

Louisiana Law of  
Obligations in General,  
A Précis

LOUISIANA CODE SERIES

---

LOUISIANA POCKET CIVIL CODE  
2022

LOUISIANA CIVIL CODE PRÉCIS SERIES

---

LOUISIANA LAW OF OBLIGATIONS IN GENERAL  
*Alain Levasseur & Nikolaos Davrados*  
5th ed. 2024

LOUISIANA LAW OF CONTRACTS AND QUASI-CONTRACTS  
*Alain Levasseur & Nikolaos Davrados*  
1st ed. 2024

LOUISIANA LAW OF PROPERTY  
*John Randall Trahan*  
2012

LOUISIANA LAW OF SALE AND LEASE  
*Alain Levasseur & David Gruning*  
3rd ed. 2015

LOUISIANA LAW OF SECURITY DEVICES  
*Michael H. Rubin*  
2nd ed. 2017

LOUISIANA LAW OF SUCCESSIONS & DONATIONS  
*Elizabeth R. Carter*  
2021

LOUISIANA LAW OF TORTS  
*Frank Maraist*  
2010

LOUISIANA LAW OF PERSONS  
Forthcoming

# Louisiana Law of Obligations in General, A Précis

FIFTH EDITION

**Alain A. Levasseur**

PROFESSOR OF LAW, EMERITUS  
PAUL M. HEBERT LAW CENTER

**Nikolaos A. Davrados**

PROFESSOR OF LAW  
PAUL M. HEBERT LAW CENTER

EDITOR

**Cindra Fox**



CAROLINA ACADEMIC PRESS

Durham, North Carolina

Copyright © 2024  
Carolina Academic Press  
All Rights Reserved

Library of Congress Cataloging-in-Publication Data

Names: Levasseur, Alain A., author. | Davrados, Nikolaos A., author.

Title: Louisiana law of obligations in general : a précis /

Alain A. Levasseur, Nikolaos A. Davrados.

Description: Fifth edition. | Durham, North Carolina : Carolina  
Academic Press, LLC, 2024. | Series: Louisiana civil code précis  
series | Includes bibliographical references and index.

Identifiers: LCCN 2023036441 | ISBN 9781531027964 (paperback) |  
ISBN 9781531027971 (ebook)

Subjects: LCSH: Obligations (Law)—Louisiana.

Classification: LCC KFL150 .L43 2023 | DDC 346.76302—dc23/  
eng/20230927

LC record available at <https://lcn.loc.gov/2023036441>

CAROLINA ACADEMIC PRESS  
700 Kent Street  
Durham, North Carolina 27701  
(919) 489-7486  
[www.cap-press.com](http://www.cap-press.com)  
Printed in the United States of America

# Contents

About the Authors	xvii
<b>Chapter One • Obligations in General</b>	
La. Civ. C. Articles 1756 to 1762	3
<b>Article 1: <i>Classification of Obligations According to     Their Sources</i></b>	6
§ 1. Sources of Obligations According to the Civil Code.	6
A. Contracts and Other Declarations of Will.	7
B. The Law.	7
C. Offenses (Delicts).	8
D. Quasi-Offenses (Quasi-Delicts).	8
E. Obligations Arising Without Agreement (Quasi-Contracts).	8
§ 2. Juridical Acts and Juridical Facts as Sources of Obligations.	9
<b>Article 2: <i>Classification of Obligations According to     Their Object or Performance</i></b>	11
§ 1. Obligations To Give, To Do, and Not to Do.	13
A. Obligation “To Give.”	13
B. Obligation “To Do.”	14
C. Obligation “Not to Do.”	16
§ 2. Obligations of Result and Obligations of Means or Diligence.	18
A. Obligation of Result.	18
B. Obligation of Means or Diligence.	19
C. Importance of the Distinction.	19

