Québec

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CIVIL CODE OF QUÉBEC

PRELIMINARY PROVISION

The Civil Code of Québec, in harmony with the Charter of the French language (chapter C-11), the Charter of human rights and freedoms (chapter C-12) and the general principles of law, governs persons, relations between persons, and property.

The Civil Code comprises a body of rules which, in all matters within the letter, spirit or object of its provisions, lays down the *jus commune*, expressly or by implication. In these matters, the Code is the foundation of all other laws, although other laws may complement the Code or make exceptions to it.

1991, c. 64, pream.; 2022, c. 14, s. 123.

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FINAL PROVISIONS

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BOOK ONE

PERSONS

TITLE ONE

ENJOYMENT AND EXERCISE OF CIVIL RIGHTS

1. Every human being possesses juridical personality and has the full enjoyment of civil rights.

1991, c. 64, a. 1.

2. Every person is the holder of a patrimony.

It may be the subject of a division or of an appropriation to a purpose, but only to the extent provided by law.

1991, c. 64, a. 2; I.N. 2014-05-01.

3. Every person is the holder of personality rights, such as the right to life, the right to the inviolability and integrity of his person, and the right to the respect of his name, reputation and privacy.

These rights are inalienable.

1991, c. 64, a. 3.

4. Every person is fully able to exercise his civil rights.

In certain cases, the law provides for representation.

1991, c. 64, a. 4; 2020, c. 11, s. 1.

5. Every person exercises his civil rights under the surname and usual given name assigned to him and stated in his act of birth.

1991, c. 64, a. 5; 2022, c. 22, s. 1.

6. Every person is bound to exercise his civil rights in accordance with the requirements of good faith.

1991, c. 64, a. 6; 2016, c. 4, s. 2.

7. No right may be exercised with the intent of injuring another or in an excessive and unreasonable manner, and therefore contrary to the requirements of good faith.

1991, c. 64, a. 7; I.N. 2014-05-01.

8. A person may only renounce the exercise of his civil rights to the extent consistent with public order.

1991, c. 64, a. 8; I.N. 2014-05-01.

9. In the exercise of civil rights, derogations may be made from those rules of this Code which supplement intention, but not from those of public order.

1991, c. 64, a. 9.

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TITLE TWO

CERTAIN PERSONALITY RIGHTS

CHAPTER I

INTEGRITY OF THE PERSON

10. Every person is inviolable and is entitled to the integrity of his person.

Except in cases provided for by law, no one may interfere with his person without his free and enlightened consent.

1991, c. 64, a. 10.

DIVISION I

CARE

11. No one may be made to undergo care of any nature, whether for examination, specimen taking, removal of tissue, treatment or any other act, except with his consent. Except as otherwise provided by law, the consent is subject to no other formal requirement and may be withdrawn at any time, even verbally.

If the person concerned is incapable of giving or refusing his consent to care and has not drawn up advance medical directives under the Act respecting end-of-life care (chapter S-32.0001) by which he expresses such consent or refusal, a person authorized by law or by a protection mandate may do so in his place.

1991, c. 64, a. 11; I.N. 2015-11-01; 2014, c. 2, s. 65; I.N. 2016-01-01 (NCCP).

12. A person who gives his consent to or refuses care for another person is bound to act in the sole interest of that person, complying, as far as possible, with any wishes the latter may have expressed.

If he gives his consent, he shall ensure that the care is beneficial notwithstanding the gravity and permanence of certain of its effects, that it is advisable in the circumstances and that the risks incurred are not disproportionate to the anticipated benefit.

1991, c. 64, a. 12; 2014, c. 2, s. 66.

13. Consent to medical care is not required in case of emergency if the life of the person is in danger or his integrity is threatened and his consent cannot be obtained in due time.

It is required, however, where the care is unusual or has become useless or where its consequences could be intolerable for the person.

1991, c. 64, a. 13.

14. Consent to care required by the state of health of a minor is given by the person having parental authority or by his tutor.

A minor 14 years of age or over, however, may give his consent alone to such care. If his state requires that he remains in a health or social services establishment for over 12 hours, the person having parental authority or tutor shall be informed of that fact.

1991, c. 64, a. 14.

15. Where it is ascertained that a person of full age is incapable of giving consent to care required by his or her state of health and in the absence of advance medical directives, consent is given by his or her mandatary

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or tutor. If the person of full age is not so represented, consent is given by his or her married, civil union or *de facto* spouse or, if the person has no spouse or his or her spouse is prevented from giving consent, it is given by a close relative or a person who shows a special interest in the person of full age.

1991, c. 64, a. 15; 2002, c. 6, s. 1; 2014, c. 2, s. 67; 2020, c.11, s. 254.

16. The authorization of the court is necessary where the person who may give consent to care required by the state of health of a minor or a person of full age who is incapable of giving his consent is prevented from doing so or, without justification, refuses to do so; it is also necessary where a person of full age who is incapable of giving his consent categorically refuses to receive care, except in the case of hygienic care or emergency.

The authorization of the court is necessary, furthermore, to submit a minor 14 years of age or over to care which he refuses, except in the case of emergency if his life is in danger or his integrity threatened, in which case the consent of the person having parental authority or the tutor is sufficient.

1991, c. 64, a. 16; I.N. 2014-05-01.

17. A minor 14 years of age or over may give his consent alone to care not required by the state of his health; however, the consent of the person having parental authority or of the tutor is required if the care entails a serious risk for the health of the minor and may cause him grave and permanent effects.

1991, c. 64, a. 17.

18. Where the person is under 14 years of age or is incapable of giving his consent, consent to care not required by his state of health is given by the person having parental authority or the mandatary or tutor; the authorization of the court is also necessary if the care entails a serious risk to health or if it may cause grave and permanent effects.

1991, c. 64, a. 18; I.N. 2014-05-01; 2020, c. 11, s. 254.

19. A person of full age who is capable of giving his consent may alienate a part of his body *inter vivos*, provided the risk incurred is not disproportionate to the benefit that may reasonably be anticipated.

A minor or a person of full age who is incapable of giving his consent may, with the consent of the person having parental authority, mandatary or tutor and with the authorization of the court, alienate a part of his body only if that part is capable of regeneration and provided that no serious risk to his health results.

1991, c. 64, a. 19; 2020, c. 11, s. 254.

20. A person of full age who is capable of giving his consent may participate in research that could interfere with the integrity of his person provided that the risk incurred is not disproportionate to the benefit that can reasonably be anticipated. The research project must be approved and monitored by a research ethics committee.

1991, c. 64, a. 20; 2013, c. 17, s. 1.

