# Louisiana Pocket Civil Code

#### LOUISIANA CIVIL CODE PRÉCIS SERIES

Louisiana Law of Obligations in General Alain Levasseur 4th Ed. 2015

Louisiana Law of Conventional Obligations
Alain Levasseur
2d Ed. 2015

LOUISIANA LAW OF SALE AND LEASE Alain Levasseur & David Gruning 3d Ed. 2015

Louisiana Law of Torts
Frank Maraist
2010

Louisiana Law of Security Devices

Michael H. Rubin

2d Ed. 2017

Louisiana Law of Property John Randall Trahan 2012

Louisiana Pocket Civil Code 2019

## Louisiana Pocket Civil Code

## 2019 Edition

### Edited by

### Alain Levasseur

Professor of Law, Emeritus Fondation Pour Le Droit Continental Paul M. Hebert Law Center Louisiana State University

With the Assistance of

Kristi Parnell Mallory Waller



Copyright © 2019 Alain Levasseur All Rights Reserved

ISBN 978-1-5310-1393-6 e-ISBN 978-1-5310-1394-3 LCCN 2018954466

CAROLINA ACADEMIC PRESS, LLC 700 Kent Street Durham, North Carolina 27701 Telephone (919) 489-7486 Fax (919) 493-5668 www.cap-press.com

Printed in the United States of America

## **Contents**

Preliminary Title.	3
Chapter 1. General Principles.	3
Chapter 2. Interpretation of Laws.	4
Chapter 3. Conflict of Laws.	5
Book 1. Of Persons.	7
Title 1. Natural and Juridical Persons.	7
Title 2. Of Domicile.	8
Title 3. Absent Persons.	9
Chapter 1. Curatorship of the Property of Absent Persons.	9
Chapter 2. Declaration of Death.	10
Title 4. Husband and Wife.	12
Chapter 1. Marriage: General Principles.	12
Chapter 2. Nullity of Marriage.	13
Chapter 3. Incidents and Effects of Marriage.	14
Chapter 4. Termination of Marriage.	14
Title 5. Divorce.	15
Chapter 1. The Divorce Action.	15
Chapter 2. Provisional and Incidental Proceedings.	16
Section 1. Spousal Support.	16
Section 2. Claim for Contributions to Education or Training.	19
Section 3. Child Custody.	20
Section 4. Child Support.	23
Section 5. Provisional and Incidental Proceedings in	
Actions of Nullity.	24
Chapter 3. Effects of Divorce.	24
Title 6. Of Master and Servant.	25

vi CONTENTS

Title 7. Parent and Child.	25
Chapter 1. Filiation.	25
Chapter 2. Filiation by Proof of Maternity or Paternity.	25
Section 1. Proof of Maternity.	25
Section 2. Proof of Paternity.	26
Chapter 3. Filiation by Adoption.	29
Section 1. Effect of Adoption.	29
Section 2. Adoption of Minors.	29
Section 3. Adoption of Adults.	30
Chapter 4. Filiation of Children by Assisted Reproductive	
Technology [Reserved].	30
Chapter 5. Parental Authority of Married Persons.	30
Section 1. General Principles of Parental Authority.	30
Section 2. Obligations of Parents.	31
Section 3. Obligations of Children.	31
Section 4. Authority over the Property of the Child.	31
Section 5. Person Having Parental Authority and of Its	
Delegation and Suspension.	32
Section 6. Termination of Parental Authority.	33
Chapter 6. Obligations of Children and Parents and	
Other Ascendants.	33
Title 8. Of Minors, of Their Tutorship and Emancipation.	34
Chapter 1. Of Tutorship.	34
Section 1. General Dispositions.	34
Section 2. Of Tutorship by Nature.	35
Section 3. Of the Tutorship by Will.	36
Section 4. Of the Tutorship by the Effect of the Law.	37
Section 5. Of Dative Tutorship.	38
Section 6. Of the Undertutor.	38
Section 7. Of Family Meetings.	39
Section 8. Of the Causes Which Dispense or Excuse from	
the Tutorship.	39
Section 9. Of the Incapacity For, the Exclusion From, and	
Deprivation of the Tutorship.	41
Section 10. Of the Appointment, Recognition, or	
Confirmation of Tutors, of the Persons Whose Duty	
It Is to Cause Tutors to Be Appointed and of the Liability	
of Such Persons.	41
Section 11. Of the Administration of the Tutor.	42

CONTENTS	vii

Section 12. Of Continuing or Permanent Tutorship of	
Persons with Intellectual Disabilities.	43
Chapter 2. Emancipation.	45
Title 9. Of Persons Incapable of Administering Their Estates,	
Whether on Account of Insanity or Some Other Infirmity,	
and of Their Interdiction and Curatorship.	47
Chapter 1. Grounds for Interdiction.	47
Chapter 2. General Duties of Curators and Undercurators.	48
Chapter 3. Effects of Interdiction.	48
Chapter 4. Modification and Termination of Interdiction.	49
Chapter 5. Responsibility for Wrongful Filing of	
Interdiction Petition.	50
Book 2. Things and the Different Modifications of Ownership.	51
Title 1. Things.	51
Chapter 1. Division of Things.	51
Section 1. General Principles.	51
Section 2. Immovables.	53
Section 3. Movables.	55 55
	56
Chapter 2. Rights in Things.	56
Title 2. Ownership.	
Chapter 1. General Principles.	56
Chapter 2. Right of Accession.	57
Section 1. Ownership of Fruits.	57
Section 2. Accession in Relation to Immovables.	58
Section 3. Accession in Relation to Movables.	62
Chapter 3. Transfer of Ownership by Agreement.	63
Chapter 4. Protection of Ownership.	65
Title 3. Personal Servitudes.	66
Chapter 1. Kinds of Servitudes.	66
Chapter 2. Usufruct.	66
Section 1. General Principles.	66
Section 2. Rights of the Usufructuary.	69
Section 3. Obligations of the Usufructuary.	72
Section 4. Rights and Obligations of the Naked Owner.	78
Section 5. Termination of Usufruct.	79
Chapter 3. Habitation.	83
Chapter 4. Rights of Use.	84
Title 4. Predial Servitudes.	85

viii CONTENTS

Chapter 1. General Principles.	85
Chapter 2. Natural Servitudes.	86
Chapter 3. Legal Servitudes.	87
Section 1. Limitations of Ownership.	87
Section 2. Common Enclosures.	90
Section 3. Right of Passage.	92
Chapter 4. Conventional or Voluntary Servitudes.	94
Section 1. Kinds of Conventional Servitudes.	94
Section 2. Establishment of Predial Servitudes by Title.	96
Section 3. Acquisition of Conventional Servitudes for	
the Dominant Estate.	99
Section 4. Rights of the Owner of the Dominant Estate.	100
Section 5. Extinction of Predial Servitudes.	102
Title 5. Building Restrictions.	105
Title 6. Boundaries.	106
Chapter 1. General Provisions.	106
Chapter 2. Effect of Titles, Prescription, or Possession.	108
Title 7. Ownership in Indivision.	108
Book 3. Of the Different Modes of Acquiring the Ownership of Things.	
Preliminary Title—General Dispositions.	113
Title 1. Of Successions.	113
Chapter 1. Of the Different Sorts of Successions and Successors.	113
Chapter 2. Of Intestate Succession.	114
Chapter 3. Of the Rights of the State.	118
Chapter 4. Commencement of Succession.	118
Chapter 5. Loss of Succession Rights.	119
Chapter 6. Acceptance and Renunciation of Successions.	121
Section 1. General Principles.	121
Section 2. Acceptance.	123
Section 3. Renunciation.	123
Chapter 7. Of the Seals, and of the Affixing and Raising of	
the Same. [Repealed.]	124
Chapter 8. Of the Administration of Vacant and Intestate	
Successions.	125
Section 1. General Dispositions.	125
Section 2. Of the Inventory of Vacant and Intestate Successions	
Subject to Administration. [Repealed.]	125

CONTENTS ix

Section 3. Of the Appointment of Curators to Successions,	
and of the Security They Are Bound to Give. [Repealed.]	126
Section 4. Of the Duties and Powers of Curators of Vacant	
Successions and of Absent Heirs.	126
Section 5. Of the Causes for Which a Curator of a Succession	
May Be Dismissed or Superseded. [Repealed.]	126
Section 6. Of the Sale of the Effects and of the Settlement	
of Successions Administered by Curators.	127
Section 7. Of the Account to Be Rendered by the Curators	
and the Commission Due to Them.	128
Section 8. Of the Appointment of Counsel of Absent Heirs,	
and of Their Duties. [Repealed.]	128
Chapter 9. Of the Successions of Persons Domiciliated Out of	
the State, and of the Tax Due by Foreign Heirs, Legatees	
and Donees. [Repealed.]	128
Section 1. Of the Successions of Persons Domiciliated Out	
of the State. [Repealed.]	128
Section 2. Of the Tax Due by Foreign Heirs, Legatees and	
Donees. [Repealed.]	129
Chapter 10. Of Successions Administered by Syndics. [Repealed.]	129
Chapter 11. Of Collations.	129
Section 1. What Collation Is, and by Whom It Is Due.	129
Section 2. To Whom the Collation Is Due, and What Things	
Are Subject to It.	132
Section 3. How Collations Are Made.	133
Chapter 12. Of the Partition of Successions.	140
Section 1. Of the Nature of Partition, and of Its Several Kinds.	140
Section 2. Among What Persons Partition Can Be Sued For.	142
Section 3. In What Manner the Judicial Partition Is Made.	144
Section 4. How the Recorder of the Parish or the Notary	
Is Bound to Proceed in the Judicial Partition.	147
Section 5. Of the Effect of Partition.	152
Section 6. Of the Warranty of Partition.	153
Section 7. Of the Rescission of Partition.	154
Chapter 13. Payment of the Debts of an Estate.	157
Section 1. General Dispositions Introduction.	157
Section 2. Rights of Creditors.	157
Section 3. Responsibility of Successors among Themselves.	158
Title 2. Donations.	160

x CONTENTS

Chapter 1. General Dispositions.	160
Chapter 2. Of the Capacity Necessary for Disposing and	
Receiving by Donation Inter Vivos or Mortis Causa.	161
Chapter 3. The Disposable Portion and Its Reduction in Case	
of Excess.	163
Chapter 4. Of Dispositions Reprobated by Law in Donations	
Inter Vivos and Mortis Causa.	169
Chapter 5. Donations Inter Vivos.	170
Section 1. General Dispositions.	170
Section 2. Of the Form of Donations Inter Vivos.	171
Section 3. Exceptions to the Rule of the Irrevocability	
of Donations Inter Vivos.	173
Chapter 6. Dispositions Mortis Causa.	175
Section 1. Testaments Generally.	175
Section 2. Forms of Testaments.	176
Section 3. Of the Competence of Witnesses and of Certain	
Designations in Testaments.	180
Section 4. Testamentary Dispositions.	181
Section 5. Probate of Testaments.	185
Section 6. Revocation of Testaments and Legacies.	185
Section 7. Rules for the Interpretation of Legacies.	186
Section 8. Disinherison.	187
Chapter 7. Of Partitions Made by Parents and Other Ascendants	
Among Their Descendants.	189
Chapter 8. Of Donations Inter Vivos Made in Contemplation	
of Marriage by Third Persons.	191
Section 1. In General.	191
Section 2. Donations of Present Property.	191
Section 3. Donations of Property to Be Left at Death.	192
Chapter 9. Of Interspousal Donations Inter Vivos.	193
Title 3. Obligations in General.	195
Chapter 1. General Principles.	195
Chapter 2. Natural Obligations.	196
Chapter 3. Kinds of Obligations.	197
Section 1. Real Obligations.	197
Section 2. Strictly Personal and Heritable Obligations.	197
Section 3. Conditional Obligations.	198
Section 4. Obligations with a Term.	199
Section 5. Obligations with Multiple Persons.	201

CONTENTS xi

Section 6. Conjunctive and Alternative Obligations.	204
Section 7. Divisible and Indivisible Obligations.	205
Chapter 4. Transfer of Obligations.	206
Section 1. Assumption of Obligations.	206
Section 2. Subrogation.	207
Chapter 5. Proof of Obligations.	208
Chapter 6. Extinction of Obligations.	212
Section 1. Performance.	212
Section 2. Impossibility of Performance.	215
Section 3. Novation.	217
Section 4. Remission of Debt.	218
Section 5. Compensation.	219
Section 6. Confusion.	221
Title 4. Conventional Obligations or Contracts.	221
Chapter 1. General Principles.	221
Chapter 2. Contractual Capacity and Exceptions.	223
Chapter 3. Consent.	224
Chapter 4. Vices of Consent.	227
Section 1. Error.	227
Section 2. Fraud.	228
Section 3. Duress.	229
Section 4. Lesion.	230
Chapter 5. Cause.	230
Chapter 6. Object and Matter of Contracts.	231
Chapter 7. Third Party Beneficiary.	232
Chapter 8. Effects of Conventional Obligations.	232
Section 1. General Effects of Contracts.	232
Section 2. Specific Performance.	233
Section 3. Putting in Default.	233
Section 4. Damages.	234
Section 5. Stipulated Damages.	236
Chapter 9. Dissolution.	237
Chapter 10. Simulation.	239
Chapter 11. Nullity.	240
Chapter 12. Revocatory Action and Oblique Action.	241
Section 1. Revocatory Action.	241
Section 2. Oblique Action.	243
Chapter 13. Interpretation of Contracts.	243
Title 5. Obligations Arising without Agreement.	245

xii CONTENTS

Chapter 1. Management of Affairs (Negotiorum Gestio).	245
Chapter 2. Enrichment without Cause.	246
Section 1. General Principles.	246
Section 2. Payment of a Thing Not Owed.	247
Chapter 3. Of Offenses and Quasi Offenses.	248
Title 6. Matrimonial Regimes.	256
Chapter 1. General Principles.	256
Chapter 2. The Legal Regime of Community of Acquets	
and Gains.	258
Section 1. General Dispositions.	258
Section 2. Management of Community Property.	261
Section 3. Termination of the Community.	263
Chapter 3. Separation of Property Regime.	269
Chapter 4. Marital Portion.	271
Title 7. Sale.	272
Chapter 1. Of the Nature and Form of the Contract of Sale.	272
Chapter 2. Of Persons Capable of Buying and Selling.	273
Chapter 3. Of Things Which May Be Sold.	273
Chapter 4. How the Contract of Sale Is to Be Perfected.	274
Chapter 5. Of the Price of the Contract of Sale.	275
Chapter 6. At Whose Risk the Thing Is, After the Sale Is	
Completed.	276
Chapter 7. Of the Obligations of the Seller.	276
Chapter 8. Eviction.	279
Chapter 9. Redhibition.	282
Chapter 10. Of the Obligations of the Buyer.	286
Chapter 11. Of the Sale with a Right of Redemption.	288
Chapter 12. Rescission for Lesion Beyond Moiety.	291
Chapter 13. Sales of Movables.	293
Chapter 14. Agreements Preparatory to the Sale.	297
Section 1. Option.	297
Section 2. Contract to Sell.	297
Section 3. Right of First Refusal.	298
Section 4. Effects.	298
Chapter 15. Assignment of Rights.	299
Chapter 16. Of the Giving in Payment.	301
Title 8. Of Exchange.	302
Title 9. Lease.	303
Chapter 1. General Provisions.	303

CONTENTS xiii

Chapter 2. Essential Elements.	304
Section 1. The Thing.	304
Section 2. The Rent.	304
Section 3. The Term.	305
Section 4. Form.	306
Chapter 3. The Obligations of the Lessor and the Lessee.	306
Section 1. Principal Obligations.	306
Section 2. Delivery.	307
Section 3. Use of the Thing by the Lessee.	307
Section 4. Alterations, Repairs, and Additions.	308
Section 5. Lessor's Warranties.	309
Section 6. Payment of Rent.	311
Section 7. Lessor's Security Rights.	312
Section 8. Transfer of Interest by the Lessor or the Lessee.	312
Chapter 4. Termination and Dissolution.	313
Section 1. Rules Applicable to All Leases.	313
Section 2. Leases with a Fixed Term.	314
Section 3. Leases with Indeterminate Term.	315
Chapter 5. Of the Letting Out of Labor or Industry.	316
Section 1. Of the Hiring of Servants and Laborers.	317
Section 2. Of Carriers and Watermen.	318
Section 3. Of Constructing Buildings According to	
Plots, and Other Works by the Job, and of	
Furnishing Materials.	318
Title 10. Annuities.	324
Chapter 1. Annuity Contract.	324
Chapter 2. Annuity Charge.	325
Title 11. Partnership.	326
Chapter 1. General Principles.	326
Chapter 2. Obligations and Rights of Partners Toward Each	
Other and Toward the Partnership.	328
Chapter 3. Relations of the Partnership and the Partners with	
Third Persons.	329
Chapter 4. Cessation of Membership.	330
Section 1. Causes of Cessation.	330
Section 2. Effects of Cessation of Membership and Rights	
of the Former Partner.	331
Chapter 5. Termination of a Partnership.	331
Section 1. Causes of Termination.	331

xiv CONTENTS

Section 2. Effects of Termination of Partnership and	
Rights of Former Partners.	332
Chapter 6. Dissolution, Liquidation, and Division of Assets.	333
Chapter 7. Partnership in Commendam.	333
Title 12. Loan.	336
Chapter 1. Loan for Use (Commodatum).	336
Chapter 2. Loan for Consumption (Mutuum).	338
Chapter 3. Loan on Interest.	340
Title 13. Deposit and Sequestration.	340
Chapter 1. Deposit.	340
Chapter 2. Deposit with Innkeepers.	342
Chapter 3. Conventional Sequestration.	343
Chapter 4. Judicial Sequestration.	344
Title 14. Of Aleatory Contracts.	344
Title 15. Representation and Mandate.	345
Chapter 1. Representation.	345
Chapter 2. Mandate.	346
Section 1. General Principles.	346
Section 2. Relations between the Principal and the	
Mandatary.	348
Section 3. Relations between the Principal, the Mandatary,	
and Third Persons.	350
Section 4. Termination of the Mandate and of the Authority	
of the Mandatary.	351
Title 16. Suretyship.	353
Chapter 1. Nature and Extent of Suretyship.	353
Chapter 2. Kinds of Suretyship.	354
Chapter 3. The Effects of Suretyship between the Surety and	
Creditor.	355
Chapter 4. The Effects of Suretyship between the Surety and	
Principal Obligor.	355
Chapter 5. The Effects of Suretyship among Several Sureties.	357
Chapter 6. Termination or Extinction of Suretyship.	357
Chapter 7. Legal Suretyship.	359
Title 17. Compromise.	360
Title 18. Of Respite. [Repealed.]	362
Title 19. Of Arbitration.	362
Title 20. Security.	366
Chapter 1. General Provisions.	367
Title 20-A. Pledge.	368

CONTENTS xv

Chapter 1. General Provisions.	368
Chapter 2. The Pledge of the Lessor's Rights in the Lease of an	
Immovable and Its Rents.	372
Title 21. Of Privileges.	373
Chapter 1. General Provisions.	373
Chapter 2. Of the Several Kinds of Privileges.	374
Chapter 3. Of Privileges on Movables.	374
Section 1. Of General Privileges on Movables.	374
Section 2. Of the Privileges on Particular Movables.	378
Section 3. Of the Privilege on Ships and Merchandise.	383
Chapter 4. Of Privileges on Immovables.	386
Chapter 5. Of Privileges Which Embrace Both Movables and	
Immovables.	387
Chapter 6. Of the Order in Which Privileged Creditors Are to	
Be Paid.	388
Chapter 7. How Privileges Are Preserved and Recorded.	391
Chapter 8. Of the Manner in Which Privileges Are	
Extinguished.	392
Title 22. Mortgages.	393
Chapter 1. General Provisions.	393
Chapter 2. Conventional Mortgages.	394
Chapter 3. Judicial and Legal Mortgages.	396
Chapter 4. The Effect and Rank of Mortgages.	397
Chapter 5. Third Possessors.	398
Chapter 6. Extinction of Mortgages.	399
Chapter 7. Inscription of Mortgages and Privileges.	399
Title 22-A. Of Registry.	401
Chapter 1. General Provisions.	401
Chapter 2. Mortgage Records.	405
Section 1. General Provisions.	405
Section 2. Method and Duration of Recordation.	406
Section 3. Cancellation.	408
Title 23. Occupancy and Possession.	409
Chapter 1. Occupancy.	409
Chapter 2. Possession.	410
Section 1. Notion and Kinds of Possession.	410
Section 2. Acquisition, Exercise, Retention, and	
Loss of Possession.	411
Section 3. Vices of Possession.	412
Section 4. Precarious Possession.	412

xvi CONTENTS

Section 5. Transfer, Tacking, and Proof of Possession.	413
Title 24. Prescription.	414
Chapter 1. General Principles.	414
Section 1. Prescription.	414
Section 2. Peremption.	415
Chapter 2. Interruption and Suspension of Prescription.	416
Section 1. Interruption of Prescription.	416
Section 2. Suspension of Prescription.	417
Chapter 3. Acquisitive Prescription.	418
Section 1. Immovables: Prescription of Ten Years in	
Good Faith and Under Just Title.	418
Section 2. Immovables: Prescription of Thirty Years.	420
Section 3. Movables: Acquisitive Prescription of	
Three Years or Ten Years.	420
Chapter 4. Liberative Prescription.	421
Section 1. One Year Prescription.	421
Section 1-A. Two-Year Prescription.	421
Section 2. Three Year Prescription.	421
Section 3. Five Year Prescription.	423
Section 4. Ten Year Prescription.	423
Section 5. Thirty Year Prescription.	424
Section 6. Interruption and Suspension of Liberative	
Prescription.	424
Title 25. Of the Signification of Sundry Terms of Law Employed	
in This Code.	425
Book 4. Conflict of Laws.	429
Title 1. General Provisions.	429
Title 2. Status.	430
Title 3. Marital Property.	431
Title 4. Successions.	432
Title 5. Real Rights.	433
Title 6. Conventional Obligations.	434
Title 7. Delictual and Quasi-Delictual Obligations.	435
Title 8. Liberative Prescription.	438
Index	439