<b>Article 3: <i>Classification of Obligations According to Their Effects</i></b>	20
§ 1. Natural Obligation.	21
A. La. Civ. C. Art. 1760.	22
B. La. Civ. C. Art. 1761.	23
C. La. Civ. C. Art. 1762.	26
§ 2. Civil Obligations.	28
<b>Article 4: <i>General Effects of Civil Obligations</i></b>	29
§ 1. General Effects: La. Civ. C. Art. 1758.	29
§ 2. Good Faith: La. Civ. C. Art. 1759.	30
A. Duty of Loyalty.	31
B. Duty of Cooperation.	32
C. Conclusions.	32
<b>Chapter Two • Kinds of Obligations</b>	
La. Civ. C. Articles 1763 to 1785	33
<b>Article 1: <i>Patrimonial Obligations</i></b>	34
§ 1. Real Obligations.	37
A. Concept of Real Obligations.	37
B. Effects of Real Obligations.	38
1. Real Obligation and Existence of a Thing.	38
2. Real Obligation and Transfer of a Thing.	39
§ 2. Personal Obligations.	40
A. Heritable Obligations.	40
B. Strictly Personal Obligations.	41
<b>Article 2: <i>Modalities Affecting the Existence or the Exigibility of an Obligation</i></b>	44
§ 1. The Term.	44
A. Concept of Term.	45
1. Suspensive Term and Extinctive Term.	45
a. Suspensive Term.	46
b. Extinctive Term.	46
2. Sub-Qualifications/Classifications of the Term.	47
a. Certain and Uncertain Term.	47

b. Conventional, Legal, and Judicial Term.	48
i. Conventional Term.	48
ii. Legal Term.	49
iii. Judicial Term.	49
c. Interest Protected by the Term.	49
B. Effects of a Term.	51
1. Effects of an Extinctive Term.	51
2. Effects of a Suspensive Term.	51
a. Effects While the Term is Pending.	52
b. Effects Upon Occurrence of the Term.	57
C. Waiver and Forfeiture of the Term.	58
§2. The Condition.	59
A. Concept of Conditional Obligations.	59
1. Definitions of “Condition” and “Conditional Obligation.”	60
2. Kinds of Conditions.	61
a. Suspensive Conditions.	61
b. Resolutive Conditions.	62
c. Additional Legal Qualifications of a Condition.	63
i. Expressed or Implied.	63
ii. A Condition Cannot be Unlawful, Impossible, or Immoral.	64
iii. Casual, Potestative, and Mixed Conditions.	65
a. <i>Casual Condition.</i>	65
b. <i>Potestative Condition.</i>	66
c. <i>Mixed Condition.</i>	69
B. Effects of Conditional Obligations.	70
1. Time of Fulfillment of the Condition.	70
a. Positive Condition.	71
b. Negative Condition.	71
c. Anticipatory Fulfillment of a Condition.	72
d. Failure of the Condition.	72
2. Rights and Obligations of the Parties “ <i>Pendente Conditione.</i> ”	73
a. Legal Status of the Parties While the Suspensive Condition is Pending ( <i>Pendente Conditione.</i> ).	73

b. Legal Status of the Parties While the Resolatory Condition is Pending ( <i>Pendente Conditione</i> ).	75
3. Rights and Obligations of the Parties Upon Fulfillment of the Condition.	77
a. Principle of Retroactivity.	77
b. Retroactivity and Kinds of Conditions.	78
i. Retroactivity of the Suspensive Condition; Its Limitations.	78
ii. Retroactivity of the Resolatory Condition; Its Limitations.	80
iii. Exceptions to the Retroactivity of a Condition.	80
<b>Chapter Three • Obligations With Multiple Persons</b>	
<b>La. Civ. C. Articles 1786 to 1806</b>	<b>83</b>
<b>Article 1: <i>The Several Obligation</i></b>	<b>84</b>
§ 1. Definition and Notion.	84
§ 2. Effects of Several Obligations.	84
<b>Article 2: <i>The Joint Obligation</i></b>	<b>85</b>
§ 1. Definition and Concept.	85
§ 2. Effects of Joint Obligations.	86
A. Joint Obligees.	86
B. Joint Obligor.	87
<b>Article 3: <i>Solidary Obligations or In Solido Obligations</i></b>	<b>88</b>
§ 1. Definition and Notion.	88
§ 2. Sources of Solidarity.	89
A. The Law.	90
B. Contract.	91
§ 3. Effects of Solidarity.	92
A. Effects of Active Solidarity.	92
B. Effects of Passive Solidarity.	94
1. Vertical Effects of Passive Solidarity in the Relationship Between the Obligee and His Solidary Obligor.	94



2. Horizontal Effects of Passive Solidarity in the Relationship Between Solidary Obligors.	98
<b>Chapter Four • Obligations With Multiple Objects</b>	
<b>La. Civ. C. Articles 1807 to 1820</b>	<b>103</b>
<b>Article 1: <i>Conjunctive Obligations</i></b>	<b>104</b>
§ 1. Different Items of Performance.	104
§ 2. Identical Items of Performance.	105
<b>Article 2: <i>Alternative Obligations</i></b>	<b>106</b>
§ 1. Choice of One Item of Performance.	107
A. Choice Belongs to the Obligor.	107
B. Choice Belongs to the Obligee.	108
C. Choice to be Exercised in Good Faith.	108
D. Consequences Attached to the Choice.	108
§ 2. Non-Performance of an Alternative Obligation.	109
A. Total Impossibility of Performance ( <i>In Toto</i> ).	110
B. Impossibility of Performance in Part.	111
<b>Article 3: <i>Facultative Obligations</i></b>	<b>112</b>
§ 1. Concept of Facultative Obligation.	112
§ 2. Facultative Obligations Distinguished from Others.	114
<b>Article 4: <i>Divisible and Indivisible Obligations</i></b>	<b>116</b>
§ 1. Concepts of Divisible and Indivisible Obligations.	116
§ 2. Sources of Indivisibility.	118
A. Nature as a Source of Indivisibility.	118
1. Absolute Natural Indivisibility.	119
2. Relative Natural Indivisibility.	121
B. Conventional Indivisibility.	122
§ 3. Effects of Divisible and Indivisible Obligations.	123
A. Effects of Divisible Obligations.	124
B. Effects of Indivisible Obligations.	125
1. Effects of Active Indivisibility or Indivisibility on the Part of Obligees.	125
2. Effects of Passive Indivisibility or Indivisibility on the Part of Obligors.	126

3. Heritability: Distinguishing Feature Between Indivisibility and Solidarity.	127
a. Solidarity is Not Heritable.	127
b. Effects of a Change to an Indivisible Obligation.	128
<b>Chapter Five • Transfer of Obligations</b>	
<b>La. Civ. C. Articles 1821 to 1830</b>	<b>131</b>
<b>Article 1: Assumption of Obligations</b>	<b>132</b>
§ 1. Concept and Purposes of an Assumption of Obligations.	132
§ 2. Assumption of an Obligation by Agreement Between an Obligor and a Third Person.	133
A. Requirements for a Valid Assumption Between the Obligor and the Third Person.	133
1. The Parties and the Requirements for a Valid Assumption.	133
2. Form of the Agreement of Assumption.	135
B. Effects of an Assumption Between the Obligor and the Third Person.	136
1. Effects Between the Obligor and the Third Person (Assuming Obligor).	136
2. Effects Between the Obligor and the Obligee.	137
3. Effects Between the Obligee and the Co-Obligors (Original and Assuming Obligors).	137
§ 3. Assumption of an Obligation by Agreement Between the Obligee and a Third Person.	139
A. The Agreement of Assumption: Parties and Cause.	140
B. Assumption of Obligations, Novation, and Assignment of Credit or Rights.	142
C. The Requirement of Form.	143
D. Effects of an Agreement of Assumption Between Obligee and Assuming Obligor.	144
1. Effects of the Agreement Between Obligee and Third Party Assuming Obligor.	144
2. Effects of This Form of Agreement of Assumption in the Relationship Between the Two Obligors.	146

<b>Article 2: <i>Personal Subrogation</i></b>	147
§1. Concept of Subrogation.	147
§2. Sources of Subrogation.	149
A. Conventional Subrogation.	149
1. Conventional Subrogation by the Creditor ( <i>Ex Parte Creditoris</i> ).	150
a. Express Agreement.	150
b. Form.	150
c. Timing.	151
d. Notice.	152
2. Conventional Subrogation by the Obligor ( <i>Ex Parte Debitoris</i> ).	153
a. Express Agreement.	153
b. Form.	154
c. Notice.	154
B. Legal Subrogation or Subrogation by Operation of Law.	154
1. Subrogation by Operation of Law in Favor of a Third Person <i>Solvens</i> Who Was Herself Bound as an Obligor.	155
2. Subrogation by Operation of Law in Favor of a <i>Solvens</i> Who Was Not Bound to Perform.	156
§3. Effects of Subrogation.	157
A. Essential Effects of Subrogation.	157
1. Transfer of the Obligee/Creditor's Right of Action to the Third Person <i>Solvens</i> .	157
2. Limitations on the Extent of the Right Transferred.	158
B. Special Effects of Conventional Subrogation by the Creditor ( <i>Ex Parte Creditoris</i> ).	159
 <b>Chapter Six • Proof of Obligations</b>	
<b>La. Civ. C. Articles 1831 to 1853</b>	165
<b>Article 1: <i>The Principle of Written Proof</i></b>	166
§1. Written Proof by Authentic Act.	167
A. Notion of Authentic Act.	167
B. Effects of an Authentic Act.	168

§2. Written Proof by Act Under Private Signature.	170
A. Notion of Act Under Private Signature.	170
B. Effects of Acts Under Private Signature.	171
§3. Curability of Deficiencies.	171
A. Confirmation.	172
1. Authentic Acts.	172
2. Acts Under Private Signature.	173
B. Ratification.	174
§4. Effects of Confirmation and Ratification.	174
<b>Article 2: <i>Written Proof: Exceptions</i></b>	175
<b>Chapter Seven • Extinction of Obligations</b>	
<b>La. Civ. C. Articles 1854 to 1905</b>	177
<b>Article 1: <i>Voluntary Performance</i></b>	178
§1. Performance.	178
A. Parties to the Performance.	178
1. Who May Perform?	178
2. Who May Receive Performance?	180
B. Object of the Performance.	181
1. Principle of Indivisibility.	181
2. Exceptions to Indivisibility of Performance.	183
C. Additional Requirements Pertaining to the Performance.	183
1. Time of Performance.	183
2. Place of Performance.	184
3. Expenses of the Performance.	184
§2. Imputation of Payment.	185
A. Terminology.	185
B. Rules Governing Imputation of Payment.	185
1. Principle: Imputation by the Parties.	186
2. Suppletive Laws on Imputation of Payment.	188
§3. Tender and Deposit.	189
A. Notion and Rationale.	189

B. Forms of Tender and Deposit.	190
1. Offer to Tender and Deposit.	190
a. Requirements.	190
b. Effects.	190
2. Notice of Performance as Tender.	192
<b>Article 2: <i>Impossibility of Performance</i></b>	194
§ 1. Notion of Fortuitous Event.	194
A. Definition of Fortuitous Event.	195
B. Criteria.	196
§ 2. Effects of a Fortuitous Event.	197
A. Absolute Impossibility to Perform.	197
B. Partial Impossibility.	198
1. Partial Impossibility Before Performing.	198
2. Partial Impossibility During Performance.	199
<b>Article 3: <i>Novation/Delegation</i></b>	200
§ 1. Definition and Concept.	200
§ 2. Conditions and Types of Novation.	201
A. Conditions.	201
1. Succession of Two Obligations.	201
2. Intent to Novate ( <i>Animus Novandi</i> ).	204
B. Forms of Novation.	205
1. Novation Resulting from a Change in an Essential Element of an Existing Obligation.	205
a. Objective Novation.	205
b. Subjective Novation.	206
i. Novation of obligors.	206
ii. Novation of obligees.	208
2. Novation of an Obligation by Substitution of a Modality.	209
§ 3. Effects of Novation.	210
A. Extinction of an Obligation.	210
B. Creation of a New Obligation.	211

§ 4. Delegation.	212
A. Notion of Delegation.	212
B. Effects of Delegation.	213
1. In the Relationship Between the Obligee and the Delegated Obligor.	213
2. In the Relationship Between the Obligee and the Original Obligor.	214
<b>Article 4: <i>Remission of Debt</i></b>	215
§ 1. Definition and Concepts.	215
A. Definition.	215
B. Concepts of Remission.	216
1. Remission of Debt as a Gratuitous Juridical Act.	216
2. Remission of Debt as an Onerous Juridical Act.	217
§ 2. Proof of Remission of Debt.	217
§ 3. Effects of Remission of Debt.	218
A. Discharge of a Single Obligor.	218
B. Remission of Debt and Multiple Obligors.	219
C. Remission of Debt and Sureties.	220
<b>Article 5: <i>Compensation</i></b>	221
§ 1. Compensation by Operation of Law.	222
A. Concept and Conditions.	222
1. Reciprocity of Obligations.	223
2. Fungibility of Objects.	224
3. Liquidated and Presently Due.	225
B. Obstacles and Exceptions to Compensation by Operation of Law.	226
1. Obstacles.	226
2. Exceptions.	227
C. Effects of Compensation by Operation of Law.	228
1. Occurrence by Operation of Law.	228
2. Compensation by Operation of Law Must be Demanded.	228
3. Compensation by Operation of Law may be Renounced.	229

§2. Conventional Compensation.	231
§3. Compensation by Judicial Declaration.	231
<b>Article 6: <i>Confusion</i></b>	232
§1. Concept of Confusion.	232
§2. Effects of Confusion.	233
<b>Appendix • Louisiana Civil Code</b>	<b>235</b>
<b>Appendix • Louisiana Code of Civil Procedure</b>	<b>299</b>
<b>Appendix • Illustrative Cases</b>	<b>303</b>
<b>Index</b>	<b>309</b>





## About the Authors

PROFESSOR ALAIN LEVASSEUR is a graduate of the Universities of Paris (France) and Tulane. He was an associate with the Paris firm of Mudge, Rose, Guthrie & Alexander for a while, but left the firm to become a technical assistant at the World Bank in Washington, D.C. Professor Levasseur taught at Tulane Law School from 1970–1977, when he joined the LSU Law faculty. He is a member of the International Academy of Comparative Law, the Société de Législation Comparée, and the Louisiana State Law Institute; he serves on the editorial or advisory boards of the American Journal of Comparative Law, the *Revue Internationale de Droit Comparé*, the *Revue Trimestrielle de Droit Civil*, the *Revue Générale de Droit*, the *Foro de Derecho Mercantil*, and *e-Continental*; he was president of the Louisiana Chapter of the Association Henri Capitant and of the International Association of Legal Methodology. He has published extensively in the fields of Comparative Law, Civil Law (Civil Law System/Tradition, Obligations, Contracts, Sale and Lease, etc.), EU/EC Law, and U.S. Law (in French with Dalloz). He has been a regular visiting professor at the Universities of Aix-Paul Cézanne and Lyon III. He has taught for several years in the Paris summer program of the Fondation pour le Droit Continental. He has been honored with three Doctorats Honoris Causa, one from the University of Aix-Marseille Paul Cézanne (1999), another from the University of Paris-Panthéon Assas (2010), and a third Doctorat Honoris Causa from the University of Bucharest in Romania (2019).

PROFESSOR NIKOLAOS DAVRADOS holds law degrees from the Universities of Oxford (England) and Athens (Greece). After completing his postdoctoral research at the University of Texas School of Law, he practiced in international business transactions and arbitration and served

as a legal advisor to the Council of the European Union. Professor Davrados teaches and writes in the areas of civil law, conflict of laws, comparative law, and international business transactions. Prior to joining the LSU Law faculty, he taught at Loyola University New Orleans College of Law, University of Athens School of Law, and University of Nicosia (Cyprus) School of Law, where he is a visiting professor. Professor Davrados contributes to the Louisiana State Law Institute by serving on the council and several committees. He is a regular presenter at international conferences organized by the International Academy of Comparative Law and the Academy of European Law.