21. A minor or a person of full age who is incapable of giving consent may participate in research that could interfere with the integrity of his person only if the risk incurred, taking into account his state of health and personal condition, is not disproportionate to the benefit that may reasonably be anticipated.

Moreover, a minor or a person of full age incapable of giving consent may participate in such research only if, where he is the only subject of the research, it has the potential to produce benefit to his health or only if, in the case of research on a group, it has the potential to produce results capable of conferring benefit to other persons in the same age category or having the same disease or handicap.

In all cases, a minor or a person of full age incapable of giving consent may not participate in such research where he understands the nature and consequences of the research and objects to participating in it.

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The research project must be approved and monitored by a competent research ethics committee. Such a committee is formed by the Minister of Health and Social Services or designated by that Minister from among existing research ethics committees; the composition and operating conditions of such a committee are determined by the Minister and published in the *Gazette officielle du Québec*.

Consent to research that could interfere with the integrity of a minor may be given by the person having parental authority or the tutor. A minor 14 years of age or over, however, may give consent alone if, in the opinion of the competent research ethics committee, the research involves only minimal risk and the circumstances justify it.

Consent to research that could interfere with the integrity of a person of full age incapable of giving consent may be given by the mandatary or tutor. However, where such a person of full age is not so represented and the research involves only minimal risk, consent may be given by the person qualified to consent to any care required by the state of health of the person of full age. Consent may also be given by such a qualified person where a person of full age suddenly becomes incapable of giving consent and the research, insofar as it must be undertaken promptly after the appearance of the condition giving rise to it, does not permit, for lack of time, the designation of a legal representative for the person of full age. In both cases, it is incumbent upon the competent research ethics committee to determine, when evaluating the research project, whether it meets the prescribed requirements.

1991, c. 64, a. 21; 1992, c. 57, s. 716; 1998, c. 32, s. 1; 2013, c. 17, s. 2; 2020, c. 11, s. 254.

22. A part of the body, whether an organ, tissue or other substance, removed from a person as part of the care he receives may, with his consent or that of the person qualified to give consent on his behalf, be used for purposes of research or, if he has died, be so used with the consent of the person who could give or could have given consent to any care required by his state of health.

1991, c. 64, a. 22; 2013, c. 17, s. 3; I.N. 2014-05-01.

23. When the court is called upon to rule on an application for authorization with respect to care or the alienation of a part of a person's body, it obtains the opinions of experts, of the person having parental authority, of the mandatary or of the tutor and of the tutorship council; it may also obtain the opinion of any person who shows a special interest in the person concerned by the application.

The court is also bound to obtain the opinion of the person concerned unless that is impossible, and to respect his refusal unless the care is required by his state of health.

1991, c. 64, a. 23; 1998, c. 32, s. 2; I.N. 2014-05-01; 2020, c. 11, s. 254.

24. Consent to care not required by a person's state of health, to the alienation of a part of a person's body, or to research that could interfere with the integrity of his person shall be given in writing.

However, consent to such research may be given otherwise than in writing if justified in the circumstances in the opinion of a research ethics committee. In such a case, the committee determines the proper manner, for evidential purposes, of obtaining consent.

It may be withdrawn at any time, even verbally.

1991, c. 64, a. 24; 2013, c. 17, s. 4.

25. The alienation by a person of a part or product of his body shall be gratuitous; it may not be repeated if it involves a risk to his health.

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A person's participation in research that could interfere with the integrity of his person may not give rise to any financial reward other than the payment of an indemnity as compensation for the loss and inconvenience suffered.

1991, c. 64, a. 25; 2013, c. 17, s. 5.

DIVISION II

CONFINEMENT IN AN INSTITUTION AND PSYCHIATRIC ASSESSMENT

1997, c. 75, s. 28.

26. No one may be confined in a health or social services institution for a psychiatric assessment or following a psychiatric assessment concluding that confinement is necessary, without the person's consent or without authorization by law or the court.

Consent may be given by the person having parental authority or, in the case of a person of full age unable to express his wishes, by his mandatary or tutor. Such consent may be given by the representative only if the person concerned does not object.

1991, c. 64, a. 26; 1997, c. 75, s. 29; I.N. 2014-05-01; I.N. 2015-11-01; 2020, c. 11, s. 254.

27. Where the court has serious reasons to believe that a person is a danger to himself or to others owing to his mental state, it may, on the application of a physician or an interested person and notwithstanding the absence of consent, order that he be confined temporarily in a health or social services institution for a psychiatric assessment. The court may also, where appropriate, authorize any other medical examination that is necessary in the circumstances. The application, if refused, may not be submitted again except where different facts are alleged.

If the danger is grave and immediate, the person may be placed under preventive confinement, without the authorization of the court, as provided for in the Act respecting the protection of persons whose mental state presents a danger to themselves or to others (chapter P-38.001).

1991, c. 64, a. 27; 1997, c. 75, s. 30.

28. Where the court orders that a person be placed under confinement for a psychiatric assessment, an examination must be carried out within 24 hours after the person is taken in charge by the institution or, if the person was already under preventive confinement, within 24 hours of the court order.

If the physician who carries out the examination concludes that confinement in an institution is necessary, a second psychiatric examination must be carried out by another physician, at the latest within 96 hours after the person is taken in charge by the institution or, if the person was already under preventive confinement, within 48 hours of the court order.

As soon as a physician reaches the conclusion that confinement is not necessary, the person must be released. If both physicians reach the conclusion that confinement is necessary, the person may be kept under confinement without his consent or the authorization of the court for no longer than 48 hours.

1991, c. 64, a. 28; 1997, c. 75, s. 31; 2016, c. 4, s. 3.

29. A psychiatric examination report must deal in particular with the necessity of confining the person in an institution if he is a danger to himself or to others owing to his mental state, with the ability of the person who has undergone the examination to care for himself or to administer his property and, where applicable, with the advisability of instituting tutorship to a person of full age, or obtaining homologation of a protection mandate, for him.

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The report must be filed with the court within seven days of the court order. It may not be disclosed, except to the parties, without the authorization of the court.

1991, c. 64, a. 29; 1997, c. 75, s. 32; 2020, c. 11, s. 2.

30. Confinement in an institution following a psychiatric assessment may only be authorized by the court if both psychiatric reports conclude that confinement is necessary.

Even if that is the case, the court may not authorize confinement unless the court itself has serious reasons to believe that the person is dangerous and that the person's confinement is necessary, whatever evidence may be otherwise presented to the court and even in the absence of any contrary medical opinion.

1991, c. 64, a. 30; 1997, c. 75, s. 33; 2002, c. 19, s. 1.

30.1. A judgment authorizing confinement must also set the duration of confinement.

However, the person under confinement must be released as soon as confinement is no longer justified, even if the set period of confinement has not elapsed.

Any confinement required beyond the duration set by the judgment must be authorized by the court, in accordance with the provisions of article 30.

2002, c. 19, s. 1.

31. Every person confined in and receiving care in a health or social services establishment shall be informed by the establishment of the program of care established for him and of any important change in the program or in his living conditions.

If the person is under 14 years of age or is incapable of giving his consent, the information is given to the person who is qualified to give consent to care on his behalf.

1991, c. 64, a. 31; I.N. 2014-05-01.

CHAPTER II

RESPECT OF CHILDREN'S RIGHTS

32. Every child has a right to the protection, security and attention that his parents or the persons acting in their stead are able to give to him.

1991, c. 64, a. 32.

33. Every decision concerning a child shall be taken in light of the child's interests and the respect of his rights.

Consideration is given, in addition to the moral, intellectual, emotional and physical needs of the child, to the child's age, health, personality and family environment, including the presence of family violence, which includes spousal violence, or sexual violence, and to the other aspects of his situation.

1991, c. 64, a. 33; 2002, c. 19, s. 15; 2022, c. 22, s. 2; 2023, c. 13, s. 1.

34. The court shall, in every application brought before it affecting the interest of a child, give the child an opportunity to be heard if his age and power of discernment permit it.

1991, c. 64, a. 34.

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34.1. For a child to be considered as conceived but not yet born for the purposes of the law, the mother or the person who is to give birth must be pregnant with the child.

2022, c. 22, s. 3.

CHAPTER III

RESPECT OF REPUTATION AND PRIVACY

35. Every person has a right to the respect of his reputation and privacy.

The privacy of a person may not be invaded without the consent of the person or without the invasion being authorized by law.

1991, c. 64, a. 35; 2002, c. 19, s. 2; 2016, c. 4, s. 4.

36. The following acts, in particular, may be considered as invasions of the privacy of a person:

(1) entering or taking anything in his dwelling;

(2) intentionally intercepting or using his private communications;

(3) appropriating or using his image or voice while he is in private premises;

(4) keeping his private life under observation by any means;

(5) using his name, image, likeness or voice for a purpose other than the legitimate information of the public;

(6) using his correspondence, manuscripts or other personal documents.

1991, c. 64, a. 36.

37. Every person who establishes a file on another person shall have a serious and legitimate reason for doing so. He may gather only information which is relevant to the stated objective of the file, and may not, without the consent of the person concerned or authorization by law, communicate such information to third persons or use it for purposes that are inconsistent with the purposes for which the file was established. In addition, he may not, when establishing or using the file, otherwise invade the privacy or injure the reputation of the person concerned.

1991, c. 64, a. 37; I.N. 2014-05-01.

38. Except as otherwise provided by law, any person may, free of charge, examine and cause the rectification of a file kept on him by another person with a view to making a decision in his regard or to informing a third person; he may also cause a copy of it to be made for a reasonable cost. The information contained in the file shall be made accessible in an intelligible transcript.

1991, c. 64, a. 38; 2016, c. 4, s. 5.

39. A person keeping a file on a person may not deny him access to the information contained therein unless he has a serious and legitimate reason for doing so or unless the information may seriously injure a third person.

1991, c. 64, a. 39; I.N. 2014-05-01.

40. Every person may cause information which is contained in a file concerning him and which is inaccurate, incomplete or equivocal to be rectified; he may also cause obsolete information or information not justified by the purpose of the file to be deleted, or deposit his written comments in the file.

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Notice of the rectification is given without delay to every person having received the information in the preceding six months and, where applicable, to the person who provided that information. The same rule applies to an application for rectification, if it is contested.

1991, c. 64, a. 40.

41. Where the law does not provide the conditions for and manner of exercising the right of examination or rectification of a file, the court, upon application, determines them.

Similarly, if a difficulty arises in the exercise of those rights, the court settles it, upon application.

1991, c. 64, a. 41; I.N. 2014-05-01; I.N. 2015-11-01.

CHAPTER IV

RESPECT OF THE BODY AFTER DEATH

42. A person of full age may determine the nature of his funeral and the disposal of his body; a minor may also do so with the written consent of the person having parental authority or his tutor. In the absence of wishes expressed by the deceased, the wishes of the heirs or successors prevail. In both cases, the heirs or successors are bound to act; the expenses are charged to the succession.

1991, c. 64, a. 42; I.N. 2014-05-01; 2016, c. 4, s. 6.

43. A person of full age or a minor 14 years of age or over may, for medical or scientific purposes, give his body or authorize the removal of organs or tissues therefrom. A minor under 14 years of age may also do so with the consent of the person having parental authority or of his tutor.

These wishes are expressed verbally before two witnesses, or in writing, and may be revoked in the same manner. The wishes expressed shall be followed, unless there is a compelling reason not to do so.

1991, c. 64, a. 43; I.N. 2014-05-01.

44. A part of the body of a deceased person may be removed, if the wishes of the deceased are not known or cannot be presumed, with the consent of the person who was or would have been qualified to give consent to care.

Consent is not required where two physicians attest in writing to the impossibility of obtaining it in due time, the urgency of the operation and the serious hope of saving a human life or of improving its quality to an appreciable degree.

1991, c. 64, a. 44; I.N. 2014-05-01.

45. No part of the body may be removed before the death of the donor is attested by two physicians who do not participate either in the removal or in the transplantation.

1991, c. 64, a. 45.

46. An autopsy may be performed in the cases provided for by law or if the deceased had already given his consent thereto; it may also be performed with the consent of the person who was or would have been qualified to consent to care. The person requesting the autopsy or having given his consent thereto has a right to receive a copy of the report.

1991, c. 64, a. 46; I.N. 2014-05-01.

47. The court may, if circumstances justify it, order the performance of an autopsy on the deceased at the request of a physician or any interested person; in the latter case, it may restrict the release of parts of the autopsy report.

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The coroner may also order the performance of an autopsy on the deceased in the cases provided for by law.

1991, c. 64, a. 47.

48. No one may embalm, bury or cremate a body before an attestation of death has been drawn up and six hours have elapsed since that was done.

1991, c. 64, a. 48; I.N. 2015-11-01.

49. Subject to compliance with the requirements of the law, it is permissible to disinter a body on the order of a court, on the change of destination of its burial place or in order to bury it elsewhere or to repair the tomb.

Disinterment is also permissible on the order of a coroner in accordance with the law.

1991, c. 64, a. 49; I.N. 2014-05-01.

TITLE THREE

CERTAIN PARTICULARS RELATING TO THE STATUS OF PERSONS

CHAPTER I

NAME AND DESIGNATION OF SEX

1991, c. 64, c. I; 2022, c. 22, s. 4.

DIVISION I

NAME

1991, c. 64, Div. I; 2022, c. 22, s. 4.

§ 1. — *Assignment of name*

2022, c. 22, s. 4.

50. Every person has a name which is assigned to him at birth and is stated in his act of birth.

The name is comprised of the surname and the given names, including the usual given name. That given name is the one commonly used by a person to identify himself and under which his civil rights are exercised.

1991, c. 64, a. 50; 2022, c. 22, s. 5.

51. A child is given, as his father and mother or his parents choose, one to four given names composed of not more than two parts and a surname composed of not more than two parts taken from those which compose his parents' surnames. If the child is given more than one given name, the parents choose his usual given name from among those given names.

1991, c. 64, a. 51; 1999, c. 47, s. 1; I.N. 2014-05-01; 2022, c. 22, s. 293; 2022, c. 22, s. 6.

52. In case of disagreement over the choice of a surname, the registrar of civil status assigns to the child a surname consisting of two parts, one part being taken from the surname of his father or of one of the parents and the other from that of his mother or of the other parent, according to their respective choice.

If the disagreement is over the choice of a given name or names, the registrar assigns to the child, as the case may be, two or four given names chosen respectively by the father and mother or by the parents. If the

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disagreement is over the choice of the usual given name, the registrar assigns to the child such a given name from among the given names received.

1991, c. 64, a. 52; I.N. 2014-05-01; 2022, c. 22, s. 7.

53. A child whose filiation is established with regard to only his father or his mother or one of his parents bears the surname of his father, mother or parent, as the case may be, and one to four given names chosen by his father, mother or parent, including the usual given name.

A child whose filiation is not established bears the name assigned to him by the registrar of civil status.

1991, c. 64, a. 53; 2022, c. 22, s. 294; 2022, c. 22, s. 8.

54. Where the name chosen by the father and mother or by the parents contains an odd compound surname or odd given names which clearly invite ridicule or may discredit the child, the registrar of civil status may suggest to the parents that they change the child's name.

If they refuse to do so, the registrar nevertheless draws up the act of birth and notifies the Attorney General of Québec. The Attorney General may bring the matter before the court within 90 days of the registration of the act to request that the surname of one of the parents be substituted for the surname chosen by the parents or that two given names in common use, including one designated as the usual given name, be substituted for the given names chosen by the parents.

Until the time for bringing the matter before the court expires or, if proceedings are brought, until the judgment becomes final, the registrar of civil status makes a notation of the notice given to the Attorney General on every copy, certificate and attestation issued on the basis of the act of birth.

1991, c. 64, a. 54; 1999, c. 47, s. 2; 2016, c. 4, s. 7; 2022, c. 22, s. 9.

§ 2. — *Use of name*

1991, c. 64, Div. II; 2022, c. 22, s. 10.

55. Every person has a right to the respect of his name.

1991, c. 64, a. 55; 2022, c. 22, s. 11.

56. A person who uses a name other than his or her own is liable for any resulting confusion or injury.

The holder of a name as well as his or her spouse or close relatives may object to such use and demand redress for the injury caused.

1991, c. 64, a. 56; 2002, c. 6, s. 2; I.N. 2014-05-01; 2022, c. 22, s. 12.

§ 3. — *Substitution of the usual given name*

2022, c. 22, s. 13.

56.1. Another given name stated in the act of birth may be substituted for the usual given name on mere notice in writing presented to the registrar of civil status. A person who has been domiciled in Québec for at least one year may be the subject of such a notice. A child under one year of age, born and domiciled in Québec, is considered to have been domiciled in Québec for at least one year.

However, the rules governing a change of name apply to any subsequent substitution, with the necessary modifications.

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The content of the notice, the information and documents that must accompany the notice as well as the duties payable by the person presenting the notice are determined by government regulation.

2022, c. 22, s. 13.

56.2. A notice of substitution of the usual given name of a minor child may be presented by his tutor or by the minor alone if he is 14 years of age or over.

Except for a compelling reason, the usual given name of a minor child is not substituted if, as the case may be, the father and mother or the parents of the minor child as legal tutors, the tutor, if any, or the minor 14 years of age or over, have not been notified of the notice or if one of them objects to the substitution.

A person who wishes to present such a notice may, if an objection is made, as the case may be, by the father and mother or the parents as legal tutors, by the tutor, if any, or by the minor 14 years of age or over, submit an application to the court before the notice is presented to the registrar of civil status.

2022, c. 22, s. 13.

56.3. A substitution of the usual given name produces its effects from the 15th day after the publication of the notice of substitution of the usual given name in accordance with the rules determined by government regulation.

However, the substitution produces its effects from the day of the alteration of the register of civil status in the following situations where publication is not required:

(1) a special exemption from publication has been granted by the Minister of Justice for reasons of general interest;

(2) it is clear that the change requested relates to a modification of the person's gender identity; or

(3) the change requested concerns a child under 6 months of age.

2022, c. 22, s. 13.

56.4. A substitution of the usual given name has, with the necessary modifications, the same effects as those resulting from a change of name provided for in articles 68 to 70.

2022, c. 22, s. 13.

§ 4. — *Change of name*

1991, c. 64, Div. III; 2022, c. 22, s. 14.

I. — *General provision*

1991, c. 64, Sd. 1; 2022, c. 22, s. 14.

57. No change may be made to a person's name, whether to his surname or given name, without the authorization of the registrar of civil status or the court, in accordance with the provisions of this section.

1991, c. 64, a. 57; I.N. 2014-05-01.

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II. — *Change of name by way of administrative process*

1991, c. 64, Sd. 2; 2022, c. 22, s. 15.

58. The registrar of civil status has the authority to authorize a change of name for a serious reason in every case that does not come under the jurisdiction of the court, and in particular where the name generally used does not correspond to that appearing in the act of birth, where the name is of foreign origin or too difficult to pronounce or write in its original form or where the name invites ridicule or has become infamous.

The registrar also has such authority where a person applies for the addition to the surname of a part taken from the surname of the father or mother or of one of the parents, as declared in the act of birth.

1991, c. 64, a. 58; I.N. 2014-05-01; 2022, c. 22, s. 16.

59. A person who has been domiciled in Québec for at least one year may be the subject of an application for a change of name.

A child under one year of age, born and domiciled in Québec, is considered to have been domiciled in Québec for at least one year.

1991, c. 64, a. 59; I.N. 2014-05-01; 2016, c. 4, s. 8; 2016, c. 19, s. 1; 2022, c. 22, s. 17.

60. An application for a change of name for a minor child may be made by the child's tutor or by the minor child alone if the child is 14 years of age or over.

An application for a change of the surname of the father or mother or of one of the parents as declared in the act of birth of a minor child is also valid for the minor child if the child bears the same surname or part of that surname.

1991, c. 64, a. 60; 2016, c. 19, s. 2; 2022, c. 22, s. 18.

61. A person applying for a change of name states the reasons for the application and gives the names of the father and mother or of the parents of the person who is the subject of the application and, if applicable, the name of that person's married or civil union spouse and children and, where applicable, the name of the children's other parent.

The person attests under oath that the reasons stated and the information given are true, and appends all the necessary documents to the application.

1991, c. 64, a. 61; 2002, c. 6, s. 3; 2016, c. 19, s. 3; 2022, c. 22, s. 19.

62. Except for a compelling reason, no change of name of a minor child may be granted if, as the case may be, the father and mother or the parents of the minor child as legal tutors, the tutor, if any, or the minor, if 14 years of age or over, have not been notified of the application or if any of those persons object to it.

The same applies in the case of an application for the addition to the surname of the minor of a part taken from the surname of the father or mother or of one of the parents, except with respect to the right to object reserved to the tutor of a minor under 14 years of age or to the minor 14 years of age or over.

1991, c. 64, a. 62; 2016, c. 19, s. 4; 2022, c. 22, s. 20.

63. Before authorizing a change of name, the registrar of civil status shall ascertain that notices of the application have been published, except where

(1) a special exemption from publication has been granted by the Minister of Justice for reasons of general interest;

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(2) in the case of an application concerning a given name, it is clear that the change requested relates to a modification of the person's gender identity; or

(3) the change requested concerns a child under 6 months of age.

In addition, the registrar may require the applicant to furnish any necessary additional explanation and information and shall give third persons who so request the opportunity to state their views.

1991, c. 64, a. 63; 1996, c. 21, s. 27; 2007, c. 32, s. 8; 2013, c. 27, s. 1; 2016, c. 19, s. 5.

64. The other rules that apply to the procedure for a change of name and to the publication of the application, and the duties payable by the person making the application as well as the persons or categories of persons who may be exempt from paying those duties, are determined by regulation of the Government.

1991, c. 64, a. 64; I.N. 2014-05-01; 2016, c. 12, s. 1; 2022, c. 22, s. 21.

III. — *Change of name by way of judicial process*

1991, c. 64, Sd. 3; 2022, c. 22, s. 22.

65. The court has exclusive jurisdiction to authorize the change of the name of a child in the case of a change of filiation, of abandonment by the father or mother or by one of the parents or both of them, or of deprivation of parental authority.

1991, c. 64, a. 65; 2022, c. 22, s. 23.

66. A minor 14 years of age or over acting alone may present an application for a change of name, but he shall in such a case give notice of the application to the person having parental authority and to the tutor.

The minor acting alone may also object to an application.

1991, c. 64, a. 66.

66.1. A person who wishes to file an application for a change of name for a minor child by way of administrative process may, if an objection is made, as the case may be, by the father or the mother or by one of the parents or both of them as legal tutors, by the tutor, if any, or by the minor 14 years of age or over, submit the application to the court before it is filed with the registrar of civil status.

2016, c. 19, s. 6; 2022, c. 22, s. 24.

IV. — *Effects of a change of name*

1991, c. 64, Sd. 4; 2022, c. 22, s. 25.

67. A change of name produces its effects from the time the judgment authorizing it becomes final or from the time that the decision of the registrar of civil status is no longer open to review.

Notice of the decision of the registrar of civil status or of the judicial decision rendered in review of the decision of the registrar is published in accordance with the rules determined by government regulation, except where

(1) a special exemption from publication has been granted by the Minister of Justice for reasons of general interest;

(2) in the case of an application concerning a given name, it is clear that the change requested relates to a modification of the person's gender identity; or

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(3) the change requested concerns a child under 6 months of age.

1991, c. 64, a. 67; 1996, c. 21, s. 27; 2007, c. 32, s. 9; 2013, c. 27, s. 2; 2016, c. 4, s. 9; 2016, c. 19, s. 7; 2016, c. 12, s. 2.

68. A change of name in no way alters the rights and obligations of a person.

1991, c. 64, a. 68; I.N. 2014-05-01.

69. All documents made under the former name of a person are deemed to be made under his new name.

The person or any interested third person may, at his expense and upon furnishing proof of the change of name, demand that the documents be rectified to indicate the new name.

1991, c. 64, a. 69; I.N. 2014-05-01.

70. Any proceedings to which a person who has changed his name is a party are continued under his new name, without continuance of suit.

1991, c. 64, a. 70.

DIVISION II

DESIGNATION OF SEX

2022, c. 22, s. 26.

§ 1. — *General provision*

2022, c. 22, s. 26.

70.1. The designation of sex appearing in a person's act of birth and act of death designates the person's sex attested at birth or the person's gender identity if the gender identity does not correspond to the sex attested at birth.

The designation of sex is represented by letter symbols that refer to the identifiers "male", "female" and "non-binary". A government regulation determines the letter symbols to be used.

2022, c. 22, s. 26.

§ 2. — *Change of designation of sex*

1991, c. 64, Div. IV; 2022, c. 22, s. 27.

71. Every person whose gender identity does not correspond to the designation of sex that appears in that person's act of birth may, if the conditions prescribed by this Code and by government regulation have been met, have that designation and, if necessary, the person's given names changed.

These changes may in no case be made dependent on the requirement to have undergone any medical treatment or surgical operation whatsoever.

Subject to article 3084.1, only a person who has been domiciled in Québec for at least one year may obtain such changes.

A child under one year of age, born and domiciled in Québec, is considered to have been domiciled in Québec for at least one year.

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The conditions prescribed by government regulation that must be met to obtain such changes may vary, in particular according to the age of the person who is the subject of the application.

1991, c. 64, a. 71; 2004, c. 23, s. 1; I.N. 2014-05-01; 2013, c. 27, s. 3; 2016, c. 19, s. 8; 2022, c. 22, s. 28.

71.1. An application for a change of designation of sex for a minor child may be made by the minor alone if the minor is 14 years of age or over or by the minor's tutor with the minor's consent. If the minor is under 14 years of age, the application must be made by the minor's tutor.

In the latter case, the change of designation of sex is not granted, except for a compelling reason, if the other tutor has not been notified of the application or objects to it.

2016, c. 19, s. 9.

72. The application is made to the registrar of civil status; the documents prescribed by government regulation must also be provided.

1991, c. 64, a. 72; 2013, c. 27, s. 4.

73. The application is subject to the same procedure as an application for a change of name, except as to publication requirements, and to payment of the same duties. A change of designation of sex has, with the necessary modifications, the same effects as a change of name.

1991, c. 64, a. 73; 2004, c. 23, s. 2; 2013, c. 27, s. 5; 2016, c. 4, s. 10.

73.1. A tutor who wishes to file an application for a change of designation of sex for a minor under 14 years of age may, if the other tutor objects to it, submit the application to the court before an application to obtain such a change is filed with the registrar of civil status.

2016, c. 19, s. 10.

DIVISION III

REVIEW OF DECISIONS

1991, c. 64, Div. V; 2022, c. 22, s. 29.

74. Any decision of the registrar of civil status relating to the assignment of a name or to a change of name or designation of sex may be reviewed by the court, on the application of an interested person.

1991, c. 64, a. 74.

CHAPTER II

DOMICILE AND RESIDENCE

75. The domicile of a person, for the exercise of his civil rights, is at the place of his principal establishment.

1991, c. 64, a. 75.

76. Change of domicile is effected by a person establishing his residence in another place with the intention of making it his principal establishment.

The proof of such intention results from the declarations of the person and from the circumstances of the case.

1991, c. 64, a. 76; I.N. 2014-05-01.

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77. The residence of a person is the place where he ordinarily resides; if a person has more than one residence, his principal residence is considered in establishing his domicile.

1991, c. 64, a. 77.

78. A person whose domicile cannot be determined with certainty is deemed to be domiciled at the place of his residence.

A person who has no residence is deemed to be domiciled at the place where he happens to be or, if that is unknown, at the place of his last known domicile.

1991, c. 64, a. 78; 2016, c. 4, s. 11.

79. A person called to a temporary or revocable public office retains his domicile, unless he manifests a contrary intention.

1991, c. 64, a. 79.

80. The domicile of an unemancipated minor is that of the tutor.

Where the father and mother or the parents exercise the tutorship but have no common domicile, the domicile of the minor is presumed to be that of the parent with whom the minor usually resides unless the court has fixed the domicile of the child elsewhere.

1991, c. 64, a. 80; 2016, c. 4, s. 12; 2022, c. 22, s. 30.

81. The domicile of a person of full age under tutorship is that of the tutor.

Where the father and mother exercise the tutorship but have no common domicile, the domicile of the person of full age is that of the parent the court designates.

1991, c. 64, a. 81; 2016, c. 4, s. 13; 2020, c. 11, s. 3.

82. Married or civil union spouses may have separate domiciles without prejudice to the rules relating to community of life.

1991, c. 64, a. 82; 2002, c. 6, s. 4; I.N. 2014-05-01; 2016, c. 4, s. 14.

83. The parties to a juridical act may, in writing, elect domicile with a view to the execution of the act or the exercise of the rights arising from it.

Election of domicile is not presumed.

1991, c. 64, a. 83.

CHAPTER III

ABSENCE AND DEATH

DIVISION I

ABSENCE

84. An absentee is a person who, while he had his domicile in Québec, ceased to appear there, without giving news of himself, and without it being known whether he is still alive.

1991, c. 64, a. 84; I.N. 2014-05-01; 2016, c. 4, s. 15.

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85. An absentee is presumed to be alive for seven years following his disappearance, unless proof of his death is made before then.

1991, c. 64, a. 85.

86. A tutor may be appointed to an absentee who has rights to be exercised or property to be administered if the absentee did not designate an administrator to his property or if the administrator is unknown, refuses or neglects to act or is prevented from acting.

1991, c. 64, a. 86.

87. Any interested person, including the Public Curator or a creditor of the absentee, may apply for the institution of tutorship to the absentee.

Tutorship is conferred by the court on the advice of the tutorship council and the rules that apply to tutorship to minors, except those set out in article 217, apply, adapted as required, to tutorship to absentees.

1991, c. 64, a. 87; I.N. 2014-05-01; 2020, c. 11, s. 4.

88. The court, on the application of the tutor or of an interested person and according to the extent of the property, fixes the amounts that it is expedient to allocate to the expenses of the marriage or civil union, to the maintenance of the family or to the payment of the obligation of support of the absentee.

1991, c. 64, a. 88; 2002, c. 6, s. 5.

89. The absentee's married spouse, civil union spouse, parental union spouse or tutor may, after one year of absence, apply to the court for a declaration that the patrimonial rights of the spouses may be liquidated.

The tutor shall obtain the authorization of the court to accept or renounce the partition of the acquests of the spouse of the absentee or otherwise decide on the other rights of the absentee.

1991, c. 64, a. 89; 2002, c. 6, s. 6; 2024, c. 22, s. 1.

90. Tutorship to an absentee is terminated by his return, by the appointment by him of an administrator to his property, by declaratory judgment of death or by proof of his death.

1991, c. 64, a. 90.

91. In case of superior force, a tutor may also be appointed, as in the case of an absentee, to a person prevented from appearing at his domicile and who is unable to appoint an administrator to his property.

1991, c. 64, a. 91.

DIVISION II

DECLARATORY JUDGMENT OF DEATH

92. A declaratory judgment of death may be pronounced on the application of any interested person, including the Public Curator or the Minister of Revenue as provisional administrator of property, seven years after the disappearance.

It may also be pronounced before that time where the death of a person domiciled in Québec or presumed to have died there may be held to be certain although it is impossible to draw up an attestation of death.

1991, c. 64, a. 92; 2005, c. 44, s. 47; I.N. 2014-05-01.

93. A declaratory judgment of death states the name and sex of the person presumed dead and, if known, the place and date of the person's birth and, if applicable, marriage or civil union, the name of the person's

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spouse and father and mother or parents, as well as the person's last domicile, and date, time and place of death.

A copy of the judgment is transmitted without delay to the chief coroner by the clerk of the court that rendered the decision.

1991, c. 64, a. 93; 2002, c. 6, s. 7; 2022, c. 22, s. 31.

94. The date fixed as the date of death is either the date upon expiry of seven years from the disappearance, or an earlier date if the presumptions drawn from the circumstances allow the death of a person to be held to be certain at that date.

In the absence of other proof, the place fixed as the place of death is that where the person was last seen.

1991, c. 64, a. 94; I.N. 2014-05-01.

95. A declaratory judgment of death produces the same effects as death.

1991, c. 64, a. 95.

96. If the date of death is proved to precede that fixed by the declaratory judgment of death, the dissolution of the matrimonial or civil union regime or the time at which the right to partition of the parental union patrimony arises is retroactive to the true date of death and the succession is open from that date.

If the date of death is proved to follow that fixed by the declaratory judgment of death, the dissolution of the matrimonial or civil union regime or the time at which the right to partition of the parental union patrimony arises is retroactive to the date fixed by the judgment but the succession is open only from the true date of death.

Relations between the apparent heirs and the true heirs are governed by those rules contained in the Book on Obligations which concern the restitution of prestations.

1991, c. 64, a. 96; 2002, c. 6, s. 8; 2024, c. 22, s. 2.

DIVISION III

RETURN

97. Where a person declared dead by a declaratory judgment of death returns, the effects of the judgment cease but the marriage or civil union remains dissolved.

However, if difficulties arise over custody of the children or support, they are settled as in the case of separation from bed and board or the dissolution of a civil union.

1991, c. 64, a. 97; 2002, c. 6, s. 9.

98. A person who has returned shall apply to the court for annulment of the declaratory judgment of death and rectification of the register of civil status. He may also, subject to the rights of third persons, apply to the court for the cancellation or rectification of the particulars or entries made following the declaratory judgment of death and nullified by his return, as if they had been made without right.

Any interested person may make the application to the court at the expense of the person who has returned if the latter fails to act.

1991, c. 64, a. 98.

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99. A person who has returned recovers his property in accordance with the rules contained in the Book on Obligations which concern the restitution of prestations. He reimburses the persons who, in good faith, were in possession of his property and who discharged his obligations otherwise than with his property.

1991, c. 64, a. 99; I.N. 2014-05-01.

100. Any payment made to the heirs or legatees by particular title of a person who has returned after a declaratory judgment of death but before the particulars or entries are cancelled or rectified is valid and constitutes a valid discharge.

1991, c. 64, a. 100.

101. An apparent heir who learns that the person declared dead is alive retains possession of the property and acquires the fruits and revenues there of until the person who has returned asks to recover the property.

1991, c. 64, a. 101; I.N. 2014-05-01.

DIVISION IV

PROOF OF DEATH

102. Proof of death is established by an act of death, except in cases where the law authorizes another mode of proof.

1991, c. 64, a. 102.

CHAPTER IV

REGISTER AND ACTS OF CIVIL STATUS

DIVISION I

OFFICER OF CIVIL STATUS

103. The registrar of civil status is the sole officer of civil status.

The registrar is responsible for drawing up and altering acts of civil status, for the keeping and custody of the register of civil status and for ensuring its publication.

1991, c. 64, a. 103; 2016, c. 4 , s. 16.

DIVISION II

REGISTER OF CIVIL STATUS

104. The register of civil status consists of all the acts of civil status and the juridical acts by which they are altered.

1991, c. 64, a. 104.

105. The register of civil status is kept in duplicate.

1991, c. 64, a. 105; 2013, c. 27, s. 6.

106. *(Repealed).*

1991, c. 64, a. 106; 2013, c. 27, s. 7.

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DIVISION III

ACTS OF CIVIL STATUS

§ 1. — *General provisions*

107. The only acts of civil status are acts of birth, acts of marriage or civil union and acts of death.

They contain only what is required by law, and are authentic.

1991, c. 64, a. 107; 2002, c. 6, s. 10.

108. The acts of civil status are drawn up without delay from the attestations, declarations and juridical acts received by the registrar of civil status, regarding births, marriages, civil unions and deaths occurring in Québec or concerning persons domiciled in Québec.

Where a name contains characters, diacritical signs or a combination of a character and a diacritical sign that are not used for the writing of French, the name must be transcribed into French. The transcription is entered in the register and is substituted for the original form of the name on copies of acts, certificates and attestations. The original spelling of the name is preserved, subject to the modifications required by the transcription.

1991, c. 64, a. 108; 1999, c. 47, s. 3; 2002, c. 6, s. 11; 2013, c. 27, s. 8; 2022, c. 14, s. 124.

109. The registrar of civil status prepares an act of civil status by signing the declaration drawn up in French that he receives, or by drawing it up himself in French in accordance with the judgment, with a declaration drawn up in English or with another act he receives. Where necessary to obtain the information required to draw up the act of civil status, the registrar makes a summary investigation.

He dates the declaration he signed or drew up, assigns a registration number to it and inserts it in the register of civil status. The declaration thereupon constitutes an act of civil status.

1991, c. 64, a. 109; 2004, c. 3, s. 12; 2013, c. 27, s. 9; I.N. 2014-05-01; 2022, c. 14, s. 125.

110. Every attestation and declaration indicates the date on which it was made and the name, quality and domicile of the person making it and bears his signature.

1991, c. 64, a. 110.

§ 2. — *Acts of birth*

111. The accoucheur draws up an attestation of birth.

An attestation states the place, date and time of birth, the sex of the child, and the name and domicile of the mother or of the parent who gave birth to the child.

1991, c. 64, a. 111; 2022, c. 22, s. 32.

112. The accoucheur transmits a copy of the attestation to those who are required to declare the birth; he transmits without delay another copy of the attestation to the registrar of civil status.

1991, c. 64, a. 112; 2013, c. 27, s. 10.

113. The declaration of birth of a child is made by the father and mother or by the parents, or by one of them, to the registrar of civil status within 30 days.

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Where a parental project involving surrogacy is carried to completion, the declaration must be accompanied by an authentic copy of the notarized surrogacy agreement and by a copy of the written statement of consent referred to in article 541.9. If the woman or the person who gave birth to the child dies or becomes incapable of giving consent before expressing their will, the declaration must be accompanied by a document indicating the death or by a certificate establishing the incapacity, as the case may be.

1991, c. 64, a. 113; 2013, c. 27, s. 11; 2023, c. 13, s. 2.

113.1. The mother or the person who gave birth to the child shall, subject to the rules of filiation for a child born of a parental project involving surrogacy, declare the filiation of the child with regard to themselves.

2023, c. 13, s. 3.

114. Only the father, mother or parent may declare the filiation of a child with regard to themselves. However, where the child is conceived or born during the marriage, civil union or *de facto* union, one of the spouses may declare the filiation of the child with regard to the other spouse.

In the case of a *de facto* union, the declaring spouse must provide, with the declaration of birth, an affidavit in which the spouse states the facts and circumstances showing that the child was born during the union or within 300 days after the end of the union. The spouse must also attach to the declaration an affidavit from a third person corroborating the spouse's affidavit and, where applicable, any other evidence proving the union. If need be, the registrar of civil status makes a summary investigation to obtain additional information.

No other person may declare the filiation with regard to one of the parents, except with the authorization of that parent.

1991, c. 64, a. 114; 2002, c. 6, s. 12; 2022, c. 22, s. 33.

115. A declaration of birth states the name assigned to the child, the usual given name if the child has more than one given name, the sex, the place, date and time of birth, and the name and domicile of the child's father and mother or parents. It also states the family relationship between the declarant and the child. The declarant is then designated as being the father, mother or parent according to the designation of sex appearing in the declarant's act of birth or, at the declarant's choice, as being the child's parent.

1991, c. 64, a. 115; 2002, c. 19, s. 15; 2002, c. 6, s. 13; 2013, c. 27, s. 12; 2022, c. 22, s. 295; 2022, c. 22, s. 34.

116. Every person who gives shelter to or takes custody of a newborn child whose father and mother or parents are unknown or prevented from acting is bound to declare the birth to the registrar of civil status within 30 days.

A declaration states the sex and, if known, the name and the place, date and time of birth of the child. The person making a declaration shall also provide a note relating the facts and circumstances and indicating, if known to him, the names of the father and mother or of the parents.

Where the child is born of a parental project involving surrogacy, the person making the declaration shall also provide the documents required under the second paragraph of article 113. If the person making the declaration does not have access to an authentic copy of the notarized surrogacy agreement, the person shall provide the information held in that regard. The registrar of civil status may then obtain from the depositary of the original agreement an authentic copy of the agreement.

1991, c. 64, a. 116; 2013, c. 27, s. 13; 2023, c. 13, s. 4.

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116.1. The obligation, for those who must draw up an attestation of birth or declare the birth of a child, to indicate the child's sex in the attestation or declaration may not be made dependent on the requirement for the child to have undergone any medical treatment or surgical operation whatsoever.

2022, c. 22, s. 35.

117. Where the place, date and time of birth are unknown, the registrar of civil status establishes them on the basis of a medical report and the presumptions that may be drawn from the circumstances.

1991, c. 64, a. 117; I.N. 2014-05-01.

§ 3. — *Acts of marriage*

118. The declaration of marriage is made to the registrar of civil status by the officiant within 30 days after the solemnization.

1991, c. 64, a. 118; 1999, c. 47, s. 4; 2016, c. 12, s. 3.

119. A declaration of marriage states the name and domicile of each spouse, their places and dates of birth, the place and date of their marriage, and the name of the father and mother or of the parents of each of them and of the witnesses.

The declaration also states the name, domicile and quality of the officiant and indicates, where applicable, the religious society to which he belongs.

1991, c. 64, a. 119; 2016, c. 4, s. 17; 2022, c. 22, s. 36.

120. A declaration of marriage indicates, where such is the case, the fact of a dispensation from publication, the fact that the spouses were already in a civil union and, if one of the spouses is a minor, the fact that the court has authorized the solemnization of the marriage.

1991, c. 64, a. 120; 2004, c. 23, s. 3; 2016, c. 12, s. 4.

121. The declaration is signed by the officiant, the spouses and the witnesses.

1991, c. 64, a. 121.

§ 3.1. — *Acts of civil union*

2002, c. 6, s. 14.

121.1. The declaration of civil union is made without delay to the registrar of civil status by the person having solemnized the civil union.

2002, c. 6, s. 14.

121.2. The declaration of civil union states the names and domicile and places and dates of birth of the spouses, the place and date of solemnization of the civil union, and the names of their fathers and mothers or of their parents, and of the witnesses. Where applicable, the declaration indicates that a dispensation from publication has been granted.

The declaration also states the name, domicile and quality of the officiant and indicates, where applicable, the religious society to which he belongs.

2002, c. 6, s. 14; I.N. 2014-05-01; 2016, c. 4, s. 18; 2022, c. 22, s. 37.

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121.3. The declaration is signed by the officiant, the spouses and the witnesses.

2002, c. 6, s. 14.

§ 4. — *Acts of death*

122. The physician or nurse who establishes that a death has occurred draws up an attestation of death.

He transmits a copy of the attestation to the person who is required to declare the death. Another copy is sent without delay to the registrar of civil status by the physician or nurse or by the funeral services business that takes charge of the body of the deceased, together with the declaration of death, unless it cannot be transmitted immediately.

1991, c. 64, a. 122; 1999, c. 47, s. 5; 2016, c. 1, s. 106; 2023, c. 15, s. 47.

123. If it is impossible to have a death attested by a physician or by a nurse within a reasonable time, and if death is obvious, the attestation of death may be drawn up by two peace officers, who are then bound by the same obligations as the physician and nurse.

1991, c. 64, a. 123; 2023, c. 15, s. 48.

124. An attestation states the name and sex of the deceased and the place, date and time of death.

1991, c. 64, a. 124.

125. A declaration of death is made without delay to the registrar of civil status by the spouse of the deceased, a close relative or a person connected by marriage or a civil union or, failing them, by any other person able to identify the deceased. If a funeral services business has taken charge of the body, it declares the time, place and mode of disposal of the body.

1991, c. 64, a. 125; 1999, c. 47, s. 6; 2002, c. 6, s. 235; 2013, c. 27, s. 14; 2016, c. 1, s. 107.

126. A declaration of death states the name, designation of sex appearing in the act of birth, and place and date of birth and, if applicable, of marriage or civil union of the deceased, the name of the spouse, the names of the father and mother or of the parents and the last domicile of the deceased and the place, date and time of death as well as the time, place and mode of disposal of the body.

1991, c. 64, a. 126; 2002, c. 6, s. 15; 2013, c. 27, s. 15; 2022, c. 22, s. 38.

127. Where the date and time of death are unknown, the registrar of civil status establishes them on the basis of the report of a coroner and the presumptions that may be drawn from the circumstances.

If the place of death is unknown, it is presumed to be the place where the body was discovered.

1991, c. 64, a. 127; I.N. 2014-05-01.

128. If the deceased's identity is unknown, the attestation includes a description of the body and an account of the circumstances surrounding its discovery.

1991, c. 64, a. 128; I.N. 2014-05-01.

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DIVISION IV

ALTERATION OF THE REGISTER OF CIVIL STATUS

§ 1. — *General provision*

129. The clerk of the court that has rendered a judgment changing the name of a person or otherwise altering the status of a person or any particular in an act of civil status gives notice of the judgment to the registrar of civil status as soon as it becomes final.

The authority that issues an Aboriginal customary adoption certificate notifies it to the registrar of civil status within 30 days after it was issued.

The notary who executes a joint declaration dissolving a civil union gives notice of the declaration without delay to the registrar of civil status.

The registrar of civil status then makes the required entries in the register.

1991, c. 64, a. 129; 1999, c. 47, s. 7; 2002, c. 6, s. 16; 2013, c. 27, s. 16; 2016, c. 4, s. 19; 2017, c. 12, s. 1.

§ 1.1. — *Change of parental designation*

2022, c. 22, s. 39.

129.1. