or by his attorney;
- (5) Unlawful detention of a witness, party, or his attorney, while going to, remaining at, or returning from the court where the action or proceeding is to be tried;
- (6) Improper conversation by a juror or venireman with a party to an action which is being, or may be, tried by a jury of which the juror is a member, or of which the venireman may be a member, or with any person relative to the merits of such an action; or receipt by a juror or venireman of a communication from any person with reference to such an action, without making an immediate disclosure to the court of the substance thereof;
- (7) Assuming to act as a juror, or as an attorney or other officer of the court, without lawful authority;
- (8) Comment by a newspaper or other medium for the dissemination of news upon a case or proceeding, then pending and undecided, which constitutes a clear, present, and imminent danger of obstructing or interfering with the orderly administration of justice, by either influencing the court to reach a particular decision, or embarrassing it in the discharge of its judicial duties;
- (9) Wilful disobedience by an inferior court, judge, or other officer thereof, of the lawful judgment, order, mandate, writ, or process of an appellate court, rendered in connection with an appeal from a judgment or order of the inferior court, or in connection with a review of such judgment or order under a supervisory writ issued by the appellate court; and
- (10) Any other act or omission punishable by law as a contempt of court, or intended to obstruct or interfere with the orderly administration of justice, or to impair the dignity of the court or respect for its authority, and which is not a direct contempt.

(11) Knowingly making a false statement or representation of a material fact or knowingly failing to disclose a material fact in order to apply for or receive support enforcement services for the purpose of securing an order of paternity, child support, medical support, an income assignment order, or a notice of income assignment against another person.

Acts 2004, No. 159, §1, eff. June 10, 2004.

**Art. 225. Same; procedure for punishing**

A. Except as otherwise provided by law, a person charged with committing a constructive contempt of court may be found guilty thereof and punished therefor only after the trial by the judge of a rule against him to show cause why he should not be adjudged guilty of contempt and punished accordingly. The rule to show cause may issue on the court's own motion or on motion of a party to the action or proceeding and shall state the facts alleged to constitute the contempt. A person charged with committing a constructive contempt of a court of appeal may be found guilty thereof and punished therefor after receiving a notice to show cause, by brief, to be filed not less than forty-eight hours from the date the person receives such notice why he should not be found guilty of contempt and punished accordingly. The person so charged shall be granted an oral hearing on the charge if he submits a written request to the clerk of the appellate court within forty-eight hours after receiving notice of the charge. Such notice from the court of appeal may be sent by registered or certified mail or may be served by the sheriff. In all other cases, a certified copy of the motion, and of the rule to show cause, shall be served upon the person charged with contempt in the same manner as a subpoena at least forty-eight hours before the time assigned for the trial of the rule.

B. If the person charged with contempt is found guilty the court shall render an order reciting the facts constituting the contempt, adjudging the person charged with contempt guilty thereof, and specifying the punishment imposed.

Amended by Acts 1984, No. 530, §2.

**Art. 226. Same; imprisonment until performance**

When a contempt of court consists of the omission to perform an act which is yet in the power of the person charged with contempt to perform, he may be imprisoned until he performs it, and in such a case this shall be specified in the court's order.

**Art. 227. Punishment for contempt**

A person may not be adjudged guilty of a contempt of court except for misconduct defined as such, or made punishable as such, expressly by law.

The punishment which a court may impose upon a person adjudged guilty of contempt of court is provided in R.S. 13:4611.

**Art. 228. to Art. 250 [Repealed]**

## CHAPTER 5. CLERKS

### SECTION 1. GENERAL DISPOSITIONS

#### **Art. 251. Custodian of court records; certified copies; records public**

A. The clerk of court is the legal custodian of all of its records and is responsible for their safekeeping and preservation. He may issue a copy of any of these records, certified by him under the seal of the court to be a correct copy of the original. Except as otherwise provided by law, he shall permit any person to examine, copy, photograph, or make a memorandum of any of these records at any time during which the clerk's office is required by law to be open. However, notwithstanding the provisions of this Paragraph or R.S. 44:31 et seq., the use, placement, or installation of privately owned copying, reproducing, scanning, or any other such imaging equipment, whether hand-held, portable, fixed, or otherwise, within the offices of the clerk of court is prohibited unless ordered by a court of competent jurisdiction.

B. Notwithstanding the provisions of Paragraph A of this Article, a judge issuing a court order may certify a copy of that order for service of process, if the order is issued in an emergency situation and at a time when the clerk of court's office is not open. A determination of when an emergency situation exists shall be made by the judge issuing the order. Acts 1986, No. 218, §1; Acts 1995, No. 372, §1, eff. July 1, 1995; Acts 2005, No. 193, §1.

#### **Art. 252. Issuance of process**

The clerk of a court shall issue all citations, writs, mandates, summons, subpoenas, and other process of the court in the name of the State of Louisiana. He shall indicate thereon the court from which they issue, sign them in his official capacity, and affix the seal of the court thereto. If service by the sheriff is required, the clerk shall deliver or mail them to the sheriff who is to make the service.

#### **Art. 253. Pleadings, documents, and exhibits to be filed with clerk**

A. All pleadings or documents to be filed in an action or proceeding instituted or pending in a court, and all exhibits introduced in evidence, shall be delivered to the clerk of the court for such purpose. The clerk shall endorse thereon the fact and date of filing and shall retain possession thereof for inclusion in the record, or in the files of his office, as required by law. The endorsement of the fact and date of filing shall be made upon receipt of the pleadings or documents by the clerk and shall be made without regard to whether there are orders in connection therewith to be signed by the court.

B. The filings as provided in Paragraph A of this Article and all other provisions of this Chapter may be transmitted electronically in accordance with a system established by a clerk of court or by Louisiana Clerks' Remote Access Authority. When such a system is established, the clerk of court shall adopt and implement procedures for the electronic filing and storage of any pleading, document, or exhibit, and the official record shall be the electronic record. A pleading or document filed electronically is deemed filed on the date and time stated on the confirmation of electronic filing sent from the system, if the clerk of court accepts the electronic filing. Public access to electronically filed pleadings and documents shall be in accordance with the rules governing access to paper filings. The clerk of court may convert into an electronic record any



pleading, document, or exhibit as set forth in R.S. 44:116. The originals of conveyances shall be preserved by the clerk of court.

C. A judge or justice presiding over a court in this state may sign a court order, notice, official court document, and other writings required to be executed in connection with court proceedings by use of an electronic signature as defined by R.S. 9:2602.

D. Any pleading or document in a traffic or criminal action may be filed with the court by facsimile transmission in compliance with the provision of the Code of Criminal Procedure Article 14.1.

E. The clerk shall not refuse to accept for filing any pleading or other document signed by electronic signature, as defined by R.S. 9:2602, and executed in connection with court proceedings, or which complies with the procedures for electronic filing implemented pursuant to this Article, if any applicable fees for filing and transmission are paid, solely on the ground that it was signed by electronic signature.

F. If the filing party fails to comply with any requirement of this Article, the electronic filing shall have no force or effect. The district courts may provide by court rule for other matters related to filings by electronic transmission.

G. The clerk of court may procure equipment, services, and supplies necessary to accommodate electronic filings out of the clerk's salary fund.

H. All electronic filings shall include an electronic signature. For the purpose of this Article, "electronic signature" means an electronic symbol or process attached to or logically associated with a record and executed or adopted by a person with the intent to sign the record.

Amended by Acts 1980, No. 355, §1; Acts 1985, No. 457, §1; Acts 2001, No. 319, §2; Acts 2010, No. 461, §1; Acts 2014, No. 306, §1; Acts 2017, No. 419, §4, eff. Jan. 1, 2018; Acts 2020, No. 264, §3; Acts 2022, No. 318, §1; Acts 2023, No. 272, §1.

#### **Art. 253.1. Pleadings random assignment of cases**

All pleadings filed shall be randomly assigned to a particular section or division of the court by either of the following methods:

- (1) By drawing indiscriminately from a pool containing designations of all sections or divisions of court in the particular jurisdiction in which the case is filed.
- (2) By use of a properly programmed electronic device or computer programmed to randomly assign cases to any one of the sections or divisions of court in the particular jurisdiction in which the case is filed.

Acts 1995, No. 829, §1.

#### **Art. 253.2. Transfer and reassignment of pending cases**

After a case has been assigned to a particular section or division of the court, it may not be transferred from one section or division to another section or division within the same court, unless agreed to by all parties, or unless it is being transferred to effect a consolidation pursuant to Article 1561. However, the supreme court, by rule, may establish uniform procedures for reassigning cases under circumstances where an expeditious disposition of cases may be effectuated.

Acts 1997, No. 968, §1; Acts 2021, No. 259, §2.

**Art. 253.3. Duty judge exceptions; authority to hear certain matters**

A. In any case assigned pursuant to Article 253.1, a duty judge shall only hear and sign orders or judgments for the following:

- (1) Domestic relations emergency matters and protective orders concerning physical safety.
- (2) Temporary restraining orders.
- (3) Default judgments, stipulated matters, examination of judgment debtors, orders to proceed in forma pauperis, orders allowing the filing of supplemental and amending petitions when no trial date has been assigned, orders allowing incidental demands when no trial date has been assigned, orders allowing additional time to answer, and judicial commitments.
- (4) Uncontested cases in which all parties other than the plaintiff are represented by an attorney appointed by the court.
- (5) Uncontested judgments of divorce pursuant to Civil Code Article 102.
- (6) Orders directing the taking of an inventory; judgments decreeing or homologating a partition, when unopposed; judgments probating a testament ex parte; orders directing the execution of a testament; orders confirming or appointing a legal representative, when unopposed; orders appointing an undertutor or an undercurator; orders appointing an attorney at law to represent an absent, incompetent, or unrepresented person, or an attorney for an absent heir; orders authorizing the sale of property of an estate administered by a legal representative; orders directing the publication of the notice of the filing of a testament or distribution, or of an account, by a legal representative; judgments recognizing heirs or legatees and sending them into possession, when unopposed; and all orders for the administration and settlement of a succession, or for the administration of an estate by a legal representative.
- (7) Orders for the seizure and sale of property in an executory proceeding.

B. In any case assigned pursuant to Article 253.1, a duty judge shall only sign orders for issuing the following: orders to show cause; orders directing the issuance and providing the security to be furnished by a party for the issuance of a writ of attachment or sequestration; orders directing the release of property seized under a writ of attachment or sequestration and providing the security to be furnished therefor; orders for the issuance of a writ, or alternative writ, of habeas corpus, mandamus, or quo warranto; and orders for appeal.

C. In any case assigned pursuant to Article 253.1, a duty judge may sign any order specifically and expressly authorized by the judge to whom the case is assigned.

D. When a duty judge hears any matter or signs any order or judgment pursuant to this Article, he shall not acquire jurisdiction over additional matters in the case. Following the ruling of the duty judge, the judge assigned pursuant to Article 253.1 shall hear the other matters in the case, including but not limited to discovery matters, preliminary injunctions, and injunctions.

Acts 2000, 1st Ex. Sess., No. 24, §1; Acts 2017, No. 419, §1; Acts 2021, No. 174, §1, eff. Jan. 1, 2022.

**Art. 254. Docket and minute books**

A. In addition to other record books required by law, each court shall keep docket and minute books.

B. The clerk of the court shall enter in the docket book the number and title of each action or proceeding filed in the court, the date of filing of the petition, exceptions, answers, and other pleadings, and the court costs paid by and the names of counsel of record for each of the parties.

C. All orders and judgments rendered, all motions made, all proceedings conducted, and all judicial acts of the court during each day it is in session shall be entered in the minute book.

D. An electronic record of the minutes which is not capable of alteration without indication that a change has been made may be maintained in lieu of a written entry.

Acts 1995, No. 1003, §1.

#### **Art. 255. Deputy clerks and other employees**

Except as otherwise provided by law, a deputy clerk of a court possesses all of the powers and authority granted by law to the clerk, and may perform any of the duties and exercise any of the functions of the clerk.

Deputy clerks and other employees of a clerk of court are subject to his direction and supervision, and shall perform the duties assigned to them by law, the court, and the clerk.

The clerk of a court is responsible for the performance or non-performance of their official duties by his deputies and other employees.

#### **Art. 256. Minute clerk**

The minute clerk of a court shall keep the minutes of the court daily when in session and transcribe them into the minute book, as required by Article 254; shall file all pleadings and documents tendered for filing in open court, and shall perform such other duties as are assigned to him by law, the court, and the clerk with the approval of the court.

The minute clerk of a trial court shall administer the oath to jurors and witnesses and shall file all exhibits offered in evidence, when directed to do so by the court. If there are two or more judges on a trial court, its rules may require a minute clerk for each division thereof.

When a court has no minute clerk and there is no deputy clerk available for such duty, the clerk shall perform all of the duties of the minute clerk.

#### **Art. 257. Neglect, failure, or refusal of clerk, deputy, or other employee to perform duty subjects him to punishment for contempt**

The neglect, failure, or refusal of a clerk, deputy clerk, or other employee of a clerk of court to perform any ministerial duty subjects him to punishment for contempt of court.

#### **Art. 258. Electronic filing and recording of written instruments**

A. Notwithstanding any provision of law to the contrary, a clerk of court, as ex officio recorder, the Orleans Parish register of conveyances, or its successor, or the Orleans Parish recorder of mortgages or its successor, hereinafter referred to as "recorder", is authorized to adopt and implement a published plan which shall include a written contract between the clerk of court, the Orleans Parish register of conveyances, or its successor, or the Orleans Parish recorder of mortgages, or its successor, and the filer, which complies with the Louisiana Uniform Electronic Transactions Act, R.S. 9:2601 et seq., and which provides for the acceptance of an electronic record of any recordable written instrument except original maps, plats, property descriptions, or

photographs as related to the work of a professional surveyor engaged in the "Practice of Land Surveying" as defined in R.S. 37:682 for filing and recording submitted by any person, department, political subdivision, agency, branch, entity, or instrumentality of Louisiana or of the federal government or of a state-chartered or federally chartered financial institution insured by the Federal Deposit Insurance Corporation or the National Credit Union Administration. The filer of such an electronic record shall certify to the recorder that the written instrument from which the electronic record is taken conforms to all applicable laws relating to the form and content of instruments which are submitted in writing.

B. Immediately after acceptance of an electronic record for filing, the recorder shall endorse such record with the date, hour, and minute it is filed. An electronic filing received on a legal holiday or at any time other than during the normal business hours of the recorder shall be accepted for filing on the next business day by the same procedure followed when a paper document is received in the mail of the recorder at any time other than during normal business hours.

C. An electronic record shall be effective with respect to a third person from the time of its filing in the same manner as if the written instrument had been filed.

D. On or before January 1, 2022, each clerk of court, including the Orleans Parish register of conveyances or its successor and the Orleans Parish recorder of mortgages or its successor, shall adopt and implement a plan for recording electronic documents in accordance with Paragraph A of this Article.

Acts 2005, No. 125, §1; Acts 2008, No. 368, §1; Act 2017, No. 173, §5.

**Art. 259. Liability of clerk of court**

The clerk of court shall not be liable for any damage caused by any third party to any information included in pleadings or documents filed of record by the clerk of court.

Acts 2017, No. 173, §5.

**Art. 260. to Art. 280 [Repealed]**

**SECTION 2. CLERKS OF DISTRICT COURTS**

**Art. 281. Certain articles not applicable to Civil District Court for the Parish of Orleans**

The provisions of Articles 282 through 286 do not apply to the clerk and the deputy clerks of the Civil District Court for the Parish of Orleans.

**Art. 282. Acts which may be done by district court clerk**

The clerk of a district court may:

(1) Grant an appeal and fix the return day thereof; fix the amount of the bond for an appeal, or for the issuance of a writ of attachment or of sequestration, or for the release of property seized under any writ, unless fixed by law; appoint an attorney at law to represent a nonresident, absent, incompetent, or unrepresented defendant; or dismiss without prejudice, on application of plaintiff, an action or proceeding in which no exception, answer, or intervention has been filed; and

(2) Probate a testament, when there is no opposition thereto; homologate an inventory; confirm or appoint a tutor, undertutor, undertutor ad hoc, curator, undercurator, undercurator ad hoc, administrator, executor, or dative testamentary executor, when there is no opposition thereto; appoint an attorney for absent heirs; and approve and accept the bond required of a legal representative for the faithful performance of his duties.

**Art. 283. Orders and judgments which may be signed by district court clerk**

A. The clerk of a district court may sign any of the following orders or judgments:

- (1) An order or judgment effecting or evidencing the doing of any of the acts authorized in Article 282;
- (2) An order for the issuance of executory process, of a writ of attachment or of sequestration, or of garnishment process under a writ of fieri facias, attachment, or of sequestration; the release under bond of property seized under a writ of attachment or of sequestration; or to permit the filing of an intervention;
- (3) An order for the execution of a probated testament; the affixing of seals; the taking of an inventory; the public sale of succession property to pay debts, on the written application of the succession representative accompanied by a list of the debts of the succession; the advertisement of the filing of a tableau of distribution or of an account by a legal representative; or requiring a legal representative to file an account; or
- (4) An order to permit a party to institute and prosecute, or to defend, a suit without the payment of costs, under the provisions of Articles 5181 through 5188.

B. When an order signed by the clerk requires the services of a notary, the clerk shall appoint the notary suggested by the party obtaining the order. Acts 2010, No. 175, §1.

**Art. 284. Judicial powers of district court clerk**

The clerk of a district court may render and sign default judgments or judgments by confession in cases where the jurisdiction of the court is concurrent with that of justices of the peace, as provided in Article 5011.

Amended by Acts 1977, No. 46, §2, eff. Jan. 1, 1980; Acts 2017, No. 419, §1; Acts 2021, No. 174, §1, eff. Jan. 1, 2022.

**Art. 285. Powers of district court clerk may be exercised whether judge absent from parish or not**

The powers and authority granted to the clerk of a district court under Articles 282 through 284 may be exercised by him whether the judge of the district court is absent from the parish or not.

**Art. 286. Powers of district court clerk which may not be exercised by deputy; powers of chief deputy clerk**

A. No deputy clerk of a district court, except the chief deputy clerk, may exercise any of the powers and authority granted to the clerk of the district court under Articles 282 and 283.

B. Whether the judge or the clerk, or both, are absent from the parish or not, the chief deputy clerk of a district court may exercise all of the powers and authority granted to the clerk of a district court under Articles 282 and 283.

Acts 1991, No. 174, §1.

**Art. 287. District court clerk ex officio notary**

The clerk of a district court is ex officio a notary; and, as such, may administer oaths and exercise all of the other functions, powers, and authority of a notary.

**Art. 288. Functions which district court clerk may exercise on holiday**

The only functions which a clerk of a district court may exercise on a legal holiday are:

- (1) The signing of an order for the issuance of a writ of attachment or of sequestration by a clerk of a district court other than the Civil District Court for the Parish of Orleans; and
- (2) The issuance of a writ of attachment, sequestration, or injunction.

**Art. 289. to Art. 320 [Repealed]**

CHAPTER 6. SHERIFFS

**Art. 321. Executive officer of district court, serves process, executes writs and mandates directed to him by courts**

The sheriff is the executive officer of the district court.

He shall serve citations, summonses, subpoenas, notices, and other process, and shall execute writs, mandates, orders, and judgments directed to him by the district courts, the courts of appeal, and the supreme court.

**Art. 322. Exercises civil functions only in own parish; exception**

Except as otherwise provided in Article 1291, the sheriff may exercise his civil functions only in the parish for which he was elected.

**Art. 323. Writs executed on holiday**

The sheriff shall not execute any writ, mandate, order, or judgment of a court in a civil case on a legal holiday, except a writ of attachment, sequestration, fieri facias, or seizure and sale under executory process, or an injunction.

Amended by Acts 1978, No. 169, §1.

**Art. 324. Returns on process served, and writs and judgments executed**

The sheriff shall make a return to the issuing court on citations, summonses, subpoenas, notices, and other process, and on writs, mandates, orders, and judgments, showing the date on which and the manner in which they were served or executed.

**Art. 325. Right of entry for execution; may require assistance of others if resistance offered or threatened**

In the execution of a writ, mandate, order, or judgment of a court, the sheriff may enter on the lands, and into the residence or other building, owned or occupied by the judgment debtor or defendant. If necessary to effect entry, he may break open any door or window. If resistance is offered or threatened, he may require the assistance of the police, of neighbors, and of persons present or passing by.

**Art. 326. Protection and preservation of property seized**

The sheriff shall take actual possession of all movable property seized which is susceptible of actual possession and may remove it to a warehouse or other place of safekeeping.

He may take actual possession of all immovable property seized, unless it is under lease or occupied by an owner.

He shall safeguard, protect, and preserve all property seized of which he has taken or is required to take actual possession; and for such purposes may appoint a keeper of the property.

**Art. 327. Seizure of rents, fruits, and revenue of property under seizure**

The seizure of property by the sheriff effects the seizure of the fruits and issues which it produces while under seizure. The sheriff shall collect all rents and revenue produced by property under seizure.

**Art. 328. Power of administration of property under seizure**

The sheriff has the power of administration of all property under seizure, regardless of the type of writ or mandate under authority of which the property was seized.

If immovable property is not occupied by an owner and is not under lease, the sheriff may lease it for a term not beyond the date of judicial sale. He cannot lease movable property under seizure unless authorized by the court with the consent of the parties.

The sheriff may, and if the necessary funds therefor are advanced or satisfactory security is furnished him by any interested person shall, continue the operation of any property under seizure, including a business, farm, or plantation. For such purposes, the sheriff may employ a manager and such other employees as he may consider necessary.

**Art. 329. Disbursements for protection, preservation, and administration of seized property**

The sheriff may make all necessary disbursements for the protection, preservation, and administration of property under seizure, which shall be taxed as costs of the seizure.

**Art. 330. Collection of fines from, and imprisonment of, persons found guilty of contempt of court**

The sheriff shall collect the fines which persons found guilty of contempt of court are sentenced to pay, and pay them over to the official entitled by law to receive them. He shall take into custody and imprison individuals found guilty of contempt of court and sentenced to imprisonment in the parish jail.

**Art. 331. Deputy sheriffs and other employees**

Except as otherwise provided by law, a deputy sheriff possesses all of the powers and authority granted by law to the sheriff, and may perform any of the duties and exercise any of the functions of the sheriff.

Deputy sheriffs and other employees of the sheriff are subject to his direction and supervision, and shall perform the duties assigned to them by law, and by the sheriff.

The sheriff is responsible for the performance or nonperformance of their official duties by his deputies and other employees.

**Art. 332. Service or execution by constable or marshal**

When authorized to do so by the sheriff, a constable of a justice of the peace court, or a constable or marshal of a city court, within the territorial jurisdiction of his court, may serve any process and execute any writ or mandate which the sheriff is authorized to serve or execute.

For such purpose, the constable or marshal possesses the powers and authority of the sheriff; a service or execution so made has the same effect as if made by the sheriff; and the latter is responsible for the performance or nonperformance of his duties by a constable or marshal in such cases.

**Art. 333. Crier**

The crier of a court shall attend all sessions thereof under the direction of the judge shall open and close court at each session, and maintain order and decorum in the court room; and shall perform such other duties as are assigned to him by law, the court, or the sheriff.

The crier of a trial court, when requested to do so, shall call all witnesses in the building whose testimony is desired by the court, or by a party.

When a court has no crier, and there is no deputy sheriff available for such duty, the sheriff shall perform the duties of crier.

**Art. 334. Neglect, failure, or refusal of sheriff, deputy sheriff, or employee to perform duty subjects him to punishment for contempt**

The neglect, failure, or refusal of a sheriff, deputy sheriff, or other employee of a sheriff to perform any ministerial duty subjects him to punishment for contempt of court.

**Art. 335. to Art. 370 [Repealed]**

**CHAPTER 7. OTHER OFFICERS OF THE COURT**

**Art. 371. Attorney**

An attorney at law is an officer of the court. He shall conduct himself at all times with decorum, and in a manner consistent with the dignity and authority of the court and the role which he himself should play in the administration of justice.

He shall treat the court, its officers, jurors, witnesses, opposing party, and opposing counsel with due respect; shall not interrupt opposing counsel, or otherwise interfere with or impede the



orderly dispatch of judicial business by the court; shall not knowingly encourage or produce false evidence; and shall not knowingly make any misrepresentation, or otherwise impose upon or deceive the court.

For a violation of any of the provisions of this article, the attorney at law subjects himself to punishment for contempt of court, and such further disciplinary action as is otherwise provided by law.

#### **Art. 372. Court reporter**

A. The court reporter of a trial court, when directed by the court, shall report verbatim in shorthand by stenography or steno-type, or by voice recording or any other recognized manner when the equipment therefor has been approved by the court, the testimony of all witnesses, the other evidence introduced or offered, the objections thereto, and the rulings of the court thereon, on the trial of any appealable civil case or matter.

B. When the court so directs, or the fees therefor have been paid or secured, or when an appeal has been granted in cases in which a party has been permitted to litigate without the payment of costs, he shall transcribe verbatim in a manner approved by the supreme court, all of his notes taken at the trial, or such portion thereof as is designated. He shall file one copy of the transcript in the trial court; shall deliver a copy thereof to each of the parties who has paid therefor; and, when an appeal has been granted, he shall furnish to the clerk of the trial court the number of copies of the transcript required by law.

C. The court reporter shall retain all notes and tape recordings in civil cases for a period of not less than five years after the end of the trial. However, if the record of the trial is fully transcribed, the court reporter shall retain all notes and tape recordings which have been fully transcribed for a period of not less than two years after transcription is completed. The court reporter shall destroy any notes and tape recordings of any matter upon order of a court of competent jurisdiction.

D. The notes and tape recordings of any civil case which are retained by a court reporter pursuant to the provisions of this Article shall be the property of the court in which the case was heard. The court reporter shall have the duty to retain and maintain all such notes and tape recordings pursuant to the provisions of this Article, although the notes and tape recordings shall remain the property of the court.

E. He shall perform such other duties as are assigned to him by law or by the court.

F. When a party to a proceeding requests a transcript and has paid for the transcript, the court reporter shall provide that party with an electronic copy of the transcript along with a paper copy of the transcript at no additional charge or cost to the requesting party.

Acts 1986, No. 545, §1; Acts 2006, No. 820, §1, eff. July 5, 2006.

#### **Art. 373. Expert appointed by court**

An expert appointed by a trial court to assist it in the adjudication of a case in which his special skill and knowledge may aid the court is an officer of the court from the time of his qualification until the rendition of final judgment in the case.

#### **Art. 374. Legal representative**

A legal representative appointed or confirmed by a court is an officer of this court from the time of his qualification for the office until his discharge.

waive assessment of costs and expenses if it finds that the counter affidavit was substantially justified or that other circumstances make an award of expenses unjust.  
Acts 1997, No. 72, §1.

**Art. 1476 to Art. 1550 [Repealed]**

**TITLE IV. PRE-TRIAL PROCEDURE**

**Art. 1551. Pretrial and scheduling conference; order**

A. In any civil action in a district court the court may in its discretion direct the attorneys for the parties to appear before it for conferences to consider any of the following:

(1) The simplification of the issues, including the elimination of frivolous claims or defenses.

(2) The necessity or desirability of amendments to the pleadings.

(3) What material facts and issues exist without substantial controversy, and what material facts and issues are actually and in good faith controverted.

(4) Proof, stipulations regarding the authenticity of documents, and advance rulings from the court on the admissibility of evidence.

(5) Limitations or restrictions on or regulation of the use of expert testimony under Louisiana Code of Evidence Article 702.

(6) The control and scheduling of discovery including any issues relating to disclosure or discovery of electronically stored information, and the form or forms in which it should be produced.

(7) Any issues relating to claims of privilege or protection of trial preparation material, and whether the court should include agreements between counsel relating to such issues in an order.

(8) The identification of witnesses, documents, and exhibits.

(9) The presentation of testimony or other evidence by electronic devices.

(10) Such other matters as may aid in the disposition of the action.

B. The court shall render an order which recites the action taken at the conference, the amendments allowed to the pleadings, and the agreements made by the parties as to any of the matters considered, and which limits the issues for trial to those not disposed of by admissions or agreements of counsel. Such order controls the subsequent course of the action, unless modified at the trial to prevent manifest injustice.

C. If a party's attorney fails to obey a pretrial order, or to appear at the pretrial and scheduling conference, or is substantially unprepared to participate in the conference or fails to participate in good faith, the court, on its own motion or on the motion of a party, after hearing, may make such orders as are just, including orders provided in Article 1471 (2), (3), and (4). In lieu of or in addition to any other sanction, the court may require the party or the attorney representing the party or both to pay the reasonable expenses incurred by noncompliance with this Paragraph, including attorney fees.

D. If a suit has been pending for more than one year since the date of filing of the original petition and no trial date has been assigned, upon motion of any party, the court shall set the matter for conference for the purpose of resolving all matters subject to the provisions of this Article, including the scheduling of discovery, assignment for trial, and any other matters that will expedite

the resolution of the suit. The conference may be conducted in chambers, by telephone, or by video teleconference.

Acts 1997, No. 1056, §1; Acts 2008, No. 824, §3, eff. Jan. 1, 2009; Acts 2018, No. 254, §1.

**Art. 1552. Environmental management orders**

NOTE: Art. 1552(intro. para.) eff. until Jan. 10, 2024. See Acts 2023, No. 150.

Upon the request of any party in any civil action alleging environmental damage pursuant to R.S. 30:29, or the Department of Natural Resources, office of conservation, the court shall direct the attorneys for the parties to appear before the court to develop an environmental management order. The environmental management order shall authorize all parties to access the property allegedly impacted to perform inspections and environmental testing. The order shall require that all test results be submitted to all parties and the Department of Natural Resources, office of conservation, within thirty days of receipt thereof. Failure by a party to provide the results of testing to the other parties shall preclude that party from admitting those results into evidence in the civil action. The environmental management order shall include reasonable terms for all of the following:

NOTE: Art. 1552(intro. para.) as amended by Acts 2023, No. 150, eff. Jan. 10, 2024.

*Upon the request of any party in any civil action alleging environmental damage pursuant to R.S. 30:29, or the Department of Energy and Natural Resources, office of conservation, the court shall direct the attorneys for the parties to appear before the court to develop an environmental management order. The environmental management order shall authorize all parties to access the property allegedly impacted to perform inspections and environmental testing. The order shall require that all test results be submitted to all parties and the Department of Energy and Natural Resources, office of conservation, within thirty days of receipt thereof. Failure by a party to provide the results of testing to the other parties shall preclude that party from admitting those results into evidence in the civil action. The environmental management order shall include reasonable terms for all of the following:*

- (1) Access to the property.
- (2) Investigation and environmental testing.
- (3) Sampling and testing protocols.
- (4) Specific time frames within which to conduct such testing and sampling.

Acts 2012, No. 754, §1; Acts 2023, No. 150, §23, eff. Jan. 10, 2024.

**Art. 1553 to Art. 1560 [Repealed]**

F. For the purposes of this Article, "transmission of the notice" means the sending of the notice via the United States Postal Service, electronic mail, or facsimile.  
Acts 1983, No. 451, §2; Acts 2001, No. 587, §1; Acts 2012, No. 290, §1, eff. Jan. 1, 2013; Acts 2012, No. 741, §1.

**Art. 2167. Supreme court judgment rehearing; finality; stay**

A. Within fourteen days of the transmission of the notice of judgment in the supreme court, a party may apply to the court for a rehearing.

B. A judgment of the supreme court becomes final and definitive when the delay for application for rehearing has expired and no timely application therefor has been made.

C. When an application for rehearing has been applied for timely, a judgment of the supreme court becomes final and definitive when the application is denied. The supreme court may stay the execution of the judgment pending a timely application for certiorari or an appeal to the United States Supreme Court.

D. For the purposes of this Article, "transmission of the notice" means the sending of the notice via the United States Postal Service, electronic mail, or facsimile.  
Amended by Acts 1977, No. 180, §1, eff. Jan. 1, 1978; Acts 1992, No. 113, §1; Acts 2012, No. 290, §1, eff. Jan. 1, 2013.

**Art. 2168. Posting of unpublished opinions; citation**

A. The unpublished opinions of the supreme court and the courts of appeal shall be posted by such courts on the Internet websites of such courts.

B. Opinions posted as required in this Article may be cited as authority and, if cited, shall be cited by use of the case name and number assigned by the posting court.  
Acts 2006, No. 644, §1.

**Art. 2169 to Art. 2200 [Repealed]**

**TITLE II. SUPERVISORY PROCEDURE**

**Art. 2201. Supervisory writs**

Supervisory writs may be applied for and granted in accordance with the constitution and rules of the supreme court and other courts exercising appellate jurisdiction.

**Art. 2202 to Art. 2250 [Repealed]**

## BOOK IV. EXECUTION OF JUDGMENTS

### TITLE I. GENERAL DISPOSITIONS

#### **Art. 2251. Execution only in trial court; appellate court judgment**

A judgment can be executed only by a trial court.

A party seeking to execute a judgment of an appellate court must first file a certified copy with the clerk of the trial court. This filing may be made without prior notice to the adverse party.

#### **Art. 2252. Delay before proceeding with execution**

A judgment creditor may proceed with the execution of a judgment only after the delay for a suspensive appeal therefrom has elapsed; however, recordation of a judgment in the mortgage records prior to the lapsing of the delay for a suspensive appeal does not begin proceedings for the execution of the judgment.

Acts 1985, No. 523, §1, eff. July 12, 1985.

#### **Art. 2253. Writ from clerk to sheriff**

At the request of a judgment creditor, the clerk shall issue a writ bearing his signature, the seal of the court, and the date, and directing the sheriff of the parish where the judgment is to be executed to enforce it in the manner set forth in the writ. Concurrent writs may be directed to sheriffs of several parishes.

#### **Art. 2254. Execution by sheriff; return; wrongful seizure**

A. The sheriff shall proceed promptly to execute the writ and make a return to the clerk who issued it, stating the manner in which it was executed.

B. The sheriff shall have no liability to the debtor or to any third party for wrongful or improper seizure of the debtor's or third party's property of the same general type as described in the debtor's security agreement. If necessary, the sheriff shall request the secured creditor to identify the property subject to the security agreement and shall act pursuant to the secured creditor's instructions. The debtor's and other owner's sole remedy for the wrongful or improper seizure of the property shall be for actual losses sustained under R.S. 10:9-625 against the secured creditor on whose behalf and pursuant to whose instructions the sheriff may act.

Acts 1989, No. 137, §18, eff. Sept. 1, 1989; Acts 2021, No. 259, §2.

#### **Art. 2255 to Art. 2290 [Repealed]**

## TITLE II. MONEY JUDGMENTS

### CHAPTER 1. WRIT OF FIERI FACIAS

#### **Art. 2291. Money judgment; fieri facias**

A judgment for the payment of money may be executed by a writ of fieri facias directing the seizure and sale of property of the judgment debtor.

#### **Art. 2292. Privilege of creditor on seized property; successive seizures**

A. To the extent not otherwise governed under Chapter 9 of the Louisiana Commercial Laws (R.S. 10:9-101, et seq.), a seizing creditor, by the mere act of seizure, acquires a privilege on the property seized, which entitles him to a preference over ordinary creditors.

B. When several seizures of the same property are made by ordinary creditors, the seizing creditors acquire a privilege and are entitled to a preference among themselves according to the order of their seizures.

Acts 1989, No. 137, §18, eff. Sept. 1, 1989.

#### **Art. 2293. Notice to judgment debtor; appointment of attorney**

A. Upon making a seizure of immovable property, the sheriff shall file with the recorder of mortgages of the parish in which the immovable property is located a notice of seizure setting forth the title and docket number of the action out of which the writ issued, the judicial district and parish in which the action is pending, and a description of the immovable property.

B.(1) After the seizure of property, the sheriff shall serve promptly upon the judgment debtor, in the manner provided for service of citation, a written notice of the seizure and a list of the property seized. The notice of seizure shall be accomplished by personal service or domiciliary service. If service cannot be made on the judgment debtor or his attorney of record, the court shall appoint an attorney upon whom service may be made. The notice of seizure shall include information concerning the time, date, and place of the sheriff's sale, in accordance with the form provided in R.S. 13:3852(B). If the sheriff's sale is to be conducted through an online auction in accordance with Article 2344, the notice of seizure, or a subsequent notice served upon the judgment debtor at least three days before the sale, shall state that the sheriff's sale will be conducted through an online auction, shall specify the date of the online auction and the time when bidding is scheduled to open, and shall identify the electronic address of the platform through which bids can be entered. In the case of seizure of residential property, the notice of seizure shall include information concerning the availability of housing counseling services, in accordance with the form provided in R.S. 13:3852(B).

(2) In addition to the written notice of seizure to be served on the judgment debtor as provided in Subparagraph (1) of this Paragraph, the sheriff shall also serve upon the occupants of the seized property a written notice stating that the subject property has been seized. Such service shall be accomplished by directing the notice to "occupants" of the seized premises and if the notice cannot be served personally or by domiciliary service upon the occupants, such service shall be accomplished by posting the notice upon the main entrance to the seized premises. The failure to serve the notices as provided herein shall not invalidate the sheriff's sale; however, such failure shall prevent the purchaser at the sheriff's sale from availing himself of the provisions of R.S.

13:4346 as it applies to the ejectment or eviction of any occupants of the seized premises other than the judgment debtor. The failure to serve the notices required in this Paragraph shall not affect the rights of the foreclosing creditor or of the purchaser at the sheriff's sale under Code of Civil Procedure Articles 4701 et seq.

(3)(a) If the premises foreclosed upon consists of more than ten units, instead of giving notice as provided in Subparagraph (2) of this Paragraph, the foreclosing creditor shall have the option of causing a sign or signs to be posted by the sheriff measuring not less than two feet high and three feet wide posted in such a manner as to notify residents of the building containing the following language or words to this effect: " \_\_\_\_\_ JUDICIAL DISTRICT COURT FOR THE PARISH OF \_\_\_\_\_, DOCKET NUMBER \_\_\_\_\_. THIS PROPERTY HAS BEEN SEIZED AND SHALL BE SOLD IN ACCORDANCE WITH LAW ON OR AFTER \_\_\_\_\_, 200\_\_/s/ SHERIFF \_\_\_\_\_, PARISH. Any person who removes or damages this notice is subject to prosecution in accordance with R.S. 14:56." The cost of preparation of such sign shall be borne by the foreclosing creditor and the fee of the sheriff in connection with the posting of such sign shall be determined in accordance with the provisions of R.S. 13:5530(A)(14).

(b) An affidavit of the creditor shall be filed of record in the foreclosure proceeding stating that such sign was posted, which affidavit shall be prima facie evidence that the sign was posted in accordance with this Subparagraph.

(4) The provisions of Subparagraphs (2) and (3) of this Paragraph shall apply only to foreclosure proceedings on immovable property which is occupied or intended for occupancy as a residence and shall not apply to foreclosure proceedings on property subject to time share operations, hotels, motels, inns, guest houses, rooming houses, bed and breakfasts, camp sites, campgrounds, and other lodging establishments intended for the temporary housing of guests.

C. After the seizure of property, the sheriff shall give notice of the seizure to persons other than the judgment debtor in the manner and to the extent provided by R.S. 13:3886. The sheriff shall file with the clerk who issued the writ his affidavit setting forth the name of each person to whom the notices were given and the address or addresses to which the notices were sent. The affidavit, when received by the clerk, shall form part of the record and shall be considered prima facie correct.

D. Cancellation of a mortgage, whether legal, judicial, or conventional, shall allow any interested party to cancel the notice of seizure of property affected by the mortgage upon submitting a request to cancel evidencing that the mortgage has been cancelled and upon submission of proof that all costs due the clerk of court and the sheriff have been paid. Nevertheless, a notice of seizure shall prescribe ten years after the date of recordation unless reinscribed in the same manner as an instrument creating a mortgage under Civil Code Article 3362. Any interested party may obtain cancellation of the notice of seizure on the basis of prescription of ten years without submitting evidence that all costs due to the clerk of court and sheriff have been paid in full.

Amended by Acts 1974, No. 88, §1; Acts 1991, No. 662, §1, eff. Jan. 1, 1992; Acts 1995, No. 614, §1; Acts 2004, No. 877, §1; Acts 2005, No. 216, §1; Acts 2008, No. 828, §1; Acts 2012, No. 395, §1; Acts 2013, No. 339, §2; Acts 2023, No. 390, §1.

#### **Art. 2294. Time for seizure; return**

A seizure may be made under a writ of fieri facias only within one year from the date of its issuance.

At the expiration of that time the sheriff shall make a return on the writ unless a seizure has been made within the time. If a seizure has been made the sheriff shall proceed with the sale and thereupon make a return.

**Art. 2294.1. Time for seizure; return; city courts in Orleans Parish**

A. A seizure may be made under a writ of fieri facias issued by a city court in Orleans Parish, only within six months from the date of its issuance.

B. At the expiration of that time the constable shall make a return on the writ unless a seizure has been made within the time. If a seizure has been made the constable shall proceed with the sale and thereupon make a return.

Added by Acts 1978, No. 366, §1; Acts 1991, No. 289, §1; Acts 2011, 1<sup>st</sup> Ex. Sess., No. 29, §1.

**Art. 2295. Order of sale; sale in globo**

If several items of property have been seized, or if one item of property which is divisible into portions has been seized, the judgment debtor, at any time prior to the first advertisement, may designate the order in which the items or portions of property will be sold, except that the judgment creditor can direct the sale of property on which he has a mortgage or a privilege other than that resulting from the seizure.

If the judgment debtor does not designate the order of sale, the order of sale shall be at the discretion of the sheriff.

When property is offered by items or portions and the total price bid is insufficient to satisfy the judgment, with interest and costs, or if the judgment debtor so requests, the property shall be offered in globo and thus sold if a higher bid is obtained.

**Art. 2296. Reduction of excessive seizure**

If several items of property have been seized, or if one item of property which is divisible into portions has been seized, and if the value of the property seized exceeds what is reasonably necessary to satisfy the judgment, including interest and costs, the judgment debtor may obtain the release of the excess item or portion by contradictory motion filed not less than ten days before the day fixed for the sale.

The judgment debtor may not obtain the release of property on which the judgment creditor has a mortgage, or a privilege other than that resulting from the seizure.

**Art. 2297. Alias fieri facias**

After a writ of fieri facias has been returned unsatisfied, another writ of fieri facias may be issued.

**Art. 2298. Injunction prohibiting sale; damages**

Injunctive relief prohibiting the sheriff from proceeding with the sale of property seized under a writ of fieri facias shall be granted to the judgment debtor or to a third person claiming ownership of the seized property:

(1) When the sheriff is proceeding with the execution contrary to law;



- (2) When subsequent to the judgment payment has been made, or compensation has taken place against the judgment, or it has been otherwise extinguished. If the payment, compensation, or extinguishment is for a part of the judgment, the injunction shall be granted to that extent, and the execution shall continue for the amount of the excess;
- (3) When the judgment is for the payment of the purchase price of property sold to the judgment debtor and a suit for recovery of the property has been filed by an adverse claimant; or
- (4) When the judgment sought to be executed is absolutely null.

In the event injunctive relief is granted to the judgment debtor or third party claiming ownership of the seized property, if the court finds the seizure to be wrongful, it may allow damages. Attorney's fees for the services rendered in connection with the injunction may be included as an element of the damages.

Amended by Acts 1981, No. 301, §1.

#### **Art. 2299. Order prohibiting payment of proceeds of sale**

When a third person has intervened and asserted a privilege on the property seized superior to that of the judgment creditor, the court shall order the sheriff to withhold a portion of the proceeds of the judicial sale of the property sufficient to satisfy the intervenor's claim, subject to the further orders of the court.

Amended by Acts 1961, No. 23, §1.

#### **Art. 2300 to Art. 2330 [Repealed]**

### CHAPTER 2. JUDICIAL SALE UNDER FIERI FACIAS

#### **Art. 2331. Publication of notice of sale**

A. Notice of the sale of property under a writ of fieri facias shall be published at least once for movable property, and at least twice for immovable property, in the manner provided by law. The court may order additional publications.

B. Notwithstanding the requirements of Paragraph A of this Article, if a judicial sale of immovable property is cancelled or postponed and rescheduled for a later date, notice of sale of property under a writ of fieri facias shall be published once in the manner provided by law.

C. The sheriff shall not order the advertisement of the sale of the property seized until three days, exclusive of holidays, have elapsed after service on the judgment debtor of the notice of seizure, as provided in Article 2293.

Amended by Acts 2021, No. 469, §1.

#### **Art. 2332. Appraisal**

A. The property seized must be appraised according to law prior to the sale. However, when the property seized is subject to a mortgage, security agreement, or other document creating a privilege in which the debtor has waived the right to appraisal and the judgment recites that the right of the judgment creditor to enforce the judgment is limited to the collateral or security for the amount of such judgment, there shall be no requirement that the property seized be appraised prior

to the sale. If a mortgage on immovable property contains a waiver of appraisal and is sought to be enforced under a writ of fieri facias and the plaintiff prays for a sale without appraisal, the sale shall be conducted without appraisal.

B. If the personal obligation is also secured by other mortgages or security interests not recognized in the judgment, the judicial sale of any property securing the personal obligation in accordance with Paragraph A shall not prevent the enforcement in rem of such other mortgages or security interests.

C. There is no requirement that collateral subject to a security interest under Chapter 9 of the Louisiana Commercial Laws be appraised prior to the sale.

Acts 1991, No. 377, §1, eff. Jan. 1, 1992; Acts 2001, No. 588, §1; Acts 2003, No. 1072, §1.

### **Art. 2333. Sale of perishable property**

The court, at the request of a party, may order the immediate sale at public auction, without advertisement or appraisal, of property that is perishable and subject to loss or deterioration pending compliance with the usual formalities. Notice of the time and place of the sale shall be given to all parties. The property shall be sold for cash to the highest bidder.

### **Art. 2334. Reading of advertisement and certificates**

A. At the time and place designated for the sale, the sheriff shall read aloud all or part of the advertisement describing the property in such sufficiency as to reasonably provide notice to the public of the property being offered for sale, which, as a minimum, shall include the lot and subdivision or municipal number or the section, township, and range, including some identifying mark, if appropriate, and a reference to the conveyance or mortgage recordation. The sheriff shall also read aloud a mortgage certificate and any other certificate required by law or otherwise provide, at least twenty-four hours prior to the sale, a copy of these certificates to the public by means of public posting, written copies, electronic means, or by any other method.

B. In the case of sale through an online auction in accordance with Article 2344, the requirements of Article 2344(D) apply.

C. The failure of the sheriff to procure, read aloud, or provide a copy of any certificate as required by this Article, or to comply with the requirements of Article 2344(D) in the case of an online auction, shall not impact the validity of the sale and shall not give rise to any cause of action against the sheriff, the seizing creditor, or the purchaser arising out of the failure.

Amended by Acts 2019, No. 415, §1; Acts 2021, No. 309, §1; Acts 2023, No. 390, §1.

### **Art. 2335. Superior mortgage or privilege**

The sheriff shall announce that the property is to be sold for cash subject to any security interest, mortgage, lien, or privilege thereon superior to that of the seizing creditor.

Acts 1989, No. 137, §18, eff. Sept. 1, 1989.

### **Art. 2336. Minimum price; second offering**

Except as provided in Article 2332, the property shall not be sold if the price bid by the highest bidder is less than two-thirds of the appraised value. In that event, the sheriff shall re-advertise the sale of the property in the same manner as for an original sale, and the same delay must elapse. At the second offering, the property shall be sold for cash for whatever it will bring,

except as provided in Article 2337. The debt owed to the seizing creditor shall not be reduced by the costs of the sale, but shall be reduced by the greater of either one-half of the appraised value, less superior security interests, mortgages, liens, and privileges, or the amount by which the price bid exceeds superior security interests, mortgages, liens, and privileges.

Acts 1995, No. 1023, §1; Acts 2001, No. 588, §1.

**Art. 2336.1. Determination of superior encumbrances or privileges**

A. To determine the amount due to the owner of any mortgage, security interest, lien, privilege, or other encumbrance that is superior to that of the seizing creditor, hereinafter "superior encumbrance", the sheriff or the seizing creditor may cause a subpoena duces tecum to be issued by the clerk of court to the owner or servicer of an obligation secured by a superior encumbrance, requiring that the owner or servicer of any such obligation produce to the sheriff or to the seizing creditor a document setting forth the amount due to the owner of the obligations secured by the superior encumbrance, as of the scheduled date of the sheriff's sale. The subpoena duces tecum shall be served on the owner or servicer of the superior encumbrance at least fourteen calendar days before the response is due, and shall be made returnable at least seven calendar days prior to the scheduled date of the sheriff's sale, at the office of the sheriff or at the office of the seizing creditor or its attorney. If the owner or servicer of the superior encumbrance has a registered agent for service of process in the state, service of process shall be made by one of the following methods:

(1) The subpoena shall be served on the registered agent by the sheriff.

(2) If service is made through certified mail or overnight courier, the envelope shall be directed to the attention of the registered agent.

B. The owner or servicer shall respond to the sheriff or the seizing creditor, depending on who has caused the subpoena duces tecum to issue, at least seven calendar days prior to the scheduled sheriff's sale. The response shall include the total amount of all obligations secured by the superior encumbrance, and shall itemize the amount due on each obligation by setting out the principal, accrued interest, any negative or positive escrow, any other charges or expenses of all obligations secured by the superior encumbrance, and any attorney fees, court costs, and sheriff's costs that have been incurred in connection with the enforcement of the superior encumbrance or the obligations secured by the superior encumbrance. If a response is timely made, no personal appearance shall be required in connection with the subpoena duces tecum.

C. The subpoena duces tecum may be served by the sheriff or by the seizing creditor either in accordance with the procedure for subpoenas in Chapter 1 of Title III of Book II of this Code, or by certified mail, return receipt requested, or by commercial courier. The subpoena duces tecum may be served within or outside of the state.

D. More than one subpoena duces tecum may be issued in connection with a superior encumbrance.

E. If the date of the sheriff's sale is postponed, or stopped and thereafter rescheduled, the seizing creditor may request that the owner or servicer of the superior encumbrance update the amounts due. The request shall be made in writing and served on the owner or servicer of the superior encumbrance either in the manner required for subpoenas, or by certified mail, return receipt requested, or by recognized overnight courier, at least fourteen days before the response is due. The response shall be due at least seven days prior to the sale date. If the owner or servicer of the superior encumbrance has a registered agent for service of process in the state, service of process shall be made by one of the following methods:

(1) The request shall be served on the registered agent by the sheriff.

(2) If service is made through certified mail or overnight courier, the envelope shall be directed to the attention of the registered agent.

F. Nothing in this Article shall prohibit the owner or servicer of a superior encumbrance from voluntarily providing the requested information without the necessity of a subpoena duces tecum or written request, or from voluntarily waiving or accepting service of the subpoena duces tecum or written request.

G. The owner or servicer of the superior encumbrance may update or correct its latest response by providing to the sheriff or the seizing creditor, depending on at whose request the latest subpoena duces tecum or written request was issued, with an updated or corrected response, if the updated or corrected response is received at least twenty-four hours before the time scheduled for the sheriff's sale.

H. If the owner or servicer of the superior encumbrance is a bank as defined in R.S. 6:333(A) or an affiliate as defined in R.S. 6:333(A), then it will be entitled to charge a reasonable fee, not to exceed twenty-five dollars, for each time that information is requested or updates of information provided. The fee shall be payable only after the requested information has been provided to the person requesting the information, which fees shall be taxed as costs.

Acts 2022, No. 91, §1

**Art. 2337. Price insufficient to discharge superior privilege; property not sold**

If the price offered by the highest bidder at the first or subsequent offering is not sufficient to discharge the costs of the sale and the security interests, mortgages, liens, and privileges superior to that of the seizing creditor, the property shall not be sold.

Acts 1989, No. 137, §18, eff. Sept. 1, 1989.

**Art. 2338. Judgment creditor having superior privilege; price insufficient to satisfy inferior mortgage**

A. If the security interest, mortgage, lien, or privilege of the seizing creditor is superior to other security interests, mortgages, liens, and privileges on the property, he may require that the property be sold, even though the price is not sufficient to satisfy his or the inferior security interests, mortgages, liens, and privileges.

B. If the seizing creditor is not present or represented at the sale, the property shall not be sold for less than the amount necessary to fully satisfy his writ plus the costs.

Acts 1987, No. 939, §1; Acts 1989, No. 137, §18, eff. Sept. 1, 1989.

**Art. 2339. Judgment debtor and creditor may bid**

The judgment debtor and the seizing creditor may bid for the property.

**Art. 2340. Payment of debt prior to adjudication**

The sale of the property may be prevented at any time prior to the adjudication by payment to the sheriff of the judgment, with interest and costs.

**Art. 2341. Sale when installment not due**

When the seizing creditor has a security interest, mortgage, lien, or privilege on the property seized, for a debt of which all the installments are not due, he may demand that the property be sold for the entire debt, on the same terms for the payment of unmatured installments as provided in the original contract.

Acts 1989, No. 137, §18, eff. Sept. 1, 1989.

**Art. 2342. Act of sale by sheriff**

Within fifteen days after the adjudication, the sheriff shall pass an act of sale to the purchaser, in the manner and form provided by law.

The act of sale adds nothing to the force and effect of the adjudication, but is only intended to afford proof of it.

Acts 1986, No. 992, §1.

**Art. 2343. Sheriff's return after sale**

The sheriff shall make a signed return to the clerk who issued the writ, showing that all formalities have been complied with and stating the manner in which the writ was executed, a description of the property sold, the name of the purchaser, the purchase price, and the disposition thereof.

**Art. 2344. Online auctions**

A. In lieu of selling the seized property at an auction conducted at a designated place, the sheriff may offer the property for sale by an online auction conducted through a computer network or other electronic telecommunications system generally available to the public.

B. Notice of a sale by online auction shall be published in accordance with Article 2331 and in the manner provided by law. In addition to the other requirements of law, the notice shall state that the sale will be conducted through an online auction, shall identify the electronic address of the platform through which bids can be entered, and shall specify the date of the sale and the time when bidding is scheduled to open.

C. Online auctions shall be conducted only on a day on which the sheriff is permitted by law to conduct judicial sales, beginning at a time set by the sheriff. Online bidding at each sale shall be open until at least two minutes have elapsed since the most recent bid was entered, or if no bid is entered, until at least two minutes have elapsed since bidding was opened. The amount of each bid shall be posted on the platform and made visible to the public contemporaneously with the entering of the bid. The sheriff may set a minimum incremental bid amount for each sale.

D. Before the opening of bidding, the platform on which bidders enter bids for the property shall display or otherwise make accessible the advertisement of the sale, the mortgage certificate, and all other certificates that the sheriff would be required by Article 2334 to read aloud at the time and place designated for a sheriff's sale. The platform shall also display the announcement required by Article 2335.

E. The sheriff may impose reasonable qualifications on bidders other than the seizing creditor and the debtor, including the requirement to pay a deposit or provide proof of available funds before the opening of bidding. These qualifications shall be displayed or otherwise made accessible on the platform.

F. Upon request made by the debtor before the day of the online auction, the sheriff shall inform the debtor of a location where the debtor may, without charge, have use of a computer terminal or other accommodation to bid at the online auction.

G. Entry by a seizing creditor of a bid at an online auction or the seizing creditor's indication on the platform that it is present for the online auction or that it will not enter a bid constitutes presence at the sale for the purposes of Article 2338.

H. Except as otherwise provided in this Article, the online auction shall be conducted as far as practicable in compliance with the requirements of this Chapter and Chapter 3 of this Title. Acts 2023, No. 390, §1.

### **Art. 2345 to Art. 2370 [Repealed]**

## CHAPTER 3. THE ADJUDICATION AND ITS EFFECT

### **Art. 2371. Effect of adjudication**

The adjudication transfers to the purchaser all the rights and claims of the judgment debtor as completely as if the judgment debtor had sold the property.

### **Art. 2372. Sale subject to superior real charge or lease**

The property is sold subject to any real charge or lease with which it is burdened, superior to any security interest, mortgage, lien, or privilege of the seizing creditor.

Acts 1989, No. 137, §18, eff. Sept. 1, 1989.

### **Art. 2373. Distribution of proceeds of sale**

After deducting the costs, the sheriff shall first pay the amount due the seizing creditor, then the inferior security interests, mortgages, liens, and privileges on the property sold, and shall pay to the debtor whatever surplus may remain.

Acts 1989, No. 137, §18, eff. Sept. 1, 1989.

### **Art. 2374. Property subject to superior mortgage; payment of price**

If there is a security interest, mortgage, lien, or privilege on the property superior to that of the seizing creditor, the purchaser shall pay to the sheriff only that portion of the sale price which exceeds the amount of the superior security interest, mortgage, lien, or privilege.

Acts 1989, No. 137, §18, eff. Sept. 1, 1989.

### **Art. 2375. Purchaser's liability; property subject to inferior mortgages**

The purchaser is liable for nothing beyond the purchase price. He shall pay the full purchase price to the sheriff, despite the existence of a mortgage, lien, or privilege on the property inferior to that of the seizing creditor.

**Art. 2376. Release of inferior mortgages, liens, and privileges**

The sheriff shall give the purchaser a release from the security interest, mortgage, lien, or privilege of the seizing creditor, and from all inferior security interests, mortgages, liens, and privileges, and he shall direct the clerk of court or proper filing officer to cancel or partially release their inscriptions insofar as they affect the property sold.

Acts 1989, No. 137, §18, eff. Sept. 1, 1989; Acts 2018, No. 452, §1.

**Art. 2377. Inferior mortgages; payment; reference to proceeds**

The sheriff shall pay the inferior security interests, mortgages, liens, and privileges, after payment of the costs and the amount due the seizing creditor. When the sum remaining after payment of the costs and the amount due the seizing creditor is insufficient to pay such inferior claims in full, the sheriff may deposit the remainder with the court and proceed by contradictory motion against the inferior creditors to have their claims referred to the proceeds of the sale.

Acts 1989, No. 137, §18, eff. Sept. 1, 1989.

**Art. 2378. Enforcement of mortgage or privilege superior to that of seizing creditor**

When the purchaser fails to pay a security interest or mortgage superior to the security interest, mortgage, lien, or privilege of the seizing creditor, the superior security interest or mortgage may be enforced under any of the applicable provisions of Articles 3721 through 3743, or as otherwise provided under applicable law.

Acts 1989, No. 137, §18, eff. Sept. 1, 1989.

**Art. 2379. Rights of buyer in case of eviction**

The purchaser who has been evicted from property sold under a writ of fieri facias shall have his recourse for reimbursement against the judgment debtor and the seizing creditor. If judgment is obtained against both, the purchaser shall issue execution first against the judgment debtor, and if his judgment remains unsatisfied, he may issue execution against the seizing creditor. The purchaser's right of reimbursement against the seizing creditor shall be limited to the value received by the seizing creditor from the sheriff's sale conducted to sell the property under the writ of fieri facias.

Acts 2012, No. 19, §1.

**Art. 2380. Loss of recourse when purchaser fails to give judgment debtor timely notice**

The purchaser shall lose the right granted him by Article 2379 if a suit is filed to evict him and he neglects to notify the judgment debtor in time for him to defend the suit, and if the debtor could have successfully defended the suit.

**Art. 2381. Action by seizing creditor who has been compelled to reimburse purchaser**

The seizing creditor may recover from his judgment debtor whatever he has had to pay to the purchaser who has been evicted.

**Art. 2382 to Art. 2410 [Repealed]**

## CHAPTER 4. GARNISHMENT UNDER A

### WRIT OF FIERI FACIAS

#### **Art. 2411. Garnishee; effect of service; financial institutions**

A. The judgment creditor, by petition and after the issuance of a writ of fieri facias, may cause a third person to be cited as a garnishee to declare under oath what property he has in his possession or under his control belonging to the judgment debtor and in what amount he is indebted to him, even though the debt may not be due. He may require the third person to answer categorically and under oath the interrogatories annexed to the petition within the delay provided by Article 2412.

B.(1) The seizure shall take effect upon service of the petition, citation, interrogatories, and a notice of seizure, as required by Article 2412(A)(1).

(2) For wage garnishments subject to the provisions of R.S. 13:3921 et seq., if the garnishee or judgment debtor files no opposition to the garnishment proceedings and the garnishee answers the garnishment interrogatories affirmatively as to the employment of the judgment debtor by the garnishee, and the garnisher fails to obtain a garnishment judgment within one hundred eighty days of the filing of the answers to the interrogatories, all effects of the seizure by garnishment shall automatically cease upon the lapse of the one hundred eighty day, and the garnisher shall be required to re-serve the garnishee pursuant to R.S. 13:3923 and 3924.

C. Other than as provided in R.S. 13:3921 et seq. applicable to garnishments of wages, a garnishment shall not be continuing in nature and the garnishee need only respond as to property of the judgment debtor that the garnishee has in his possession or under his control at the time the garnishment interrogatories are served on him.

D. Notwithstanding any other law to the contrary, when the garnishee is a bank, savings and loan association, or credit union, the garnishee may continue to pay checks and drafts drawn on the judgment debtor's deposit accounts maintained with the garnishee that are presented for payment in the ordinary course of business on the day garnishment interrogatories are served upon the garnishee or on the next business day thereafter, without incurring any liability or obligation in favor of the judgment creditor or any other third party.

Acts 1989, No. 742, §1; Acts 1990, No. 887, §1; Acts 2004, No. 18, §1.

#### **Art. 2412. Method of service; delay for answering**

A.(1) The sheriff shall serve upon the garnishee the citation and a copy of the petition and of the interrogatories, together with a notice that a seizure is thereby effected against any property of or indebtedness to the judgment debtor.

(2) The judgment creditor shall send to the judgment debtor written notice of the filing of the garnishment petition by mail or electronic means. However, the notice provided to the judgment debtor shall have no effect on the validity of the seizure.

B. Service of garnishment petitions against the wages, salaries, or commissions of employees employed within the executive branch of state government shall be made in the following manner:

(1) For employees paid through the office of statewide uniform payroll of the division of administration, service shall be made on the said office.



(2) For all other employees not covered by Subparagraph (1) of this Paragraph, service shall be made only on the secretary of the department employing the debtor or on his designee.

C. Service shall be made in the manner provided for service of citation, except that if the garnishee is an individual, service must be personal. If the garnishee has concealed or absented himself with the purpose of avoiding personal service, the court may order that service be made in any other manner provided by law.

D. The garnishee shall file his sworn answers to the interrogatories within thirty days from the date of service made pursuant to this Article.

Acts 1999, No. 886, §1; Acts 2001, No. 250, §1; Acts 2004, No. 741, §1; Acts 2022, No. 265, §1.

**Art. 2413. Effect of garnishee's failure to answer**

A. If the garnishee fails to answer within the delay provided by Article 2412, the judgment creditor may proceed by contradictory motion against the garnishee for the amount of the unpaid judgment, with interest and costs. When the garnishee is a state agency or department within the executive branch of state government, the party designated for service of garnishment petitions in Article 2412(B) shall be notified of the intent to file such a motion by certified mail at least fifteen days prior to the filing of the motion. The failure of the garnishee to answer prior to the filing of such a contradictory motion is prima facie proof that he has property of or is indebted to the judgment debtor to the extent of the judgment, interest and costs.

B. Judgment shall be rendered against the garnishee on trial of the motion unless he proves that he had no property of and was not indebted to the judgment debtor. If on the trial of such motion, the garnishee proves the amount of such property or indebtedness, the judgment against the garnishee shall be limited to the delivery of the property or payment of the indebtedness, as provided in Article 2415.

C. Regardless of the decision on the contradictory motion, the court shall render judgment against the garnishee for the costs and a reasonable attorney fee for the motion.

Acts 1999, No. 886, §1; Acts 2001, No. 250, §1.

**Art. 2414. Notice of answer; traversing**

A. The clerk shall cause written notice of the filing of the garnishee's answer to be served promptly upon the seizing creditor in the manner provided by Article 1314.

B. Unless the creditor files a contradictory motion traversing the answer of the garnishee within thirty days after service upon him of the notice of the filing of the garnishee's answer, any property of the judgment debtor in the possession of the garnishee and any indebtedness to the judgment debtor which the garnishee has not admitted holding or owing shall be released from seizure. A new seizure may be made of such property or indebtedness by filing a supplemental petition and serving additional interrogatories.

Acts 2022, No. 265, §1.

**Art. 2415. Delivery of property or payment of indebtedness to sheriff**

A. When the garnishee admits in his answer, or when on trial of a contradictory motion under Article 2414 it is found that he has in his possession property belonging to the judgment debtor or is indebted to him, the court shall order the garnishee to deliver the property immediately to the sheriff or to pay him the indebtedness when due. Delivery or payment to the sheriff

discharges the garnishee's obligation to the judgment debtor to the extent of the delivery or payment.

B. This Article does not apply to garnishment of wages, salaries, tips reported to the employer, or commissions.

Acts 2022, No. 265, §1.

#### **Art. 2416. Venue of garnishment proceedings**

The venue of a garnishment proceeding under a writ of fieri facias is the parish where the garnishee may be sued under Article 42 only or Article 77.

The venue of a garnishment proceeding under a writ of attachment or sequestration, in an action against a resident of the state, is any parish where the defendant may be sued.

Amended by Acts 1964, No. 4, §1; Acts 1989, No. 117, §1.

#### **Art. 2417. Garnishment in court other than one which rendered judgment**

The procedure in garnishment proceedings under the writ of fieri facias in a court other than that which rendered the judgment shall be the same as if the garnishment were in the court where the judgment was rendered, except:

(1) The judgment must be made executory in the court where the garnishment proceedings are filed, as provided in Article 2782; and

(2) The writ of fieri facias directed to the sheriff, constable, or marshal of the court where the garnishment proceedings are filed may be issued either by the court which rendered the judgment or by the court which made the judgment executory.

Amended by Acts 1961, No. 23, §1.

#### **Art. 2418 to Art. 2450 [Repealed]**

### CHAPTER 5. EXAMINATION OF JUDGMENT DEBTOR

#### **Art. 2451. Examination of judgment debtor and third parties; depositions**

A. In aid of execution the judgment creditor may examine the judgment debtor, his books, papers, or documents, upon any matter relating to his property, either as provided in Articles 1421 through 1515 or as provided in Articles 2452 through 2456.

B. In aid of execution of the judgment, the judgment creditor may also examine any person upon any matter relating to the judgment debtor's property, as provided in Articles 1421 through 1474.

Acts 1990, No. 1000, §1.

#### **Art. 2452. Court where motion filed and examination conducted**

A. Except as provided in Paragraph B, the written motion for the examination of a judgment debtor shall be filed, and the proceedings conducted, in the court which rendered the judgment.

B. If the judgment debtor is an individual who is domiciled in the state but not in the parish where the judgment was rendered, or who has changed his domicile to another parish after the institution of the suit, the written motion for his examination shall be filed, and the examination conducted, in a court of competent jurisdiction in the parish of his then domicile or where the judgment was rendered or where the debt that has been reduced to judgment was incurred. If the judgment debtor is a nonresident, the petition for his examination shall be filed, and the examination conducted, in a court of competent jurisdiction in any parish where he may be found, or in the court which rendered the judgment. In any case mentioned in this Paragraph, a certified copy of the judgment shall be attached to the written motion for examination.  
Amended by Acts 1988, No. 37, §1, eff. June 10, 1988; Acts 2007, No. 433, §1.

**Art. 2453. Motion; order; service**

On ex parte written motion of the judgment creditor, personally or through his attorney, the court shall order the judgment debtor to appear in court for examination at a time fixed by the court, not less than five days from the date of service of the motion and order on the judgment debtor or his counsel of record, and to produce any books, papers and other documents relating to the judgment debtor's property described in the motion.  
Acts 2006, No. 12, §1.

**Art. 2454. Oath; testimony not used in criminal proceedings**

The debtor shall be sworn to tell the truth in the same manner as a witness in a civil action. No testimony given by a debtor shall be used in any criminal proceeding against him, except for perjury committed at such examination.

**Art. 2455. Costs**

Court costs in connection with the examination shall be taxed against the judgment debtor, except that if the court determines that the creditor invoked the remedy needlessly, the court may tax the costs against the creditor.

**Art. 2456. Contempt**

If the motion and order have been served personally on the judgment debtor, as provided by law or if service is obtained pursuant to Article 1261, and the judgment debtor refuses to appear for the examination or to produce his books, papers, or other documents when ordered to do so, or if he refuses to answer any question held pertinent by the court, the judgment debtor may be punished for contempt.  
Amended by Acts 1988, No. 37, §1, eff. June 10, 1988.

**Art. 2457 to Art. 2500 [Repealed]**

**TITLE III. JUDGMENTS OTHER THAN MONEY JUDGMENTS**

**Art. 2501. Judgment ordering delivery of possession; writ of possession**

A party in whose favor a judgment of possession has been rendered may obtain from the clerk a writ of possession directing the sheriff to seize and deliver the property to him if it is movable property, or to compel the party in possession to vacate the property by use of force, if necessary, if it is immovable.

**Art. 2502. Writ of distringas; contempt; damages**

If a judgment orders the delivery of a thing and the sheriff cannot seize it because the defendant has concealed or removed it from the jurisdiction of the court, or when the judgment orders a defendant to do or refrain from doing an act other than the delivery of a thing, and he refuses or neglects to comply with the order, the party entitled to performance may obtain by contradictory motion the following remedies:

- (1) A writ to distrain the property of the defendant;
- (2) An order adjudging the disobedient party in contempt; or
- (3) A judgment for any damages he may have sustained. He may likewise sue for damages in a separate action.

**Art. 2503. Distringas, execution and revocation**

In the execution of the writ of distringas, the sheriff shall seize the property of the defendant and retain it in his possession subject to the orders of the court.

The court shall revoke the writ, and order the sheriff to release and return to the defendant all property seized thereunder, when the defendant proves that he has complied with the judgment sought to be enforced through the distringas, and has also satisfied any judgment for damages which the plaintiff may have obtained against him because of his noncompliance with the judgment first mentioned.

Perishable property seized under a writ of distringas may be sold as provided in Article 2333. The proceeds of such a sale shall be held by the sheriff subject to the orders of the court.

**Art. 2504. Specific performance court directing performance by third party**

If a judgment directs a party to perform a specific act, and he fails to comply within the time specified, the court may direct the act to be done by the sheriff or some other person appointed by the court, at the cost of the disobedient party, and with the same effect as if done by the party.

**Art. 2505 to Art. 2540 [Repealed]**

**TITLE IV. FOREIGN JUDGMENTS**

**Art. 2541. Execution of foreign judgments**

A. A party seeking recognition or execution by a Louisiana court of a judgment or decree of a court of the United States or a territory thereof, or of any other state, or of any foreign country

may bring an ordinary proceeding against the judgment debtor in the proper Louisiana court, to have the judgment or decree recognized and made the judgment of the Louisiana court.

B. A duly authenticated copy of the judgment or decree must be annexed to the petition.

C. A judgment, decree, or order of a court of the United States or any other court that is entitled to full faith and credit in this state may also be enforced pursuant to R.S. 13:4241. Acts 1985, No. 464, §2; Acts 2016, No. 132, §1.

#### **Art. 2542. Grounds for recognition of foreign defamation judgments**

A. For the purposes of this Section, "foreign defamation judgment" means a judgment or decree rendered in a jurisdiction outside of any state or territory of the United States which was founded on a cause of action arising from allegations of defamation, libel, or slander.

B. A foreign defamation judgment is not conclusive if any of the following apply:

- (1) The judgment was rendered under a system which does not provide impartial tribunals or procedures compatible with the requirements of due process of law.
- (2) The foreign court did not have personal jurisdiction over the defendant.
- (3) The foreign court did not have jurisdiction over the subject matter.

C. A foreign defamation judgment need not be recognized if any of the following apply:

- (1) The defendant in the proceedings in the foreign court did not receive notice of the proceedings in sufficient time to enable him to provide a defense.
- (2) The judgment was obtained by fraud.
- (3) The cause of action or claim for relief on which the judgment is based is repugnant to the public policy of this state.
- (4) The judgment conflicts with another final and conclusive order.
- (5) The proceeding in the foreign court was contrary to an agreement between the parties under which the dispute in question was to be settled otherwise than by proceedings in that court.
- (6) In the case of jurisdiction based only on personal service, the foreign court was an inconvenient forum for the trial of the action.
- (7) The foreign jurisdiction where judgment was rendered would not give recognition to a similar judgment rendered in this state.
- (8) The court sitting in this state before which the matter is brought determines that the defamation law applied in the adjudication by the foreign court failed to provide at least as much protection for freedom of speech and press in that case as would be provided by the constitutions of this state and the United States.

D. For the purposes of rendering declaratory relief with respect to the liability of a person for a foreign defamation judgment and determining whether the foreign defamation judgment should be deemed recognizable pursuant to this Section, the courts of this state shall have personal jurisdiction over any person who obtains a judgment in a defamation proceeding outside the United States against any of the following persons:

- (1) A resident of this state.
- (2) A person or entity amenable to the jurisdiction of this state.
- (3) A person who has assets in this state.
- (4) A person who may have to take action in this state to comply with the judgment.

Acts 2010, No. 712, §1; Acts 2010, No. 878, §1.

#### **Art. 2543 to Art. 2590 [Repealed]**

Amended by Acts 1972, No. 326, §2, eff. Jan. 1, 1973; Acts 2001, No. 641, §1; Acts 2006, No. 314, §1; Acts 2010, No. 175, §1; Acts 2010, No. 226, §1.

**Art. 3062. Effect of judgment of possession**

The judgment of possession rendered in a succession proceeding shall be prima facie evidence of the relationship to the deceased of the parties recognized therein, as heir, legatee, surviving spouse in community, or usufructuary, as the case may be, and of their right to the possession of the estate of the deceased.

### TITLE III. ADMINISTRATION OF SUCCESSIONS

#### CHAPTER 1. QUALIFICATION OF SUCCESSION REPRESENTATIVES

##### SECTION 1. EXECUTORS

**Art. 3081. Petition for confirmation**

After the probate of the testament, or after its production into court as provided by Article 2891 if it is a nuncupative testament by public act, the person named as executor therein may petition the court for confirmation, and for the issuance of letters testamentary. If he files the original petition for the execution of the testament, he may pay therein for the issuance of letters.

**Art. 3082. Order of confirmation; letters**

Unless the person named in the testament as executor is disqualified on any of the grounds assigned in Article 3097, the court shall render an order upon his petition for confirmation, confirming him as testamentary executor and directing the issuance of letters testamentary to him after he has taken his oath of office and furnished security, if required.

**Art. 3083. Appointment of dative testamentary executor**

If no executor has been named in the testament, or if the one named is dead, disqualified, or declines the trust, on its own motion or on motion of any interested party, the court shall appoint a dative testamentary executor, in the manner provided for the appointment of an administrator of an intestate succession.

##### SECTION 2. ADMINISTRATORS

**Art. 3091. Petition for notice of application for appointment**

An interested person desiring to be notified of the filing of an application for appointment as administrator, at any time after the death of the deceased, may petition the court in which the succession has been opened, or may be opened, for such notice.

A petition for such notice shall comply with Article 3092, shall bear the number and caption of the succession proceeding, and shall be docketed and filed by the clerk in the record thereof.

When a petition for such notice has been filed within ten days of the death of the deceased, or prior to the application for appointment as administrator, the applicant for appointment shall serve the notice prayed for, as provided in Article 3093.

**Art. 3092. Form of petition for notice of application for appointment**

A petition for notice under Article 3091 shall not be effective unless it is signed by the petitioner or his attorney, and sets forth: (1) the name, surname, and domicile of petitioner; (2) a statement of the interest of the petitioner; (3) the name, surname, and mailing address of the person to whom the requested notice shall be given; and (4) a prayer that the requested notice be given.

**Art. 3093. Notice in compliance with petition**

When notice has been petitioned for as provided in Article 3091, the applicant for appointment as administrator shall mail or deliver to the person designated to receive such notice a copy of his application for appointment, and shall notify him of the date and hour assigned by the court for a hearing thereon.

**Art. 3094. Order on application for appointment**

The court shall order the taking of an inventory or the filing of a descriptive list as provided in Article 3136, of the property of the deceased upon the filing of an application for appointment as administrator.

If notice of the application for appointment is required under Articles 3091 through 3093, the court shall assign a date and hour for a hearing on the application, which shall be held not earlier than the eleventh day after the mailing or delivery of such notice. If no such notice is required, and ten days have elapsed since the death of the deceased, the court may appoint the applicant as administrator forthwith, unless he is disqualified under Article 3097.

**Art. 3095. Opposition to application for appointment**

The opposition to an application for appointment as administrator shall be filed prior to the hearing on the application and shall be served on the applicant for appointment. This opposition shall comply with Article 2972, and shall allege the prior right of opponent to the appointment, or the grounds on which it is claimed the applicant is disqualified. If the opposition is based on a prior right to the appointment, the opponent shall pray that he be appointed administrator.

**Art. 3096. Appointment when no opposition; appointment after trial of opposition**

At the hearing on the application for appointment as administrator, if no opposition thereto has been filed, the court shall appoint the applicant, unless he is disqualified under Article 3097.

If an opposition to the application for appointment has been filed prior to the hearing thereon, the court shall assign the opposition for trial. After this trial, the court shall appoint as administrator the qualified claimant having the highest priority of appointment.

If all of the claimants are disqualified under Article 3097, the court shall appoint a qualified person who is willing to accept the administration of the succession.

**Art. 3097. Disqualifications**

A. No person may be confirmed as testamentary executor, or appointed dative testamentary executor, provisional administrator, or administrator who is:

- (1) Under eighteen years of age;
- (2) Interdicted, or who, on contradictory hearing, is proved to be mentally incompetent;
- (3) A convicted felon, under the laws of the United States or of any state or territory thereof;
- (4) A nonresident of the state who has not appointed a resident agent for the service of process in all actions and proceedings with respect to the succession, and caused such appointment to be filed in the succession proceeding;
- (5) A corporation not authorized to perform the duties of the office in this state; or
- (6) A person who, on contradictory hearing, is proved to be unfit for appointment because of bad moral character.

B. No person may be appointed dative testamentary executor, provisional administrator, or administrator who is not the surviving spouse, heir, legatee, legal representative of an heir or legatee, or a creditor of the deceased or a creditor of the estate of the deceased, or the nominee of the surviving spouse, heir, legatee, or legal representative of an heir or legatee of the deceased, or a co-owner of immovable property with the deceased.

Amended by Acts 1964, No. 4, §1; Acts 1972, No. 347, §1; Acts 1985, No. 528, §1, eff. July 12, 1985.

**Art. 3098. Priority of appointment**

A. When the appointment as administrator or dative testamentary executor is claimed by more than one qualified person, except as otherwise provided by law, preference in the appointment shall be given by the court in the following order to:

- (1) The best qualified among the surviving spouse, competent heirs or legatees, or the legal representatives of any incompetent heirs or legatees of the deceased.
- (2) The best qualified of the nominees of the surviving spouse, of the competent heirs or legatees, or of the legal representatives of any incompetent heirs or legatees of the deceased.
- (3) The best qualified of the creditors of the deceased or a creditor of the estate of the deceased, or a co-owner of immovable property with the deceased.

B. "Best qualified", as used in this Article, means the claimant best qualified personally, and by training and experience, to administer the succession.

Acts 1992, No. 778, §1; Acts 1993, No. 29, §1.

**SECTION 3. PROVISIONAL ADMINISTRATORS**

**Art. 3111. Appointment**

The court may appoint a provisional administrator of a succession, pending the appointment of an administrator or the confirmation of an executor, when it deems such appointment necessary to preserve, safeguard, and operate the property of the succession. On the application of an interested party, or on its own motion, when such an appointment is deemed necessary, the court may appoint a qualified person as provisional administrator forthwith.



**Art. 3112. Security; oath; tenure; rights and duties**

A provisional administrator shall furnish security and take the oath of office required by Articles 3152 and 3158, respectively. He shall continue in office until an administrator or executor has been qualified, or until the heirs or legatees have been sent into possession.

Except as otherwise provided by law, a provisional administrator has all of the authority and rights of an administrator, and is subject to the same duties and obligations, in the discharge of his functions of preserving, safeguarding, and operating the property and business of the succession.

**Art. 3113. Inventory taken or descriptive list filed when appointment made**

When the court appoints a provisional administrator, it shall order the taking of an inventory of the property of the succession as provided in Article 3131 or the filing of a descriptive list of the succession property as provided in Article 3136, unless either has been ordered taken before.

Amended by Acts 1972, No. 665, §1.

SECTION 4. ADMINISTRATORS OF VACANT SUCCESSIONS

**Art. 3121. Attorney appointed as administrator of vacant successions; exceptions**

When no qualified person has petitioned for appointment as administrator of a vacant succession within three months of the death of the decedent, the court may appoint an attorney at law as administrator thereof and set his compensation. Said attorney shall be selected, on a rotating basis, from a list of attorneys currently practicing in the parish in which the succession is to be opened.

The attorney shall be required to furnish security as required by law. Otherwise, all of the provisions of law relating to the administrator of a succession apply to the attorney when appointed administrator of a vacant succession.

This article does not apply to any parish for which a public administrator has been appointed.

Amended by Acts 1961, No. 23, §1; Acts 1974, No. 530, §1.

**Art. 3122. Public administrator as administrator of vacant successions in certain parishes**

In parishes for which a public administrator has been appointed, he shall be appointed administrator of all successions of which, under Article 3121, an attorney at law in other parishes may be appointed administrator.

All provisions of law relating to the administrator of a succession apply to the public administrator, except as otherwise provided by R.S. 9:1581 through 9:1589.

Amended by Acts 1961, No. 23, §1; Acts 1974, No. 530, §1.

## SECTION 5. INVENTORY OF SUCCESSION PROPERTY

### **Art. 3131. Notary appointed for inventory in each parish**

When the court orders the taking of an inventory of the property of the succession, it shall appoint a notary of each parish in which the deceased left property to take the inventory of such property in that parish.

### **Art. 3132. Public inventory**

The public inventory of the property of a deceased person, or of other estates under the administration of the court, shall be taken by a notary appointed by the court, in the presence of at least two competent witnesses, assisted by two competent appraisers appointed and sworn by the notary. The witnesses and appraisers need not be residents of the parish where the inventory is taken.

The taking of the inventory may be attended by any person interested in the estate to be administered, or by his attorney; and when timely requested to do so, the notary shall give such person, or his attorney, notice by ordinary mail of the time and place thereof.

### **Art. 3133. Procees verbal of inventory**

The public inventory shall be evidenced by the notary's procees verbal of the proceedings, subscribed by him, and signed by the appraisers, witnesses, and other persons who have attended. This procees verbal shall contain:

(1) The names, surnames, domiciles, and qualifications of the notary taking the inventory, of the witnesses thereto, of the appraisers who have valued the property, and of any other interested persons who have attended;

(2) The dates when and places where the inventory was taken;

(3) A description of the manner in which the inventory was taken;

(4) An adequate description of each item of property belonging to the estate and found in the parish where the inventory was taken, and the fair market value thereof estimated by the appraisers;

(5) An adequate description of all of the titles, account books, and written evidences of indebtedness due the estate, found during the taking of the inventory, and the amounts of the indebtedness, and the name, surname, and address of each debtor, as shown therein;

(6) An adequate description of any property owned in whole or in part by third persons, or claimed by third persons as having been left on loan, deposit, consignment, or otherwise; and

(7) A recapitulation of the aggregate value of all movable property, the aggregate value of all immovable property, and the total value of all property owned by the estate.

### **Art. 3134. Return of procees verbal of inventory**

The notary who took the inventory, or the party at whose instance it was taken, shall make duplicate copies of the procees verbal, the original procees verbal shall be returned into the court which ordered it taken, immediately upon its completion and signing. The duplicate copy shall be certified and filed with the collector of revenue. A certified copy of the procees verbal of any inventory taken in Orleans Parish may be returned in the same manner, and with the same effect as the original.

Amended by Acts 1972, No. 326, §2, eff. Jan. 1, 1973.

**Art. 3135. Proceś verbal of inventory prima facie proof; traverse**

The proces verbal of a public inventory returned into court as provided in Article 3134 shall be accepted as prima facie proof of all matters shown therein, without homologation by the court.

An interested person at any time may traverse the proces verbal of a public inventory by contradictory motion served upon the notary and the person at whose instance the inventory was made.

If a descriptive list is amended or successfully traversed a copy of the amended or traversed proces verbal shall be filed with the Collector of Revenue.  
Amended by Acts 1972, No. 326, §2, eff. Jan. 1, 1973.

**Art. 3136. Descriptive list of property in lieu of inventory**

Whenever an inventory of succession property otherwise would be required by law, the person at whose instance the inventory would be taken may file with the Department of Revenue and in the succession proceeding, in lieu of an inventory complying with articles 3131 through 3135, a detailed, descriptive list of all succession property. This list shall be sworn to and subscribed by the person filing it, shall show the location of all items of succession property, and shall set forth the fair market value of each item thereof at the date of the death of the deceased.

The privilege of filing a descriptive list of succession property, in lieu of an inventory thereof, may be exercised without judicial authority.  
Amended by Acts 1972, No. 326, §2, eff. Jan. 1, 1973

**Art. 3137. Descriptive list prima facie correct amendment or traverse; reduction or increase of security**

The descriptive list of succession property authorized by Article 3136 shall be accepted as prima facie proof of all matters shown therein, unless amended or traversed successfully.

The court may amend the descriptive list at any time to correct errors therein, on ex parte motion of the person filing it. An interested person may traverse the descriptive list at any time, on contradictory motion served on the person filing it. If a descriptive list is amended, or successfully traversed a copy of the amended or traversed descriptive list shall be filed with the Department of Revenue. The court may order the reduction or increase of the security required of a succession representative to conform to the corrected total value of the property of the succession.  
Amended by Acts 1972, No. 326, §2, eff. Jan. 1, 1973.

SECTION 6. SECURITY, OATH, AND LETTERS OF  
SUCCESSION REPRESENTATIVE

**Art. 3151. Security of administrator**

Except as otherwise provided by law, the person appointed administrator shall furnish security for the faithful performance of his duties in an amount exceeding by one-fourth the total value of all property of the succession as shown by the inventory or descriptive list.

The court may reduce the amount of this security, on proper showing, whenever it is proved that the security required is substantially in excess of that needed for the protection of the heirs and creditors.

**Art. 3152. Security of provisional administrator**

The person appointed provisional administrator shall furnish security for the faithful performance of his duties in an amount determined by the court as being adequate for the protection of the heirs, legatees, surviving spouse in community, and creditors of the succession.

**Art. 3153. Security of testamentary executor**

The person appointed dative testamentary executor shall furnish the same security as is required of the administrator under Article 3151.

The person named by the testator as executor is not required to furnish security, except when required by the testament or as provided in Articles 3154 through 3155.

**Art. 3154. Forced heirs and surviving spouse in community may compel executor to furnish security**

Forced heirs and the surviving spouse in community of the testator may compel the executor to furnish security by an ex parte verified petition therefor. If the court finds that the petitioner is a forced heir, or the surviving spouse in community, it shall order the executor to furnish security, within ten days of the service of the order, in an amount determined by the court as adequate to protect the interest of the petitioner.

**Art. 3154.1.[Repealed]**

**Art. 3155. Creditor may compel executor to furnish security**

A person having a pecuniary claim against a testate succession, whether liquidated or not, or claiming the ownership of specific items of property in the possession of the succession, may compel the executor to furnish security in an amount exceeding by one-fourth the amount of the claim, or the value of the property as shown on the inventory or the descriptive list. His verified petition for security may be presented ex parte to the court, which shall order the executor to furnish such security within ten days of the service of the order upon him.

**Art. 3155.1. [Repealed]**

**Art. 3156. Maximum security of executor**

The executor cannot be compelled to furnish security, under the provisions of Articles 3153 through 3155, in an amount in excess of the maximum security required of the administrator under Article 3151.

**Art. 3157. Special mortgage in lieu of bond**

The person appointed or confirmed as succession representative may give a special mortgage on unencumbered immovable property within the parish where the succession has been opened, in lieu of the security required by Articles 3151 through 3155. The mortgage shall be for the same amount as the security required, and shall be approved by the court before letters may be issued to him.

**Art. 3158. Oath of succession representative**

Before the person appointed or confirmed as succession representative enters upon the performance of his official duties, he must take an oath to discharge faithfully the duties of his office.

**Art. 3159. Issuance of letters to succession representative**

After the person appointed or confirmed as succession representative has qualified by furnishing the security required of him by law, and by taking his oath of office, the clerk shall issue to him letters of administration or letters testamentary, as the case may be.

These letters, issued in the name and under the seal of the court, evidence the confirmation or appointment of the succession representative, his qualification, and his compliance with all requirements of law relating thereto.

CHAPTER 2. ATTORNEY FOR ABSENT HEIRS AND LEGATEES

**Art. 3171. Appointment**

If it appears from the record or is otherwise proved by an interested party, that an heir of an intestate, or a legatee or presumptive legal heir of a deceased testator, is an absentee, and there is a necessity for such appointment, the court shall appoint an attorney at law to represent the absent heir or legatee.

**Art. 3172. Duties**

The attorney at law appointed to represent an absent heir or legatee shall:

- (1) Make all necessary efforts to determine the identity and address of the absent heir or legatee, and to inform him of the death of the deceased and of his interest in the succession;
- (2) Represent the absent heir or legatee in the succession, and defend his interests in all contradictory proceedings brought against him therein; and
- (3) Take any conservatory action necessary to protect the interests of the absent heir or legatee, including the filing of all necessary suits.

**Art. 3173. Removal; appointment of successor**

The attorney at law appointed to represent an absent heir or legatee may be relieved by the court of his trust for any lawful reason, shall be removed by the court for nonperformance of duty,

and his office shall terminate when the absent heir or legatee by proper pleading advises the court of his appointment of an attorney in fact, or of the selection of his own counsel.

If the attorney appointed to represent an absent heir or legatee, as provided in Article 3171, is removed, resigns, or dies, the court may appoint another attorney at law to succeed him.

**Art. 3174. Compensation**

The court may allow the attorney at law appointed to represent an absent heir or legatee, upon the completion of his duties, reasonable compensation for the services rendered, payable out of the share of the absent heir or legatee in the succession.

If the person whom the attorney has been appointed to represent is not entitled to any share in the succession, or such share is insufficient to compensate him adequately for his services, his reasonable compensation shall be taxed as costs of court against the mass of the succession.

Such compensation may be determined judicially by contradictory motion against the absent heir or legatee, if he has appeared through counsel or an attorney in fact, or otherwise against the succession representative.

CHAPTER 3. REVOCATION OF APPOINTMENT, AND REMOVAL  
OF SUCCESSION REPRESENTATIVE

**Art. 3181. Revocation of appointment or confirmation; extension of time to qualify**

If a person appointed or confirmed as succession representative fails to qualify for the office within ten days after his appointment or confirmation, on its own motion or on motion of any interested person, the court may revoke the appointment or confirmation, and appoint another qualified person to the office forthwith.

The delay allowed herein for qualification may be extended by the court for good cause shown.

**Art. 3182. Removal**

The court may remove any succession representative who is or has become disqualified, has become incapable of discharging the duties of his office, has mismanaged the estate, has failed to perform any duty imposed by law or by order of court, has ceased to be a domiciliary of the state without appointing an agent as provided in Article 3097(4), or has failed to give notice of his application for appointment when required under Article 3093.

The court on its own motion may, and on motion of any interested party shall, order the succession representative sought to be removed to show cause why he should not be removed from office. The removal of a succession representative from office does not invalidate any of his official acts performed prior to his removal.

CHAPTER 4. GENERAL FUNCTIONS, POWERS, AND DUTIES OF  
SUCCESSION REPRESENTATIVE  
SECTION 1. GENERAL DISPOSITIONS

**Art. 3191. General duties; appointment of agent**

A. A succession representative is a fiduciary with respect to the succession, and shall have the duty of collecting, preserving, and managing the property of the succession in accordance with law. He shall act at all times as a prudent administrator, and shall be personally responsible for all damages resulting from his failure so to act.

B. A nonresident succession representative may execute a procuration or mandate appointing a resident of the state to represent him in all acts of his administration. A resident succession representative who will be absent from the state temporarily similarly may appoint an agent to act for him during his absence. Additionally, a succession representative may appoint an agent to alienate, acquire, lease, or encumber specifically described property on specific terms. A procuration or mandate granted for this purpose may either cite the specific terms of the transaction or state that the succession representative has approved the terms of the transaction. The procuration or mandate appointing the agent shall be filed in the record of the succession proceeding and shall not need court approval.

C. Subject to any restrictions provided in a valid testament of a decedent or an order of a court of competent jurisdiction, a succession representative shall have the power and authority to take control of, handle, conduct, continue, distribute, or terminate any digital account of the decedent.

D.(1) Except as provided in Subparagraph (2) of this Paragraph and to the extent permitted by federal law, any person that electronically stores, maintains, manages, controls, operates, or administers the digital accounts of a decedent shall transfer, deliver, or provide a succession representative access or possession of any digital account of a decedent within thirty days after receipt of letters testamentary, letters of administration, or letters of independent administration evidencing the appointment of a succession representative.

(2) Notwithstanding any other provision of law to the contrary, R.S. 6:325 or 767 shall control how federally insured financial institutions provide Internet or other electronic access to an authorized succession representative for the administration of a decedent's estate.

E. This Article supersedes any contrary provision in the terms and conditions of any service agreement and a succession representative shall be considered an authorized user with lawful consent of the decedent for purposes of accessing or possessing the decedent's digital accounts.

F. The authority provided in this Article shall be specifically subject to copyright law and shall not increase the scope of the license granted in the terms of service of any digital account. The agent, representative or fiduciary shall be personally responsible for any infringement of third party copyrights that occurs in the transfer or distribution of any digital account or its contents.

G. No cause of action shall lie in any court under the law of this state against any provider of digital account service, including its officers, directors, employees, agents, members, or other specified persons, for any actions taken to disclose or otherwise provide access to the contents of a digital account pursuant to this Article.

H. For purposes of this Article, the term "digital account" shall include any account of the decedent on any social networking Internet website, web log Internet website, microblog service Internet website, short message service Internet website, electronic mail service Internet website,

financial account Internet website, or any similar electronic services or records, together with any words, characters, codes, or contractual rights necessary to access such digital assets and any text, images, multimedia information, or other personal property stored by or through such digital account.

Amended by Acts 1964, No. 4, §1; Acts 2014, No. 758, §1; Acts 2023, No. 38, §1, eff. July 1, 2023.

#### **Art. 3192. Duties and powers of multiple representatives**

If there are several succession representatives, all action by them shall be taken jointly, unless:

- (1) The testator has provided otherwise; or
- (2) The representatives have filed in the record a written authorization to a single representative to act for all.

#### **Art. 3193. Powers of surviving representatives**

Every power exercised by joint succession representatives may be exercised by the survivor of them in case of the death or termination of appointment of one or more of them, unless the testator has provided otherwise.

#### **Art. 3194. Contracts between succession representative and succession prohibited; penalties for failure to comply**

A succession representative cannot in his personal capacity or as representative of any other person make any contracts with the succession of which he is a representative. He cannot acquire any property of the succession, or interest therein, personally or by means of third persons, except as provided in Article 3195.

All contracts prohibited by this article are voidable and the succession representative shall be liable to the succession for all damages resulting therefrom.

#### **Art. 3195. Contracts between succession representative and succession; exceptions**

The provisions of Article 3194 shall not apply when a testament provides otherwise or to a succession representative who is:

- (1) The surviving spouse of the deceased;
- (2) A partner of the deceased, with respect to the assets and business of the partnership;
- (3) A co-owner with the deceased, with respect to the property owned in common;
- (4) An heir or legatee of the deceased; or
- (5) A mortgage creditor or holder of a vendor's privilege, with respect to property subject to the mortgage or privilege.

Amended by Acts 1961, No. 23, §1.

#### **Art. 3196. Procedural rights of succession representative**

In the performance of his duties, a succession representative may exercise all procedural rights available to a litigant.

#### **Art. 3197. Duty to close succession**



It shall be the duty of a succession representative to close the succession as soon as advisable.

**Art. 3198. Compromise and modification of obligations**

A succession representative may:

- (1) Effect a compromise of an action or right of action by or against the succession; or
- (2) Extend, renew, or in any manner modify the terms of any obligation owed by or to the succession.

Any action taken under this article must be approved by the court after notice as provided by Article 3229.

SECTION 2. COLLECTION OF SUCCESSION PROPERTY

**Art. 3211. Duty to take possession; enforcement of claims and obligations**

A succession representative shall be deemed to have possession of all property of the succession and shall enforce all obligations in its favor.

SECTION 3. PRESERVATION AND MANAGEMENT  
OF SUCCESSION PROPERTY

**Art. 3221. Preservation of succession property**

A succession representative shall preserve, repair, maintain, and protect the property of the succession.

**Art. 3222. Deposit of succession funds; unauthorized withdrawals prohibited; penalty**

A succession representative shall deposit all moneys collected by him as soon as received, in a bank account in his official capacity, in a state or national bank in this state, and shall not withdraw the deposits or any part thereof, except in accordance with law.

On failure to comply with the provisions of this article, the court may render a judgment against the succession representative and his surety in solido to the extent of twenty percent interest per annum on the amount not deposited or withdrawn without authority, such sum to be paid to the succession. He may also be adjudged liable for all special damage suffered, and may be dismissed from office.

**Art. 3223. Investment of succession funds**

When it appears to the best interest of the succession, and subject to the representative's primary duty to preserve the estate for prompt distribution and to the terms of the testament, if any, the court may authorize a succession representative to invest the funds of the succession and make them productive.

Unless the testator has provided otherwise, such investments shall be restricted to the kinds of investments permitted to trustees by the laws of this state.

**Art. 3224. Continuation of business**

When it appears to the best interest of the succession, and after compliance with Article 3229, the court may authorize a succession representative to continue any business of the deceased for the benefit of the succession; but if the deceased died testate and his succession is solvent, the order of court shall be subject to the provisions of the testament. This order may contain such conditions, restrictions, regulations, and requirements as the court may direct.

**Art. 3224.1. Continuation of corporation or partnership in which decedent held a majority interest**

A. The succession representative of an estate owning a majority interest in a corporation or partnership shall provide notice as provided in Articles 3272 and 3282 prior to alienating, encumbering, or disposing of any real property of a corporation or partnership in which the decedent held a majority interest at the time of his death. The notification required herein shall be by certified mail to the last known address of the heirs or legatees. The heirs and legatees may waive this notification.

B. Upon motion by an heir or legatee, and contradictory hearing hereon, the court may require that a succession representative of an estate owning a majority interest in a corporation or partnership seek court approval prior to alienating, encumbering, or disposing of any or all of the real property belonging to the corporation or partnership.

Acts 1992, No. 999, §1.

**Art. 3225. Continuation of business; interim order unappealable**

When an application to continue business has been filed, the court may issue an interim ex parte order to the succession representative to continue the business immediately until such time as the procedure provided for by Article 3229 may be complied with. The order granted herein shall expire at the end of forty-five days unless extended by the court.

No appeal shall lie from the granting or denial of the interim order.  
Amended by Acts 1977, No. 666, §1.

**Art. 3226. Lease of succession property**

When it appears to the best interest of the succession, the court may authorize a succession representative to grant a lease upon succession property after compliance with Article 3229. No lease may be granted for more than one year, except with the consent of the heirs and interested legatees.

The court may also authorize the granting of mineral leases on succession property after compliance with Article 3229. The leases may be for a period greater than one year as may appear reasonable to the court. A copy of the proposed lease contract shall be attached to the application for the granting of a mineral lease, and the court may require alterations as it deems proper.

The order of the court shall state the minimum bonus, if any, to be received by the executor or administrator of the estate under the lease and the minimum royalty to be reserved to the estate, which in no event shall be less than one-eighth royalty on the oil and such other terms as the court may embody in its order.

Amended by Acts 1974, No. 131, §1.

**Art. 3227. Execution of contracts**

If a person dies before performing an executory contract evidenced by writing, the court may authorize the succession representative to perform the contract, after compliance with Article 3229.

**Art. 3228. Loans to succession representative for specific purposes; authority to encumber succession property as security therefor**

When it appears to the best interest of the succession, and after compliance with Article 3229, the court may authorize a succession representative to borrow money for the purposes of preserving the property or the orderly administration of the estate, of paying estate debts, and for expenditures in the regular course of business conducted in accordance with Article 3224. As security for the loans the court may authorize the succession representative to encumber succession property upon the terms and conditions as it may direct.

Acts 1995, No. 203, §1; Acts 1997, No. 1421, §3, eff. July 1, 1999; Acts 2010, No. 175, §1.

**Art. 3229. Notice by publication of application for court order of opposition**

A. When an application is made for an order under Articles 3118, and 3224 through 3228, notice of the application shall be published once in the parish where the succession proceeding is pending in the manner provided by law. When an application is made for an order under Article 3226 to grant a mineral lease, the notice shall also be published in the parish or parishes in which the affected property is located.

B. A court order shall not be required for the publication of the notice. The notice shall state that the order may be issued after the expiration of seven days from the date of publication and that an opposition may be filed at any time prior to the issuance of the order. If no opposition is filed, the court may grant the authority requested at any time after the expiration of the seven days from the date of publication.

C. An opposition shall be tried as a summary proceeding.

Amended by Acts 1974, No. 131, §2; Acts 1981, No. 317, §1; Acts 1987, No. 269, §1.

**CHAPTER 10. ENFORCEMENT OF CLAIMS AGAINST SUCCESSIONS**

**Art. 3241. Presenting claim against succession**

A creditor of a succession under administration may submit his claim to the succession representative for acknowledgment and payment in due course of administration.

Except for the purposes of Article 3245, no particular form is required for the submission of a claim by a creditor of the succession other than that it be in writing.

**Art. 3242. Acknowledgment or rejection of claim by representative**

The succession representative to whom a claim against the succession has been submitted, within thirty days thereof, shall either acknowledge or reject the claim, in whole or in part. This acknowledgment or express rejection shall be in writing, dated, and signed by the succession representative, who shall notify the claimant of his action. Failure of the succession representative either to acknowledge or reject a claim within thirty days of the date it was submitted to him shall be considered a rejection thereof.

**Art. 3243. Effect of acknowledgment of claim by representative**

The acknowledgment of a claim by the succession representative, as provided in Article 3242, shall:

- (1) Entitle the creditor to have his claim included in the succession representative's petition for authority to pay debts, or in his tableau of distribution, for payment in due course of administration;
- (2) Create a prima facie presumption of the validity of the claim, even if it is not included in the succession representative's petition for authority to pay debts, or in his tableau of distribution; and
- (3) Suspend the running of prescription against the claim as long as the succession is under administration.

**Art. 3244. Effect of inclusion of claim in petition or in tableau of distribution**

The inclusion of the claim of a creditor of the succession in the succession representative's petition for authority to pay debts or in his tableau of distribution creates a prima facie presumption of the validity of the claim; and the burden of proving the invalidity thereof shall be upon the person opposing it.

**Art. 3245. Submission of formal proof of claim to suspend prescription**

- A. A creditor may suspend the running of prescription against his claim for up to ten years:
- (1) By delivering personally or by certified or registered mail to the succession representative, or his attorney of record, a formal written proof of the claim.
  - (2) By filing a formal written proof of the claim in the record of the succession proceeding, if the succession has been opened and no person has been appointed or confirmed as succession representative and no judgment of possession has been signed.
  - (3) By filing a formal written proof of the claim in the mortgage records of the appropriate parish as provided in Article 2811 in the absence of a proceeding to open the succession.
- B. Such proof of claim shall be sworn to by the claimant and shall set forth:
- (1) The name and address of the creditor;
  - (2) The amount of the claim, and a short statement of facts on which it is based; and
  - (3) If the claim is secured, a description of the security and of any property affected thereby.
- C. If the claim is based on a written instrument, a copy thereof with all endorsements must be attached to the proof of the claim. The original instrument must be exhibited to the succession representative on demand, unless it is lost or destroyed, in which case its loss or destruction must be stated in the claim.
- D. The submission of this formal proof of claim, even though it be rejected subsequently by the succession representative, shall suspend the running of prescription against the claim as long as the succession is under administration or, if the succession has been opened and no person has been appointed or confirmed as succession representative and no judgment of possession has been signed, submission of the formal proof of claim shall suspend the running of prescription against the claim as long as no judgment of possession has been signed. In the absence of a proceeding to open the succession, submission of the formal proof of claim shall suspend the running of prescription against the claim for five years, commencing from the date of submission of the proof of claim.

Acts 1987, No. 693, §1; Acts 1993, No. 481, §1.

**Art. 3246. Rejection of claim; prerequisite to judicial enforcement**

A creditor of a succession may not sue a succession representative to enforce a claim against the succession until the succession representative has rejected the claim.

If the claim is rejected in whole or in part by the succession representative, the creditor to the extent of the rejection may enforce his claim judicially.

**Art. 3247. Execution against succession property prohibited**

Execution shall not issue against any property of a succession under administration to enforce a judgment against the succession representative, or one rendered against the deceased prior to his death.

**Art. 3248. Enforcement of conventional mortgage or pledge**

The provisions of Articles 3246 and 3247 shall not prevent the enforcement of a conventional mortgage on or a pledge of movable or immovable property of the succession in a separate proceeding.

**Art. 3249. Succession representative as party defendant**

The succession representative shall defend all actions brought against him to enforce claims against the succession, and in doing so may exercise all procedural rights available to a litigant.

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## CHAPTER 6. ALIENATION OF SUCCESSION PROPERTY

### SECTION 1. GENERAL DISPOSITIONS

#### **Art. 3261. Purpose of sale**

A succession representative may sell succession property in order to pay debts and legacies, or for any other purpose, when authorized by the court as provided in this Chapter.

#### **Art. 3262. No priority as between movables and immovables**

There shall be no priority in the order of sale as between movable and immovable property.

#### **Art. 3263. Terms of sale**

Sales of succession property shall be for cash, unless upon the petition of the succession representative the court authorizes a credit sale. When a credit sale is authorized, the order shall specify the terms of the sale and the security.

#### **Art. 3264. Perishable property; crops**

Upon the petition of the succession representative as provided in Articles 3263 and 3271, the court may order the immediate sale of perishable property and growing crops either at public auction or private sale, without appraisal, and without advertisement, or with such advertisement as the court may direct.

#### **Art. 3265. Prima facie proof of publication**

When a publication of notice is required by this Title, prima facie proof may be made either by an affidavit of publication by the official journal or newspaper which published the notice, reciting the date or dates of publication and the text of the notice, or by the original newspaper tear sheet showing both the text of the notice and its date of publication, accompanied by an affidavit by the moving party or the party's attorney attesting to the publication and its date or dates. Acts 1993, No. 26, §1, eff. May 18, 1993.

#### **Art. 3266. Issuance of certificate of no opposition**

When no opposition has been filed to an application by a succession representative for an order or judgment of the court, pursuant to an Article of this Title, the clerk of court shall issue a certificate that no opposition has been filed. No further proof shall be required.

Acts 1993, No. 27, §1, eff. May 18, 1993.

### SECTION 2. PUBLIC SALE

#### **Art. 3271. Petition; order**

A succession representative desiring to sell succession property at public auction shall file a petition setting forth a description of the property and the reasons for the sale.

The court shall render an order authorizing the sale at public auction after publication, when it considers the sale to be to the best interests of the succession.

**Art. 3272. Publication of notice of sale; place of sale**

Notice of the sale shall be published at least once for movable property, and at least twice for immovable property, in the manner provided by law. The court may order additional publications.

The notice of sale shall be published in the parish where the succession proceeding is pending. When immovable property situated in another parish is to be sold, the notice shall also be published in the parish where the property is situated. When movable property situated in another parish is to be sold, the court may require the notice to be published also in the parish where the property is situated.

The sale shall be conducted in the parish where the succession proceeding is pending, unless the court orders that the sale be conducted in the parish where the property is situated.

**Art. 3273. Minimum price; second offering**

The property shall not be sold if the price bid by the last and highest bidder is less than two-thirds of the appraised value in the inventory. In that event, on the petition of the succession representative, the court shall order a readvertisement in the same manner as for an original sale, and the same delay must elapse. At the second offering the property shall be sold to the last and highest bidder regardless of the price.

SECTION 3. PRIVATE SALE

**Art. 3281. Petition for private sale**

A. A succession representative who desires to sell succession property at private sale shall file a petition setting forth a description of the property, the price and conditions of and the reasons for the proposed sale. If an agreement to sell has been executed in accordance with Paragraph B of this Article, a copy of such agreement shall be annexed to the petition.

B. A succession representative may execute, without prior court authority, an agreement to sell succession property at private sale, subject to the suspensive condition that the court approve the proposed sale.

C. The succession representative shall be obligated to file a petition in accordance with Paragraph A of this Article within thirty (30) days of the date of execution of such an agreement to sell.

Amended by Acts 1980, No. 369, §1.

**Art. 3282. Publication**

Notice of the application for authority to sell succession property at private sale shall be published at least once for movable property, and at least twice for immovable property, in the manner provided by law. A court order shall not be required for the publication of the notice.

The notice shall be published in the parish in which the succession proceeding is pending. When immovable property situated in another parish is to be sold, the notice shall also be published in the parish in which the property is situated. When movable property situated in another parish is to be sold, the notice may be published also in the parish in which the property is situated, without necessity of a court order for the publication; however, the court may order the notice to be published in the parish where the movable property is situated.

The notice shall state that any opposition to the proposed sale must be filed within seven days from the date of the last publication.

Amended by Acts 1972, No. 626, §1; Acts 1976, No. 364, §1.

**Art. 3283. Who may file opposition**

An opposition to a proposed private sale of succession property may be filed only by an heir, legatee, or creditor.

**Art. 3284. Order; hearing**

A. If no opposition has been filed timely and the court considers the sale to be to the best interests of the succession, the court shall render an order authorizing the sale and shall fix the minimum price to be accepted. The price may be fixed exactly as the appraised value, as a fraction of the appraised value, as more than the appraised value, or as not less than the appraised value of the property. If an agreement to sell has been executed as provided in Article 3281 and the price and conditions fixed by the court are the price and conditions set in the agreement, the order of court authorizing the sale under such agreement shall fulfill the suspensive condition of the agreement, which thereafter shall be enforceable by the parties to the agreement.

B. Nothing contained in this Article shall affect the general duties of a succession representative.

C. An opposition shall be tried as a summary proceeding.

D. This Article is remedial and shall be retroactive to January 1, 1961. All sales of succession property on and after January 1, 1961, made in compliance with the provisions of this Article are hereby validated.

Amended by Acts 1968, No. 203, §§1, 2; Acts 1980, No. 369, §1.

**Art. 3285. Bonds and stocks**

A succession representative may sell bonds and shares of stock at private sale at rates prevailing in the open market, by obtaining a court order authorizing the sale. No advertisement is necessary, and the order authorizing the sale may be rendered upon the filing of the petition.

The endorsement of the succession representative and a certified copy of the court order authorizing the sale shall be sufficient warrant for the transfer.

**Art. 3286. Court may authorize listing**

A succession representative who desires to list succession property for sale shall file a petition to which shall be annexed the proposed listing agreement, which shall contain a provision that any offer to purchase submitted under such agreement to the succession representative shall be subject to the suspensive condition that the court approve the proposed sale. The court shall render an order, ex parte, authorizing the execution of the listing agreement by the succession representative when it considers such agreement to be in the best interests of the succession.

Added by Acts 1980, No. 369, §2.

**Art. 3287. Household goods**

A succession representative may sell household goods at prices not less than the appraised value of such goods in the succession inventory or descriptive list by obtaining an order authorizing sales, from time to time, for such prices as the succession representative shall determine. No advertisement shall be necessary, and the order authorizing such sales may be rendered upon the filing of the petition. Household goods shall include furniture, furnishings, appliances, linen, and



clothing. If the succession representative desires to sell household goods for less than the appraised value, advertisement shall be required.

Acts 1985, No. 724, §1.

**Art. 3288. Motor vehicles; sale at appraised value**

A. A succession representative may sell motor vehicles at prices not less than the appraised value of such motor vehicles in the succession inventory or descriptive list by obtaining an order authorizing sales, from time to time, for such prices as the succession representative shall determine. No advertisement shall be necessary, and the order authorizing such sales may be rendered upon the filing of the petition. If the succession representative desires to sell motor vehicles for less than the appraised value, advertisement shall be required.

B. For purposes of this Article, "motor vehicles" shall include automobiles, two-axle trucks, and motorcycles.

Acts 1986, No. 237, §1.

SECTION 4. EXCHANGE OF SUCCESSION PROPERTY

**Art. 3291. Court may authorize exchange**

The court may authorize an exchange of succession property, on the petition of the succession representative, for a consideration to be paid in corporate stock or other property, or partly therein and partly in cash, if advantageous to the heirs and legatees and not prejudicial of the rights of the succession creditors.

Amended by Acts 1962, No. 92, §3.

**Art. 3292. Petition for authority to exchange**

The petition of the succession representative for authority to exchange succession property for other property, or for other property and cash, shall set forth a description of both properties, the petitioner's opinion of the values thereof, the conditions of the exchange, and the reasons why such an exchange would be advantageous to the heirs and legatees, and would not prejudice the rights of succession creditors.

Added by Acts 1962, No. 92, §3.

**Art. 3293. Copy of petition for authority to be served on heirs and legatees; exception**

A certified copy of the succession representative's petition for authority to exchange succession property shall be served, as provided in Article 1314, on all heirs and legatees of the deceased who have not joined in this petition. The petition need not be served on a legatee who has received all of his legacies as provided in the testament.

Added by Acts 1962, No. 92, §3; Amended by Acts 1988, No. 578, §1.

**Art. 3294. Publication of notice; opposition; hearing; order**

The provisions of Articles 3282 through 3284 shall apply to the publication of notice of the application for authority to exchange succession property, opposition thereto, and the hearing and order thereon.

Added by Acts 1962, No. 92, §3.

## SECTION 5. GIVING IN PAYMENT; PROCEDURE

### **Art. 3295. Giving in payment of succession property**

The executor or administrator may transfer by a giving in payment any succession property in satisfaction of secured or unsecured debts. The property may be taken in indivision by the secured or unsecured creditors, or both.

Acts 1988, No. 564, §1; Acts 1997, No. 1421, §7, eff. July 1, 1999; Acts 2003, No. 545, §1.

### **Art. 3296. Petition**

A. To this end, he shall present to the judge a petition setting forth the nature of the property, the amount of the encumbrances if any, and the reasons why he deems it in the best interest of the succession to convey the property in satisfaction of the debt or debts.

B. A copy of the petition shall be served by the executor or administrator on each creditor of the succession who has requested notification, together with a notice requiring that any opposition to the granting of the application be filed within seven days from date of service. Service of the petition as set forth herein may be made by registered or certified mail, return receipt requested.

Acts 1988, No. 564, §1; Acts 1997, No. 1421, §7, eff. July 1, 1999.

### **Art. 3297. Publication**

Notice of the application shall be published in the manner prescribed for judicial advertisements, requiring all whom it may concern, including the heirs, to make opposition, if they have any, to the granting of the application, within seven days from the day whereon the last publication appears.

Amended by Acts 1981, No. 314, §1; Acts 1997, No. 1421, §7, eff. July 1, 1999.

### **Art. 3298. Hearing; order**

If no opposition should be made within the time, the judge may grant to the administrator or executor the authority applied for, after the debt is proven, but if opposition should be made, he shall hear the matter and determine thereon in a summary manner.

Acts 1988, No. 564, §1; Acts 1997, No. 1421, §7, eff. July 1, 1999.

## CHAPTER 7. PAYMENT OF ESTATE DEBTS

### **Art. 3301. Payment of estate debts; court order**

A succession representative may pay an estate debt only with the authorization of the court, except as provided by Articles 3224 and 3302.

Acts 1997, No. 1421, §3, eff. July 1, 1999.

### **Art. 3302. Time of payment of estate debts; urgent estate debts**

A. Upon the expiration of three months from the death of the decedent, the succession representative shall proceed to pay the estate debts as provided in this Chapter.

B. At any time and without publication the court may authorize the payment of estate debts the payment of which should not be delayed.

Acts 1997, No. 1421, §3, eff. July 1, 1999.

**Art. 3303. Petition for authority; tableau of distribution**

A. When a succession representative desires to pay estate debts, he shall file a petition for authority and shall include in or annex to the petition a tableau of distribution listing those estate debts to be paid. A court order shall not be required for the publication of the notice of filing of a tableau of distribution.

B. If the funds in his hands are insufficient to pay all the estate debts in full, the tableau of distribution shall show the total funds available and shall list the proposed payments according to the rank of the privileges and mortgages of the creditors.

Acts 1986, No. 204, §1; Acts 1997, No. 1421, §3, eff. July 1, 1999.

**Art. 3304. Notice of filing of petition; publication**

Notice of the filing of a petition for authority to pay an estate debt shall be published once in the parish where the succession proceeding is pending in the manner provided by law. The notice shall state that the petition can be homologated after the expiration of seven days from the date of publication and that any opposition to the petition must be filed prior to homologation.

Amended by Acts 1980, No. 280, §1; Acts 1989, No. 116, §1; Acts 1990, No. 65, §1, eff. June 27, 1990; Acts 1997, No. 1421, §3, eff. July 1, 1999.

**Art. 3305. Petition for notice of filing of tableau of distribution**

An interested person may petition the court for notice of the filing of a tableau of distribution.

The petition for such notice shall be signed by the petitioner or by his attorney, and shall set forth: (1) the name, surname, and address of the petitioner; (2) a statement of the interest of petitioner; (3) the name, surname, and office address of the attorney at law licensed to practice law in this state to whom the notice prayed for shall be mailed; and (4) a prayer that petitioner be notified, through his attorney, of the filing of the tableau of distribution.

A copy of this petition shall be served upon the succession representative, as provided in Article 1314.

**Art. 3306. Notice of filing of tableau of distribution; effect of failure to serve**

When notice has been requested in accordance with Article 3305, the succession representative, without the necessity for a court order thereon, shall send a notice of the filing of a tableau of distribution by mail to the attorney designated by the person praying for notice at the address designated. Proof of mailing is sufficient; no proof of receipt is required.

If no notice of the filing of a tableau of distribution has been mailed when required under this article, a judgment homologating the tableau of distribution shall have no effect against the person praying for such notice.

Amended by Acts 1962, No. 92, §1.

**Art. 3307. Homologation; payment**

A. An opposition may be filed at any time before homologation, and shall be tried as a summary proceeding. If no opposition has been filed, the succession representative may have the tableau of distribution homologated and the court may grant the authority requested at any time after the expiration of seven days from the date of publication or from the date the notice required by Article 3306 is mailed, whichever is later.

B. If an opposition has been taken under advisement by the court after the trial thereof, notice of the signing of the judgment homologating the tableau of distribution, as originally submitted or as amended by the court, need be mailed by the clerk of court only to counsel for the opponent, or to the opponent if not represented by counsel.

C. After the delay for a suspensive appeal from the judgment of homologation has elapsed, the succession representative shall pay the debts approved by the court.

Amended by Acts 1961, No. 23, §1; Acts 1980, No. 280, §1; Acts 1989, No. 116, §1; Acts 1990, No. 65, §1, eff. June 27, 1990.

#### **Art. 3308. Appeal**

Only a suspensive appeal as provided in Article 2123 shall be allowed from a judgment homologating a tableau of distribution. The appeal bond shall comply with Article 2124.

The succession representative shall retain a sum sufficient to pay the amount in dispute on appeal until a definitive judgment is rendered. He shall distribute the remainder among the creditors whose claims have been approved and are not in dispute on appeal.

### CHAPTER 8. INTERIM ALLOWANCE TO HEIRS AND LEGATEES

#### **Art. 3321. Interim allowance for maintenance during administration**

When a succession is sufficiently solvent, the surviving spouse, heirs, or legatees shall be entitled to a reasonable periodic allowance in money for their maintenance during the period of administration, if the court concludes that such an allowance is necessary, provided the sums so advanced to the spouse, heirs, or legatees do not exceed the amount eventually due them. Such payments shall be charged to the share of the person receiving them.

A surviving spouse, heir, or legatee may compel the payment of an allowance during the administration by contradictory motion against the succession representative.

Notice of the filing of a petition for authority to pay an allowance, or of a contradictory motion to compel the payment of an allowance, shall be published once in the manner provided by law. The notice shall state that any opposition must be filed within ten days from the date of publication.

### CHAPTER 9. ACCOUNTING BY SUCCESSION REPRESENTATIVE

#### **Art. 3331. Time for filing account**

A succession representative shall file an account annually and at any other time when ordered by the court on its own motion or on the application of any interested person.

#### **Art. 3332. Final account**

A. A succession representative may file a final account of his administration at any time after homologation of the final tableau of distribution and the payment of all estate debts and legacies as set forth in the tableau.

B. The court shall order the filing of a final account upon the application of an heir or residuary legatee who has been sent into possession or upon the rendition of a judgment ordering the removal of a succession representative.

Acts 1997, No. 1421, §3, eff. July 1, 1999.

**Art. 3333. Contents of account**

An account shall show the money and other property received by and in the possession of the succession representative at the beginning of the period covered by the account, the revenue, other receipts, disbursements, and disposition of property during the period, and the remainder in his possession at the end of the period.

**Art. 3334. Failure to file account; penalty**

An interested person may proceed by contradictory motion to remove a succession representative who has failed to file an account after being ordered to do so by the court and may obtain the remedies provided by Article 2502.

**Art. 3335. Notice to heirs and residuary legatees**

A copy of any account filed by a succession representative shall be served upon each heir or residuary legatee, together with a notice that the account may be homologated after the expiration of ten days from the date of service and that any opposition thereto must be filed before homologation.

In the case of any account other than the final account, service on either a resident or nonresident may be made by ordinary mail.

In the case of a final account, service may be made:

(a) In accordance with the provisions of Article 131, or

(b) By certified or registered mail on either a resident or nonresident. The certificate of the attorney for the succession representative that the notice and final account were mailed to the heir or legatee, together with the return receipt signed by the addressee shall be filed in the succession proceeding prior to homologation of the final account.

Amended by Acts 1966, No. 36, §1.

**Art. 3336. Opposition; homologation**

An opposition to an account may be filed at any time before homologation. An opposition shall be tried as a summary proceeding.

When no opposition has been filed, or to the extent to which the account is unopposed, the succession representative may have the account homologated at any time after the expiration of ten days from the date of service provided in Article 3335.

**Art. 3337. Effect of homologation**

A judgment homologating any account other than a final account shall be prima facie evidence of the correctness of the account.

A judgment homologating a final account has the same effect as a final judgment in an ordinary action.

**Art. 3338. Deceased or interdicted succession representative**

If a succession representative dies or is interdicted, an account of his administration may be filed by his heirs or by his legal representative; and upon the petition of an interested person the court shall order the filing of such an account.

CHAPTER 10. COMPENSATION OF  
SUCCESSION REPRESENTATIVE

**Art. 3351. Amount of compensation; when due**

An executor shall be allowed as compensation for his services such reasonable amount as is provided in the testament in which he is appointed. An administrator for his services in administering a succession shall be allowed such reasonable amount as is provided by the agreement between the administrator and the surviving spouse, and all competent heirs or legatees of the deceased.

In the absence of a provision in the testament or an agreement between the parties, the administrator or executor shall be allowed a sum equal to two and one-half percent of the amount of the inventory as compensation for his services in administering the succession. The court may increase the compensation upon a proper showing that the usual commission is inadequate.

A provisional administrator or an administrator of a vacant succession shall be allowed fair and reasonable compensation by the court for his services.

The compensation of a succession representative shall be due upon the homologation of his final account. The court may allow an administrator or executor an advance upon his compensation at any time during the administration.

Amended by Acts 1982, No. 281, §1.

**Art. 3351.1. Amount of compensation; limitation when serving as attorney, corporate officer, or managing partner**

A. Unless expressly stated in the testament appointing the succession representative, if the succession representative, in discharging his duties as succession representative, is or becomes an officer of a corporation, in which the majority of outstanding shares were owned by the decedent at the time of his death, or is or becomes the managing partner of a partnership in which the decedent at the time of his death owned a majority interest, the succession representative shall not receive compensation both as a succession representative and as an officer of the corporation, or managing partner of the partnership; however, the compensation of a succession representative shall be reduced by the amount of compensation which he received and which was attributable to the performance of his duties as an officer of the corporation or managing partner of the partnership.

B. Unless expressly stated in the testament appointing the succession representative, if the succession representative serves as an attorney for the succession or for the succession representative, the succession representative shall not receive compensation both as a succession representative and as an attorney for the succession or for the succession representative; however, the compensation of a succession representative shall be reduced by the amount of compensation received and which was attributable to the performance of the duties as attorney for the succession or for the succession representatives.

C. The provisions of Paragraphs A and B of this Article limiting compensation received by a succession representative may be waived upon written approval by the heirs and legatees of the decedent owning a two-thirds interest in the succession.

D. Any compensation paid or due to a succession representative under the provisions of this Article shall not be paid unless approved by the court.

Added by Acts 1988, No. 548, §1; Acts 1992, No. 484, §1.

**Art. 3352. More than one succession representative**

If there is more than one succession representative, the compensation provided by Article 3351 shall be apportioned among them as the court shall direct.

**Art. 3353. Legacy to executor**

A testamentary executor who is a legatee shall be entitled to compensation, unless the testament provides to the contrary. If the legacy and the compensation of the executor together exceed the disposable portion, the executor shall receive only the disposable portion.

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## CHAPTER 11. SENDING HEIRS AND LEGATEES INTO POSSESSION

### SECTION 1. INTESTATE SUCCESSION

#### **Art. 3361. After homologation of final tableau of distribution**

At any time after the homologation of the final tableau of distribution, an heir of an intestate succession may file a petition to be sent into possession alleging the facts showing that he is an heir. Upon the filing of such a petition, the court shall order the administrator to show cause why the petitioner should not be sent into possession.

Acts 1997, No. 1421, §3, eff. July 1, 1999.

#### **Art. 3362. Prior to homologation of final tableau of distribution**

At any time prior to the homologation of the final tableau of distribution, a majority of the heirs of an intestate decedent whose succession is under administration may be sent into possession of all or part of the property of the succession upon their filing a petition for possession as provided in Articles 3001 through 3008 excluding any provisions of Article 3004 to the contrary, except that the proceeding shall be contradictory with the administrator. Upon the filing of such a petition the court shall order the administrator to show cause why the petitioners should not be sent into possession, and shall order that the petitioners be sent into possession unless the administrator or any heir shows that irreparable injury would result, and upon a showing that adequate assets will be retained in the succession to pay all claims, charges, debts, and obligations of the succession. If a majority of the heirs are sent into possession of a part of the property, the administrator shall continue to administer the remainder.

Acts 1986, No. 209, §1; Acts 1997, No. 1421, §3, eff. July 1, 1999.

### SECTION 2. TESTATE SUCCESSION

#### **Art. 3371. After homologation of final tableau of distribution**

A. At any time after the homologation of the final tableau of distribution, a legatee or an heir may file a petition to be sent into possession, alleging the facts showing that he is a legatee or an heir. Upon the filing of such a petition, the court shall order the executor to show cause why the petitioner should not be sent into possession.

B. Evidence of the allegations in the petition for possession showing that the petitioner is a legatee or an heir shall be submitted to the court as provided by Articles 2821 through 2823.

Acts 1997, No. 1421, §3, eff. July 1, 1999.

#### **Art. 3372. Prior to homologation of final tableau of distribution**

At any time prior to the homologation of the final tableau of distribution, the legatees in a testate succession may be sent into possession of all or part of their respective legacies upon filing a petition for possession as provided in Articles 3031 through 3035, except that the proceeding shall be contradictory with the executor. Upon the filing of such a petition, the court shall order the executor to show cause why the legatees should not be sent into possession. If the legatees are sent into possession of a part of their respective legacies, the executor shall continue to administer the remainder.



## SECTION 3. JUDGMENT OF POSSESSION

### **Art. 3381. Judgment of possession**

A judgment of possession shall be rendered and signed as provided in Article 3061. The judgment shall be rendered and signed only after a hearing contradictory with the succession representative, unless he joins in the petition, in which event the judgment shall be rendered and signed immediately.

## CHAPTER 12. DISCHARGE OF SUCCESSION REPRESENTATIVE

### **Art. 3391. Discharge of succession representative**

After homologation of the final account, or upon proof that the heirs have waived a final account, the succession representative may petition for discharge.

Upon the filing of receipts or other evidence satisfactory to the court, showing that the creditors have been paid and that the balance of the property in the possession of the succession representative has been distributed to the heirs and legatees, the court shall render a judgment discharging the succession representative and cancelling his bond.

### **Art. 3392. Effect of judgment of discharge**

The judgment discharging the succession representative relieves him of further duty, responsibility, and authority as succession representative.

### **Art. 3393. Reopening of succession**

A. After a succession representative has been discharged, if other property of the succession is discovered or for any other proper cause, upon the petition of any interested person, the court, without notice or upon such notice as it may direct, may order that the succession be reopened. The court may reappoint the succession representative or appoint another succession representative. The procedure provided by this Code for an original administration shall apply to the administration of a reopened succession in so far as applicable.

B. After formal or informal acceptance by the heirs or legatees or rendition of a judgment of possession by a court of competent jurisdiction, if other property is discovered, or for any other proper cause, upon the petition of any interested person, the court, without notice or upon such notice as it may direct, may order that the succession be opened or reopened, as the case may be, regardless of whether or not, theretofore, any succession proceedings had been filed in court. The court may appoint or reappoint the succession representative, if any, or may appoint another, or new, succession representative. The procedure provided by this Code, for an original administration, shall apply to the administration of successions formally or informally accepted by heirs or legatees and in successions where a judgment of possession has been rendered, in so far as same is applicable.

C. The reopening of a succession shall in no way adversely affect or cause loss to any bank, savings and loan association or other person, firm or corporation, who has in good faith acted in accordance with any order or judgment of a court of competent jurisdiction in any previous succession proceedings.

Amended by Acts 1970, No. 644, §1; Acts 1997, No. 1421, §3, eff. July 1, 1999.

**Art. 3394. Refusal or inability to accept funds; deposit in bank**

A. When an heir, legatee, or creditor is unwilling or unable to accept and receipt for the amount due him, on contradictory motion against the heir, legatee, or creditor the court may order that the succession representative deposit in a state or national bank or in the registry of the court to the credit of the person entitled thereto the amount due him.

B. A receipt showing the deposit shall be sufficient in the discharge of the succession representative to the same extent as though distribution to the person entitled thereto had been made.

Acts 1997, No. 1421, §3, eff. July 1, 1999.

**Art. 3395. Disposition of movables not accepted by heir**

If the succession representative has in his possession corporeal movable property the delivery of which an heir, legatee, or creditor is unwilling or unable to accept and receipt for, the succession representative may make such disposition thereof as the court may direct.

CHAPTER 13. INDEPENDENT ADMINISTRATION OF ESTATES

**Art. 3396. Definitions**

In this Chapter:

(1) "Independent administration" means the administration of an estate in accordance with the provisions of this Chapter.

(2) "Independent administrator" means the succession representative authorized by the court to administer a succession in accordance with the provisions of this Chapter. The term "independent administrator" means and includes "independent executor".

(3) "Independent executor" means and includes an independent administrator.

(4) "Letters of independent administration" means letters testamentary or letters of administration that signify that the administration of a succession by the designated succession representative is authorized pursuant to the provisions of this Chapter. The term "letters of independent administration" includes "letters of independent executorship", and the term "letters of independent executorship" includes "letters of independent administration". Such letters have the same force and effect as letters of administration or letters testamentary in a succession that is administered in accordance with the other provisions of this Book.

Acts 2001, No. 974, §1.

**Art. 3396.1. Scope**

Upon qualification of a succession representative and compliance with the provisions of this Chapter, the clerk shall issue letters of independent administration or letters of independent executorship, as appropriate, certifying that the independent administrator has been duly qualified.

Acts 2001, No. 974, §1; Acts 2020, No. 107, §1, eff. June 9, 2020.

**Art. 3396.2. Provision for independent administration by testator**

A. When a testament provides for independent administration of an estate, the court shall enter an appropriate order granting independent administration of the estate.

B. A statement in a testament to the effect that the succession representative may act as an "independent administrator" or "independent executor" is sufficient to constitute authorization for independent administration of an estate.

Acts 2001, No. 974, §1.

**Art. 3396.3. Designation of executor but failure to provide for independent administration by testator**

When a decedent dies testate and his testament designates an executor, but his testament does not provide for independent administration of the estate as provided in this Chapter, all of the general or universal legatees of the decedent may agree to have an independent administration and in the application for filing for probate of the decedent's testament, or thereafter, collectively designate the person named in the testament to serve as independent executor. In such case, the court shall enter an order granting independent administration and appointing the person designated in the application as independent executor.

Acts 2001, No. 974, §1.

**Art. 3396.4. Failure to designate an executor**

When the decedent dies testate but his testament fails to designate an executor, or the person designated is unwilling or unable to serve, all of the general or universal legatees of the decedent may agree on the advisability of having an independent administration and collectively designate a qualified person to serve as dative independent executor. In such case, the court shall enter an order granting independent administration and appointing the person designated in the application as dative independent executor.

Acts 2001, No. 974, §1.

**Art. 3396.5. Independent administration when decedent dies intestate**

When a decedent dies intestate, all of the intestate successors may agree on the advisability of having an independent administration and collectively designate, in the application for administration of the decedent's estate, or thereafter, a qualified person to serve as independent administrator. In such case, the court shall enter an order granting independent administration and appointing the person designated in the application as independent administrator.

Acts 2001, No. 974, §1.

**Art. 3396.6. Independent administration when estate is part testate, part intestate**

When a decedent dies partially testate and partially intestate, all of the successors whose concurrence is required in Articles 3396.3, 3396.4, and 3396.5 must concur in the request for independent administration of the estate, and in the designation of the person to serve as independent administrator.

Acts 2001, No. 974, §1.

**Art. 3396.7. Trusteeships**

If a trust is created in the testament or a trustee is a legatee, and if concurrence in having an independent administration is required, the trustee shall be deemed to be the legatee authorized to consent to independent administration on behalf of the trust.

Acts 2001, No. 974, §1.

**Art. 3396.8. Usufruct**

When the testament creates a usufruct and concurrence in having an independent administration is required, or when the usufruct arises by operation of law, the concurrence of the usufructuary and the naked owner is required.

Acts 2001, No. 974, §1.

**Art. 3396.9. Interdict or unemancipated minor**

A. If a successor whose concurrence is required is an unemancipated minor, the concurrence may be made on his behalf by the administrator of his estate or his natural tutor, as appropriate, without the need for a formal tutorship proceeding or concurrence of an undertutor.

B. If a successor whose concurrence is required is an interdict, the concurrence may be made on his behalf by the curator without the need for court authorization in the interdiction proceeding or concurrence of the undercurator.

Acts 2001, No. 974, §1; Acts 2016, No. 86, §2.

**Art. 3396.10. Survivorship**

If the testament contains a provision that a legatee must survive the decedent by a prescribed period of time in order to take under the testament, the legatee living at the time of filing of the application for independent administration shall be the legatee authorized to consent to independent administration.

Acts 2001, No. 974, §1.

**Art. 3396.11. Possibility of renunciation**

A. The subsequent renunciation of an heir or legatee who has consented to an independent administration shall have no effect on the validity of the independent administration, and the consent of those persons who receive an interest in the succession by reason of the renunciation is not required.

B. A successor who concurs in the application for independent administration of an estate shall not be considered for that reason as having formally or informally accepted the succession.

Acts 2001, No. 974, §1.

**Art. 3396.13. Testamentary prohibition of independent administration**

A testator may expressly provide that no independent administration of his estate may be allowed. In such case, his estate, if administered, shall be administered in accordance with the other provisions of Book VI.

Acts 2001, No. 974, §1.

**Art. 3396.14. Security of independent administrator**

Except where the testament provides otherwise, an independent administrator shall not be required to provide security for the administration of the estate. If an interested person, such as an heir, legatee, or creditor of the estate requests security, then upon application by such party, and after a contradictory hearing, the court may order the independent administrator to furnish security as the court determines to be adequate.

Acts 2001, No. 974, §1.

**Art. 3396.15. Rights, powers, and duties; performance without court authority**

Except as expressly provided otherwise in this Chapter, an independent administrator shall have all the rights, powers, authorities, privileges, and duties of a succession representative provided in Chapters 4 through 12 of this Title, but without the necessity of delay for objection, or application to, or any action in or by, the court.

Acts 2001, No. 974, §1.

**Art. 3396.16. Enforcement of claims against estate**

Any person having a claim against the estate may enforce the payment or performance of the claim against an independent administrator in the same manner and to the same extent provided for the assertion of such rights in this Code.

Acts 2001, No. 974, §1.

**Art. 3396.17. Accounting**

An independent administrator is not required to file an interim accounting. Nevertheless, any person interested in the estate may demand an annual accounting from the independent administrator as provided in Article 3331. Further, the court on application of any interested person may require an independent administrator to furnish accountings at more frequent intervals.

Acts 2001, No. 974, §1.

**Art. 3396.18. Inventory or sworn descriptive list**

A. Before the succession can be closed, a judgment of possession rendered, and the independent administrator discharged, there shall be filed an inventory or sworn detailed descriptive list of assets and liabilities of the estate verified by the independent administrator.

B. The detailed descriptive list shall be sealed upon the request of an independent administrator, heir, or legatee.

C. If the detailed descriptive list is sealed, a copy shall be provided to the decedent's universal successors and surviving spouse. Upon motion of any successor, surviving spouse, or creditor of the estate, the court may furnish relevant information contained in the detailed descriptive list regarding assets and liabilities of the estate.

Acts 2001, No. 974, §1; Acts 2015, No. 175, §1; Acts 2017, No. 198, §1; Acts 2020, No. 19, §2.

**Art. 3396.19. Final account**

Unless the heirs and legatees waive a final accounting, the independent administrator shall file a final account with the court. After homologation of that account, the court shall enter an order discharging the succession representative. The final account shall be served in accordance with Chapter 9 of Title III of Book VI.

Acts 2001, No. 974, §1.

**Art. 3396.20. Removal of succession representative and termination of independent administration**

The court on motion of any interested person, after a contradictory hearing, may remove an independent administrator for any of the reasons provided in Book VI for which a succession representative may be removed from office. In addition, the court on motion of any interested person, after a contradictory hearing, may for good cause order that the letters of independent

## TITLE VI. TUTORSHIP

### CHAPTER 1. COURT WHERE PROCEEDINGS ARE BROUGHT

#### **Art. 4031. Minor domiciled in the state**

A. Except as provided in Paragraph B, a petition for the appointment of a tutor of a minor domiciled in the state shall be filed in the district court of the parish where:

- (1) The surviving parent is domiciled, if one parent is dead; or
- (2) The parent or other person awarded custody of the minor is domiciled, if the parents are divorced or judicially separated; or
- (3) The minor resides.

B. If the parents who are divorced or judicially separated are awarded joint custody of a minor:

(1) They shall petition jointly for appointment as cotutors in the district court of the parish in which the proceedings for divorce or judicial separation were instituted, or if the award of joint custody has specified the legal domicile of the minor, in the district court of the parish of the legal domicile of the minor, or in the district court of the parish where the child resides.

(2) With the permission of the judge, either parent may file a petition in the same court as provided in Subparagraph (1) for appointment as tutor for the limited purpose of enforcing a particular right or compromising a particular claim of an unemancipated minor if the other parent fails or refuses to do so.

Amended by Acts 1981, No. 283, §2; Act 1990, No. 794, §1; Acts 1995, No. 268, §1, eff. June 14, 1995.

#### **Art. 4032. Minor not domiciled in the state**

If the minor is not domiciled in the state, a petition for the appointment of a tutor may be filed in any parish where:

- (1) Immovable property of the minor is situated; or
- (2) Movable property of the minor is situated, if he owns no immovable property in the state.

#### **Art. 4033. Petitions filed in two or more courts; stay of proceedings in second and subsequent courts; adoption of proceedings by first court**

If petitions for the appointment of a tutor are filed in two or more competent courts, the court in which a petition was first filed shall proceed to a determination of the issues and the proceedings in the other courts shall be stayed. However, the first court may adopt as its own any of the proceedings taken in the other courts.

#### **Art. 4034. Proceedings subsequent to appointment of tutor**

Proceedings relative to a tutorship subsequent to the confirmation or appointment of a tutor who is domiciled in the state shall be brought in the parish of his domicile if he is living at the time or, if he is dead, in the parish where he was last domiciled. If the proceedings are brought in a court other than the one which confirmed or appointed the tutor, the court may require the filing of certified copies of all or any part of the proceedings in the other court.

Proceedings relative to a tutorship subsequent to the confirmation or appointment of a tutor who is not domiciled in this state, or who has left the state permanently, shall be brought in the court which confirmed or appointed him.

Amended by Acts 1964, No. 4, §1.

## CHAPTER 2. APPOINTMENT OF PARTICULAR TUTORS

### **Art. 4061. Natural tutor; general obligations**

Before a natural tutor enters upon the performance of his official duties, he must take an oath to discharge faithfully the duties of his office, cause an inventory to be taken or a detailed descriptive list to be prepared, and cause a legal mortgage in favor of the minor to be inscribed, or furnish security, in the manner provided by law.

Acts. 1983, No. 344, §1.

### **Art. 4061.1. Natural tutor; action for damages on behalf of child**

A. Notwithstanding Article 4061, the natural tutor of a minor child may file an action for damages based on a delictual obligation without the necessity of qualifying as tutor pursuant to Article 4061 and without the necessity of filing a petition pursuant to Article 4031, if the natural tutor is any of the following:

(1) The surviving parent of the minor child.

(2) The parent under whose sole care the minor child has been placed when the parents are divorced or judicially separated from bed and board.

(3) The mother of her child born outside of marriage not acknowledged by the father, or acknowledged by him alone without her concurrence.

B. The petitioner in an action for damages based on a delictual obligation shall allege in the petition that he qualifies under Paragraph A of this Article to act of right as tutor, and the petitioner shall set forth the facts, including the relationship to the minor child, entitling the petitioner to act as tutor.

C. This Article shall not apply to parents who share joint custody of the minor child or to parents who have both acknowledged their child born outside of marriage pursuant to the Civil Code.

Acts 2003, No. 155, §1; Acts 2004, No. 26, §2.

### **Art. 4062. Tutorship by will**

The court shall appoint as tutor the person nominated as such in a testament or an authentic act, upon his furnishing security and taking an oath, as provided in Articles 4131 and 4171, unless he is disqualified or unless for some other reason the court determines that the appointment would not be for the best interest of the minor.

### **Art. 4063. Legal tutor**

The court shall appoint a legal tutor under the circumstances and according to the rules for priority provided by law, and in the manner provided in Articles 4065 through 4068.

**Art. 4064. Dative tutor**

The court shall appoint a dative tutor under the circumstances provided by law and in the manner provided in Articles 4065 through 4068.

**Art. 4065. Legal or dative tutor; petition for appointment; publication of notice**

When a petition for appointment as legal or dative tutor is filed, the applicant shall annex an affidavit listing to the best of his knowledge the minor's ascendants and collaterals by blood within the third degree and the surviving spouse of the minor's mother or father dying last who reside in the state. A copy of the petition for appointment shall be mailed by registered or certified mail to each person listed in the affidavit.

Notice of the application shall be published once in the parish where the petition was filed, in the manner provided by law.

Amended by Acts 1976, No. 429, §3.

**Art. 4066. Opposition to application of legal or dative tutor**

An opposition to an application for appointment as legal or dative tutor may be filed at any time prior to the appointment, as provided in Article 4067. The opposition shall comply with Article 2972 and shall allege the grounds upon which it is claimed that the applicant is disqualified or that it would be in the best interest of the minor for the opponent to be appointed tutor instead of the applicant.

Amended by Acts 1976, No. 429, §3.

**Art. 4067. Appointment of legal or dative tutor**

At any time after the expiration of ten days from date of publication or date of mailing of the notice as provided in Article 4065, whichever period is longer, if no opposition has been filed, the court shall appoint the applicant, unless he is disqualified under Article 4231.

If an opposition has been filed, it shall be tried in a summary manner.

Amended by Acts 1976, No. 429, §3.

**Art. 4068. Appeal from judgment confirming, appointing, or removing tutor or undertutor; effect**

An appeal from a judgment confirming, appointing, or removing a tutor or an undertutor can only be taken within thirty days from the applicable date provided in Article 2087(A).

Such judgment shall not be suspended during the pendency of an appeal. The acts of a tutor or of an undertutor shall not be invalidated by the annulment of his appointment on appeal.

**Art. 4069. Separate tutor of property**

A. In exceptional cases and for good cause shown, the court may appoint a bank or another person as administrator or tutor of the property of the minor. This appointment may be made upon the court's own motion or upon the motion of the tutor or other person entitled to the tutorship if no tutor has been previously appointed, or upon motion of any interested person after a contradictory hearing with the tutor, administrator, or person entitled to the tutorship or the administration.



B. If a person is appointed as tutor or administrator of the minor's property, pursuant to this Article or Civil Code Article 258, that person shall furnish security as provided in Article 4131.

Acts 1992, No. 680, §2.

**Art. 4070. Provisional tutor**

On the application of an interested person or on its own motion, pending the appointment of a tutor, the court may appoint a qualified person as provisional tutor of a minor, if such appointment is necessary for the welfare of the minor or for the preservation of his property.

**Art. 4071. Security, oath, and tenure of provisional tutor**

A provisional tutor shall take an oath to discharge faithfully the duties of his office and shall furnish security as provided in Article 4132 for the faithful performance of his duties, in an amount determined by the court as adequate for the protection of the minor.

A provisional tutor shall continue in office until his appointment is terminated by the court or until a tutor has been qualified.

**Art. 4072. Inventory or detailed descriptive list on appointment of provisional tutor**

When the court appoints a provisional tutor, it shall order the taking of an inventory or the preparation of a detailed descriptive list of the minor's property as provided in Articles 4101 and 4102.

Acts 1983, No. 344, §1.

**Art. 4073. Functions, duties, and authority of provisional tutor**

The functions of a provisional tutor are limited to the care of the person of the minor and the preservation of his rights and property. In the performance of his functions, a provisional tutor has the same authority and is subject to the same duties and obligations, as a tutor.

Under specific authority of the court which appointed him, a provisional tutor may:

- (1) Institute and prosecute an action to enforce judicially a right of the minor; and
- (2) Operate a business belonging to the minor.

A provisional tutor shall file an account upon the termination of his authority.

**CHAPTER 3. INVENTORY OF MINOR'S PROPERTY**

**Art. 4101. Inventory and appraisal or descriptive list**

A. When any person applies to be appointed as tutor, the court shall order either the taking of an inventory and an appraisal of the minor's property or the preparation of a detailed descriptive list of his property in accordance with Article 4462.

B. If an inventory is ordered, it shall be begun not later than ten days after the order is signed. The court shall appoint a notary of each parish in which property of the minor has a situs to take the inventory of such property in that parish.

Acts 1983, No. 344, §1.

**Art. 4102. Procedure for inventory; proces verbal; return**

In so far as applicable, Articles 3131 through 3134 shall govern the procedure for the taking of the inventory, proces verbal, and the return and effect of the proces verbal.

**CHAPTER 4. SECURITY OF TUTOR**

**Art. 4131. Amount**

A. The person appointed tutor, except the natural tutor, shall furnish security for the faithful performance of his duties in an amount equal to the total value of the minor's movable property as shown by the inventory or detailed descriptive list, plus such additional sum as the court may consider sufficient to cover any loss or damage which may be caused by the bad administration of the tutor.

B. Upon proper showing that the security required is substantially in excess of that needed for the protection of the minor, the court may fix the security at any amount which it considers sufficient for the protection of the minor.

C. The court may order the security to be increased or diminished at any time as the movable property may increase or diminish in value, or for other circumstances which the court may consider proper.

D. When the only asset of the minor is a contested claim for damages, the court may postpone the furnishing of security until the claim is recovered, at which time the tutor shall provide security as required by this Article.

Acts 1983, No. 344, §1; Acts 1985, No. 146, §1.

**Art. 4132. Nature of security**

A. The security required by Article 4131 shall be in the form of a bond, to be approved by the court, and secured by:

(1) A surety company authorized to do business in this state;

(2) Bonds of this state or of any political subdivision or any municipality thereof, or of the United States, or certificates of deposit in any bank, savings bank, or trust company chartered under the laws of Louisiana or National Banking Association domiciled in this state and insured by the Federal Deposit Insurance Corporation, or shares of any building or loan or homestead association domiciled in this state and insured by an agency of the United States, in an amount at par value equal at least to the amount of the security required; or

(3) No less than two personal sureties signing in solido who are residents of this state and who each have unencumbered property located in this state in an amount amply sufficient to secure the amount of the bonds notwithstanding the provisions of Civil Code Article 3042 or any other law to the contrary.

B. Bonds or homestead shares or certificates of deposit of a bank posted as security shall be deposited for safekeeping with the clerk of court or in a bank or other recognized depository as directed by the court, and may not be withdrawn without an order of court. The form of the act under which such bonds or shares are given in security shall be substantially that of a bond, in

which the principal binds himself and declares that instead of furnishing sureties, he deposits, as directed by the court, such bonds or shares to be subject to any claim the minor may have.

C. Insured homestead shares or certificates of deposit of a bank may not be furnished as security in excess of the amount insured.

D. The bond shall not be recorded in the mortgage records nor operate as a mortgage.  
Amended by Acts 1977, No. 192, §1, eff. July 5, 1977; Acts 1985, No. 136, §1.

**Art. 4133. Special mortgage instead of bond**

A. Instead of the security required by Articles 4131 and 4132, the tutor may furnish a special mortgage in favor of the minor on immovable property otherwise unencumbered. The mortgage shall be for the same amount as the security required by Article 4131 and shall be approved by the court as provided in Article 4271.

B. The costs occasioned by the furnishing of a special mortgage shall be borne by the tutor.

C. The special mortgage shall include the date of birth of the minor. The failure to include the date of birth of the minor shall not invalidate the mortgage.

Acts 2005, No. 62, §1.

**Art. 4134. Natural tutor; bond; recordation of certificate of inventory or detailed descriptive list**

A. Except as provided in Article 4135, a natural tutor shall not be required to furnish bond, but shall record in the mortgage records of the parish of his domicile a certificate of the clerk setting forth the date of birth of the minor, the last four digits of the social security number of the tutor and the total value of the minor's property according to the inventory or detailed descriptive list filed in the tutorship proceeding. If the minor has no assets, then no certificate need be filed until he acquires assets. If the only asset is a contested claim, then no certificate need be filed until the claim is recovered, as provided in Article 4131(D). A certificate of the recorder of mortgages setting forth the recordation of the clerk's certificate shall be filed in the tutorship proceedings before the tutor is appointed. Records of tutorship are issued.

B. Within thirty days after his appointment, the natural tutor shall cause the clerk's certificate to be recorded in the mortgage records of every other parish in the state in which he owns immovable property.

C. The recordation operates as a legal mortgage for the amount of the certificate in favor of the minor on all the immovable property of the tutor situated within any parish where recorded. A certificate recorded in the amount of zero dollars shall not create a legal mortgage. If the certificate does not contain the information required by Paragraph A of this Article, it will not be effective against third parties.

D. The legal mortgage shall prescribe four years after the minor reaches majority and shall be canceled from the mortgage record upon the request of any interested party.

Acts 1983, No. 344, §1; Acts 2003, No. 728, §1; Acts 2004, No. 322, §1; Acts 2014, No. 189, §1.

**Art. 4135. Security instead of legal mortgage**

Instead of the legal mortgage provided in Article 4134, a natural tutor may furnish bond in the amount provided by Article 4131 and of the nature provided by Article 4132, or a special mortgage as provided in Article 4133.

If the court determines that the legal mortgage will not be sufficient protection for the minor, and that substantial loss to the minor may result unless a bond is furnished, the court may order that the natural tutor furnish a bond or a special mortgage instead of the legal mortgage.

**Art. 4136. Substitution of one kind of security for another**

Any tutor who desires to give bond or security and thus release from an existing general or special mortgage the whole or a portion of the property covered thereby may do so with the approval of the court as provided in Article 4271, provided the bond or security tendered fully protects the minor.

Any of the securities enumerated in Articles 4132 and 4133 may be substituted at any time either in whole or in part for any other kind, at the option of the tutor, and with the approval of the court as provided in Article 4271, which shall enter the necessary orders to render the substitutions effective. If other security has been furnished instead of a general mortgage, the tutor may not revert to a general mortgage.

When a bond or security is substituted only in part for the general or special mortgage, the amount thereof may be proportionately smaller based on the value of the property to be released from mortgage.

**Art. 4137. Subordination of legal mortgage to conventional mortgage**

The legal mortgage provided in Article 4134 may be subordinated to a conventional mortgage or other security to be given on the property of the tutor, provided such subordination is authorized by the court after proof that such would be to the best interest of the minor and provided the concurrence of the co-tutor is first obtained.

Added by Acts 1980, No. 386, §1.

## CHAPTER 5. OATH AND LETTERS OF TUTORSHIP

### **Art. 4171. Oath**

Before the person appointed as tutor enters upon the performance of his official duties, he must take an oath to discharge faithfully the duties of his office. A natural tutor shall include in his oath a list of the parishes in which he owns immovable property.

### **Art. 4172. Issuance of letters**

After the person appointed as tutor has qualified by furnishing the security required of him by law, and by taking his oath of office, the clerk shall issue to him letters of tutorship.

These letters, issued in the name and under the seal of the court, evidence the appointment of the tutor, his qualification, and his compliance with all requirements of law relating thereto.

## CHAPTER 6. UNDERTUTOR

### **Art. 4201. Appointment; oath**

At the time judgment is rendered appointing a tutor, the court shall also appoint a responsible person as undertutor.

Before entering upon the performance of his official duties, the undertutor must take an oath to discharge faithfully the duties of his office.

### **Art. 4202. General duties of undertutor**

The undertutor shall express his concurrence or nonconcurrence in action suggested by the tutor to the court, as set forth in Article 4271, and shall act for the minor whenever the minor's interest is opposed to that of the tutor.

### **Art. 4203. Compelling tutor to account**

The undertutor shall apply to the court for an order compelling the tutor to file an account whenever the tutor has failed to file his annual account or at any other time when the circumstances indicate that an account should be filed.

### **Art. 4204. Security of tutor, undertutor's duty regarding sufficiency**

The undertutor shall:

(1) Cause the natural tutor to record the legal mortgage in favor of the minor as provided in Article 4134;

(2) Require the tutor to furnish evidence that he has a valid and merchantable title to property offered as security under a special mortgage instead of bond and that the value of the property is at least equal to the amount of security required; otherwise the undertutor shall oppose the tutor's application to furnish a special mortgage; and

(3) Apply to the court for an order compelling the tutor to furnish additional security whenever the security has become insufficient for any reason.

**Art. 4205. Vacancy in tutorship, duty of undertutor**

The tutorship does not devolve upon the undertutor when it is vacant. If a vacancy occurs, the undertutor shall apply to the court for the appointment of a new tutor.

**Art. 4206. Termination of duties**

The undertutor is relieved of further duty and authority as undertutor when the minor reaches majority or is fully emancipated. However, his liability for acts prior thereto shall not be affected.

CHAPTER 7. DISQUALIFICATION, REVOCATION OF  
APPOINTMENT, RESIGNATION, AND REMOVAL

**Art. 4231. Disqualification of tutor**

A. No person may be appointed tutor who is:

- (1) Under eighteen years of age;
- (2) Interdicted, or who, on contradictory hearing, is proved to be mentally incompetent;
- (3) A convicted felon, under the laws of the United States or of any state or territory thereof;
- (4) Indebted to the minor, unless he discharges the debt prior to the appointment;
- (5) An adverse party to a suit to which the minor is a party; or
- (6) A person who, on contradictory hearing, is proved to be incapable of performing the duties of the office, or to be otherwise unfit for appointment because of his physical or mental condition or bad moral character.

B. Except as provided in Paragraph C of this Article, the provisions of Subparagraphs (1), (3), (4), and (5) of Paragraph A do not apply to the parent of the minor.

C. The provisions of Paragraph A of this Article shall not apply to a natural parent of the minor who is convicted of a felony involving theft of funds or misappropriation of funds, a crime of violence as defined in R.S. 14:27(B), a sex offense as defined in R.S. 15:542 or R.S. 46:1844, or any other crime against an individual under the age of eighteen years.

Amended by Acts 1974, No. 573, §1; Acts 2001, No. 741, §1.

**Art. 4232. Revocation of appointment; extension of time to qualify**

If a person who is not a parent of the minor is appointed tutor and fails to qualify for the office within ten days from his appointment, on its own motion or on motion of any interested person, the court may revoke the appointment and appoint another qualified person to the office forthwith.

The delay allowed in this article for qualification may be extended by the court for good cause shown.

**Art. 4233. Resignation of tutor**

A tutor other than a parent of the minor may resign when authorized by the court under Article 4271:

- (1) If subsequent to his appointment as tutor he has been invested with an office or engaged in a service or occupation which excuses him from the obligation of serving as tutor;
- (2) If he has reached the age of seventy years;
- (3) If because of infirmity he has become incapable of discharging the duties of his office;

or

- (4) For any other reason which the court in its discretion may deem sufficient.

The resignation by a tutor shall become effective when a successor is appointed, as provided in Article 4237, and when his final account has been filed and homologated.

Amended by Acts 1974, No. 163, §1.

**Art. 4234. Removal of tutor**

The court may remove any tutor who is or has become disqualified; is a nonresident who has not appointed, or has left the state permanently without appointing, an agent to represent him as required by Article 4273; has become incapable of discharging the duties of his office; has mismanaged the minor's property; has failed to perform any duty imposed by law or by order of court; or if such removal would be in the best interests of the minor.

The court on its own motion may order, and on motion of any interested party shall order the tutor to show cause why he should not be removed from office. If service of this order cannot be made on the tutor for any reason, the court shall appoint an attorney at law to represent him, on whom service shall be made and against whom the proceeding shall be conducted contradictorily.

The removal of a tutor from office does not invalidate any of his official acts performed prior to his removal.

Amended by Acts 1964, No. 4, §1; Acts 1966, No. 429, §3.

**Art. 4235. Authority and liability of tutor after resignation or removal**

A tutor who has resigned or has been removed shall have no further authority as such, and no further duty except as provided by Article 4392. However, his liability for acts prior to his resignation or removal shall not be affected thereby.

**Art. 4236. Undertutor, grounds for disqualification, revocation, or removal**

The grounds for disqualification, revocation, and removal provided in Articles 4231, 4232, and 4234, other than indebtedness to the minor, apply also to an undertutor.

An undertutor may resign at any time with the approval of the court, but the resignation shall not be effective until a successor has been appointed and qualified.

**Art. 4237. Appointment of successor tutor or undertutor**

When a tutor or undertutor dies, is removed, or resigns, another tutor or undertutor shall be appointed in his place in the manner provided for an original appointment.

**Art. 4238. Heirs of tutor; responsibility**

Tutorship is a personal trust, which does not descend to the heirs of the tutor upon his death. However, the representative of the tutor's succession or the major heirs who have accepted his succession are responsible for the administration of the minor's property until another tutor has been appointed.

CHAPTER 8. GENERAL FUNCTIONS, POWERS, AND DUTIES OF TUTOR

**Art. 4261. Care of person of minor; expenses**

The tutor shall have custody of and shall care for the person of the minor. He shall see that the minor is properly reared and educated in accordance with his station in life.

The expenses for the support and education of the minor should not exceed the revenue from the minor's property. However, if the revenue is insufficient to support the minor properly or to procure him an education, with the approval of the court as provided in Article 4271, the tutor may expend the minor's capital for these purposes.

**Art. 4262. Administration of minor's property**

The tutor shall take possession of, preserve, and administer the minor's property. He shall enforce all obligations in favor of the minor and shall represent him in all civil matters. He shall act at all times as a prudent administrator, and shall be personally responsible for all damages resulting from his failure so to act.

Natural cotutors shall be bound in solido except as to damages arising from the administration of all or a part of the minor's property by one of the cotutors individually pursuant to an order of the court or an agreement between the cotutors approved by the court.

Amended by Acts 1981, No. 283, §2; Act 1982, No. 307, §2, eff. Jan. 1, 1983.

**Art. 4263. Contracts between tutor and minor**

A tutor cannot in his personal capacity or as representative for any other person make any contracts with the minor. He cannot acquire any property of the minor, or interest therein, personally or by means of a third person, except as otherwise provided by law.

Contracts prohibited by this article shall be null, and the tutor shall be liable to the minor for damages resulting therefrom.

**Art. 4264. Tutor's administration in his own name; procedural rights**

The tutor acts in his own name as tutor, and without the concurrence of the minor. The tutor may act through a mandatary or attorney in fact outside of the parish of his residence or as provided in Article 4273.

In the performance of his duties, the tutor may exercise all procedural rights available to a litigant.

Amended by Acts 1964, No. 4, §1.



**Art. 4265. Compromise and modification of obligations**

With the approval of the court as provided in Article 4271, a tutor may compromise an action or right of action by or against the minor, or extend, renew, or in any manner modify the terms of an obligation owed by or to the minor.

**Art. 4266. Continuation of business**

The court may authorize a tutor to continue any business in which the minor has an interest, when it appears to the best interest of the minor, and after compliance with Article 4271. The order of court may contain such conditions, restrictions, regulations and requirements as the court may direct.

**Art. 4267. Loans to tutor for specific purposes; authority to mortgage and pledge minor's property**

When it appears to the best interest of the minor, and after compliance with Article 4271, the court may authorize a tutor to borrow money for the purpose of preserving or administering the property, of paying debts, for expenditures in the regular course of a business conducted in accordance with Article 4266, or for the care, maintenance, training or education of the minor. As security for such a loan, the court may authorize the tutor to mortgage or pledge property of the minor upon such terms and conditions as it may direct. Before authorizing a loan, the court may require the tutor to furnish additional security in an amount fixed by the court.

**Art. 4268. Lease of minor's property; mineral contracts**

When it appears to the best interest of the minor, and after compliance with Article 4271, the court may authorize a tutor to grant a lease upon property of the minor. The term of the lease may extend beyond the anticipated duration of the tutorship.

In addition to the requirements of Article 4271, the petition of the tutor shall set forth the terms and conditions of the proposed lease.

This article applies to mineral leases.

A tutor may execute such other contracts as are authorized by law affecting the whole or any part of the share of his ward in oil, gas, or other minerals, either discovered or undiscovered in the manner provided herein.

Amended by Acts 1974, No. 133, §1.

**Art. 4269. Investment and management of minor's property**

In acquiring, investing, reinvesting, exchanging, retaining, selling, and managing property for the benefit of a minor, a tutor shall exercise the judgment and care, under the circumstances then prevailing, which men of prudence, discretion, and intelligence exercise in the management of their own affairs, not in regard to speculation but in regard to the permanent disposition of their funds, considering the probable income as well as the probable safety of their capital. Within the limitations of the foregoing standard, a tutor is authorized to acquire and retain every kind of property and every kind of investment, specifically including but not by way of limitation, bonds, debentures, and other corporate obligations, and stocks, preferred or common, and securities of any open-end or closed-end management type investment company or investment trust registered

under 15 U.S.C. §§80a-1 through 80a-52, as from time to time amended, which men of prudence, discretion, and intelligence acquire or retain for their own account.

**Art. 4269.1. Placement of minor's property in trust**

At any time during his administration a tutor may apply to the court for authorization to place some or all of the minor's property in trust for administration, management and investment in accordance with the Louisiana Trust Code. The trust instrument shall name the minor as sole beneficiary of the trust, shall name a trustee, shall impose maximum spendthrift restraints, and shall be subject to termination at the option of the beneficiary upon attaining the age of majority or, should he fail to attain majority, at the option of his heirs or legatees. The court may, upon application, make such changes in the trust instrument as may be advisable. Upon creation of the trust, the tutor shall be entitled to no further commissions with respect to the trust property.

Added by Acts 1980, No. 276, §1.

**Art. 4270. Procedure for investing, reinvesting, or withdrawing funds; checking account on behalf of minor**

A. An investment, reinvestment, or withdrawal of funds of a minor may be made only with the approval of the court after compliance with Article 4271.

B. Notwithstanding the provisions of Paragraph A, the court may authorize a tutor to open and maintain a checking account in the name of the tutor on behalf of the minor" and to write checks on the account for necessary expenses of the minor, without the necessity of obtaining prior approval from the court. However, such approval is necessary in order to transfer funds into the checking account, the total of which transfers shall not exceed five thousand dollars a year, except for good cause shown. All sums deposited into the checking account and all checks written on the account shall be reflected in the annual accounting in accordance with Article 4391 et seq.

C. The provisions of this Article do not create an affirmative duty on any financial institution to open, monitor, regulate or close any account in the name of the tutor on behalf of the minor and any act by the tutor with respect to such account is a full release and discharge of the financial institution for any cause of action alleging a violation of a provision of this Chapter or any other duty of a tutor.

Acts 1995, No. 122, §1; Acts 1995, No. 1143, §1.

**Art. 4271. Court approval of action affecting minor's interest**

The tutor shall file a petition setting forth the subject matter to be determined affecting the minor's interest, with his recommendations and the reasons therefor, and with a written concurrence by the undertutor. If the court approves the recommendations, it shall render a judgment of homologation. The court may require evidence prior to approving the recommendations.

If the undertutor fails to concur in the tutor's recommendations, the tutor shall proceed by contradictory motion against him. After such hearing and evidence as the court may require, the court shall decide the issues summarily and render judgment.

**Art. 4272. Court approval of payments to minor**

Court approval of payments to a minor shall be governed by the provisions of Article 4521. Acts 1993, No. 867, §1, eff. June 23, 1993; Acts 1995, No. 122, §1; Acts 2008, No. 716, §1; Acts 2018, No. 607, §1.

**Art. 4273. Appointment of agent**

A tutor who is a nonresident, or who is about to leave the state permanently, shall execute a power of attorney appointing a resident of this state to receive service of process in any action brought against him in his capacity as tutor; and may authorize this agent to represent him in all matters relating to the tutorship. A tutor who is domiciled in the state and who will be absent temporarily therefrom may similarly appoint such an agent for either or both of these purposes. In all cases, the power of attorney shall be filed in the tutorship proceeding.

Amended by Acts 1964, No. 4, §1.

**Art. 4274. Compensation of tutor**

The court shall allow the tutor reasonable compensation for his services annually, which shall not exceed ten percent of the annual revenues of the minor's property, unless increased by the court upon proper showing that this would be inadequate.

Amended by Acts 1966, No. 36, §1.

**Art. 4275. Donations to or by minor**

The tutor may accept donations made to the minor, but he cannot make donations of any property of the minor.

CHAPTER 9. ADMINISTRATION OF MINOR'S PROPERTY

SECTION 1. GENERAL DISPOSITIONS

**Art. 4301. Purpose of sale or exchange**

A tutor may sell or exchange any interest of a minor in property, owned either in its entirety or in indivision, for any purpose when authorized by the court as provided in Article 4271.

**Art. 4302. Terms of sale**

A sale of minor's property shall be for cash, unless upon the petition of the tutor the court authorizes a credit sale. When a credit sale is authorized, the order shall specify the terms of the sale and the security.

**Art. 4303. Perishable property; crops**

Upon the petition of the tutor as provided in Article 4321 or 4341, the court may order the immediate sale of perishable property and growing crops either at public auction or private sale, without appraisal, and without advertisement, or with such advertisement as the court may direct.

**Art. 4304. Additional bond prior to sale of immovables**

Before authorizing a sale of a minor's immovable property, the court may require the tutor to furnish additional security in an amount fixed by the court.

**SECTION 2. PUBLIC SALE**

**Art. 4321. Petition; order**

In addition to the requirements of Article 4271, a petition for authority to sell property of a minor at public sale shall set forth a description of the property and the reasons which make it advantageous to the minor to sell at public sale.

The court shall render an order authorizing the sale at public auction after publication, when it considers the sale to be to the best interest of the minor. The order shall specify the minimum price to be accepted.

**Art. 4322. Publication; place of sale**

Notice of the sale shall be published in the parish in which the tutorship proceeding is pending, at least twice for immovable property and at least once for movable property, in the manner provided by law. The court may order additional advertisements.

When immovable property situated in another parish is to be sold, the notice shall also be published in the parish where the property is situated. When movable property situated in another parish is to be sold, the court may require the notice to be published also in the parish where the property is situated.

The sale shall be conducted in the parish in which the tutorship proceeding is pending, unless the court orders that the sale be conducted in the parish where the property is situated.

**Art. 4323. Minimum price; subsequent offering**

The property shall not be sold if the price bid by the last and highest bidder is less than the minimum price fixed by the court. In that event, on the petition of the tutor, the court may order another offering, with the same terms as for an original offering, at a lower minimum price.

**SECTION 3. PRIVATE SALE**

**Art. 4341. Petition**

In addition to the requirements of Article 4271, a petition for authority to sell property of a minor at private sale shall set forth a description of the property, the price and conditions of the proposed sale, and the reasons which make it advantageous to the minor to sell at private sale.

**Art. 4342. Bonds and stocks**

A tutor may sell bonds and stocks of the minor at rates prevailing in the open market, after compliance with Article 4271, by obtaining a court order authorizing the sale.

The endorsement of the tutor and a certified copy of the court order authorizing the sale shall be sufficient warrant for the transfer.

Amended by Acts 1962, No. 92, §1.

## SECTION 4. ADJUDICATION TO PARENT

### **Art. 4361. Adjudication of minor's interest to parent co-owner**

The parent of a minor who owns property in common with him may obtain a judgment adjudicating the share of the minor either in all of the property or any part thereof to the parent at a price fixed under oath by experts appointed by the court. The adjudication may be made even though there are other co-owners. The proposed adjudication must be approved by the court after compliance with Article 4271.

### **Art. 4362. Recordation of judgment; mortgage in favor of minor**

A. A judgment adjudicating immovable property shall be effective only after it is recorded in the conveyance records of the parish where the property is situated. If the price of the adjudication has not been paid, the minor shall have a vendor's privilege against the property adjudicated for the unpaid price, and the judgment of adjudication shall also be recorded in the mortgage records of such parish.

B. The provisions of this Article shall apply only to adjudications made six months from and after July 1, 2006. Those made before such time shall continue to be regulated by the provisions of this Article as it existed prior to July 1, 2006. Acts 2005, No. 169, §3, eff. July 1, 2006; Acts 2005, 1st Ex. Sess., No. 13, §1, eff. Nov. 29, 2005.

### **Art. 4363. Security instead of mortgage**

Instead of the mortgage provided in Article 4362, the parent may furnish security as provided in Article 4132 or a special mortgage as provided in Article 4133. The amount of the security or special mortgage shall be equal to the price of the adjudication.

## SECTION 5. EXCHANGE

### **Art. 4371. Petition for authority to exchange**

In addition to the requirements of Article 4271, a petition for authority to exchange the property of a minor for other property, or for other property and cash, shall set forth a description of both properties, the tutor's opinion of the values thereof, the conditions of the exchange, and the reasons why such an exchange would be advantageous to the minor.

Added by Acts 1962, No. 92, §5.

## CHAPTER 10. ACCOUNTING BY TUTOR

### **Art. 4391. Duty to account; annual accounts**

A tutor shall file an account annually, reckoning from the day of his appointment, and at any other time when ordered by the court on its own motion or on the application of any interested person.

**Art. 4392. Final account**

A tutor may file a final account at any time after expiration of the tutorship.

The court shall order the filing of a final account upon the application of the former minor after the expiration of the tutorship, or upon the rendition of a judgment ordering the removal of a tutor or authorizing his resignation.

**Art. 4393. Contents of account**

The account of a tutor shall contain the same matters required by Article 3333 for an account of a succession representative.

**Art. 4394. Service of account**

A copy of an account filed by a tutor, together with a notice that the account can be homologated after the expiration of ten days from the date of service and that any opposition must be filed before homologation, shall be served in the manner provided for service of citation:

- (1) Upon the undertutor, if an annual account or other interim account is ordered by the court;
- (2) Upon the former minor, if a final account is rendered after expiration of the tutorship; or
- (3) Upon the successor tutor, if a final account is rendered after removal, resignation, death, or interdiction of a tutor.

**Art. 4395. Opposition; homologation**

An opposition to an account may be filed any time prior to homologation. An opposition shall be tried as a summary proceeding.

If no opposition has been filed, the court may homologate the account at any time after the expiration of ten days from the date of service as provided in Article 4394.

**Art. 4396. Effect of homologation**

A judgment homologating any account other than a final account shall be prima facie evidence of the correctness of the account.

A judgment homologating a final account has the same effect as a final judgment in an ordinary action.

**Art. 4397. Deceased or interdicted tutor**

If a tutor dies, an account of his administration may be filed by his succession representative or heirs. If a tutor is interdicted, such an account may be filed by his curator.

The court shall order the filing of such an account in either case, on the petition of an interested person.

**Art. 4398. Cost of accounting**

Accounts filed by a tutor are at the expense of the minor, except that an account filed by a tutor who has been removed or an account not filed timely is at the expense of the tutor.

## CHAPTER 11. ANCILLARY TUTORSHIP PROCEDURE

### **Art. 4431. Foreign tutor; authority and powers**

Upon producing proof of his appointment, a tutor or guardian of a minor residing outside Louisiana, appointed by a court outside Louisiana, may appear in court on behalf of the minor without qualifying as tutor according to the law of Louisiana, when no tutor has been appointed in this state. He may perform acts affecting the minor's property in Louisiana, when authorized by the court of the parish in which the property is situated, in the same manner as a tutor appointed by a court in Louisiana.

Whenever the action of an undertutor would be necessary, an undertutor ad hoc shall be appointed by the court.

### **Art. 4432. Possession or removal of property from state**

In order to take possession of the minor's property, or to remove any of it from the state, a tutor or guardian appointed by a court outside Louisiana shall file a petition for authority to do so in the court of the parish where the property, or any of it is situated. The court shall render a judgment granting the authority prayed for, if the foreign tutor or guardian alleges in his petition that there are no Louisiana creditors of the minor, or that all such known creditors have been paid; and attaches to his petition an irrevocable power of attorney appointing a resident of this state to receive service of process in any action or proceeding brought in Louisiana to enforce a claim against the minor, or against any of the minor's property in this state.

Amended by Acts 1966, No. 36, §1.

### **Art. 4433. Foreign tutor qualifying in Louisiana; authority**

A tutor or guardian of a minor residing outside Louisiana, appointed by a court outside Louisiana, may be appointed as tutor by a court of competent jurisdiction in Louisiana, as provided in Article 4032.

The procedure shall be the same as provided by law for the tutorship of a minor residing in Louisiana.

After such qualification the tutor has the same rights and responsibility as a tutor originally qualified in Louisiana.

## CHAPTER 12. SMALL TUTORSHIPS

### **Art. 4461. Small tutorship defined**

For the purposes of this Chapter, a small tutorship is the tutorship of a minor whose property in Louisiana has a gross value of fifty thousand dollars or less.

Amended by Acts 1976, No. 437, §1; Acts 1979, No. 71, §1, eff. Jan. 1, 1980; Acts 2013, No. 118, §1, eff. June 5, 2013.

**Art. 5003. Procedure for appealing**

The appellate procedure provided by Book III for appeals from the district court shall be applicable.

Acts 1986, No. 156, §1.

**Art. 5004. [Repealed]**

TITLE III . DISTRICT COURTS WHERE JURISDICTION

CONCURRENT WITH JUSTICE OF THE PEACE COURTS

**Art. 5011. Procedure**

The rules provided in Articles 4917 through 4923 apply to a suit in a district court, when a justice of the peace would have concurrent jurisdiction thereof.

Acts 1986, No. 156, §1.

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## BOOK IX. MISCELLANEOUS PROVISIONS AND DEFINITIONS

### TITLE I. MISCELLANEOUS PROVISIONS

#### CHAPTER 1. RULES OF CONSTRUCTION

**Art. 5051. Liberal construction of articles**

The articles of this Code are to be construed liberally, and with due regard for the fact that rules of procedure implement the substantive law and are not an end in themselves.

**Art. 5052. Unambiguous language not to be disregarded**

When the language of an article is clear and free from ambiguity, its letter is not to be disregarded under the pretext of pursuing its spirit.

**Art. 5053. Words and phrases**

Words and phrases are to be read in their context, and are to be construed according to the common and approved usage of the language employed.

The word "shall" is mandatory, and the word "may" is permissive.

**Art. 5054. Clerical and typographical errors disregarded**

Clerical and typographical errors in this Code shall be disregarded when the legislative intent is clear.

**Art. 5055. Number; gender**

Unless the context clearly indicates otherwise:

(1) Words used in the singular number apply also to the plural; words used in the plural number include the singular;

(2) Words used of one gender apply also to the others.

**Art. 5056. Conjunctive, disjunctive, or both**

Unless the context clearly indicates otherwise:

(1) The word "and" indicates the conjunctive;

(2) The word "or" indicates the disjunctive; and

(3) When the article is phrased in the disjunctive, followed by the words "or both", both the conjunctive and disjunctive are intended.

**Art. 5057. Headings, source notes, cross references**

The headings of the articles of this Code, and the source notes and cross references thereunder, are used for purposes of convenient arrangement and reference, and do not constitute parts of the procedural law.

Article shall not prevent entry of a judgment in favor of any party who is not responsible for the costs.

Acts 1993, No. 852, §1; Acts 2012, No. 741, §1.

## TITLE II. DEFINITIONS

### **Art. 5251. Words and terms defined**

Except where the context clearly indicates otherwise, as used in this Code:

(1) "Absentee" means a person who is either a nonresident of this state, or a person who is domiciled in but has departed from this state, and who has not appointed an agent for the service of process in this state in the manner directed by law; or a person whose whereabouts are unknown, or who cannot be found and served after a diligent effort, though he may be domiciled or actually present in the state; or a person who may be dead, though the fact of his death is not known, and if dead his heirs are unknown.

(2) "Agent for the service of process" means the agent designated by a person or by law to receive service of process in actions and proceedings brought against him in the courts in this state.

(3) "City court" includes a municipal court which has civil jurisdiction.

(4) "Competent court", or "court of competent jurisdiction", means a court which has jurisdiction over the subject matter of, and is the proper venue for, the action or proceeding.

(5) "Corporation" includes a private corporation, domestic or foreign, a public corporation, and, unless another article in the same Chapter where the word is used indicates otherwise, a domestic, foreign, or alien insurance corporation.

(6) "Foreign corporation" means a corporation organized and existing under the laws of another state or a possession of the United States, or of a foreign country.

(7) "Insurance policy" includes all policies included within the definition in R.S. 22:46, and a life, or a health and accident policy, issued by a fraternal benefit society.

(8) "Insurer" includes every person engaged in the business of making contracts of insurance as provided in R.S. 22:46 and a fraternal benefit society.

(9) "Law" as used in the phrases "unless otherwise provided by law" or "except as otherwise provided by law" means an applicable provision of the constitution, a code, or a statute of Louisiana.

(10) "Legal representative" includes an administrator, provisional administrator, administrator of a vacant succession, executor, dative testamentary executor, tutor, administrator of the estate of a minor child, curator, receiver, liquidator, trustee, and any officer appointed by a court to administer an estate under its jurisdiction.

(11) "Nonresident" means an individual who is not domiciled in this state, a foreign corporation which is not licensed to do business in this state, or a partnership or unincorporated association organized and existing under the laws of another state or a possession of the United States, or of a foreign country and includes a limited liability company which is not organized under the laws of and is not then licensed to do business in this state.

(12) "Person" includes an individual, partnership, unincorporated association of individuals, joint stock company, corporation, or limited liability company.

(13) "Property" includes all classes of property recognized under the laws of this state: movable or immovable, corporeal or incorporeal.

(14) The term "succession representative" includes executor, independent executor, administrator, independent administrator, provisional administrator, together with their successors. The inclusion of the terms "independent executor" and "independent administrator" within the definition of succession representative shall not be construed to subject such a succession representative to control of the court in probate matters with respect to the administration of a succession, except as expressly provided in Chapter 13 of Title III of Book VI. Acts 1999, No. 145, §2; Acts 2001, No. 974, §1; Acts 2008, No. 415, §2, eff. Jan. 1, 2009.

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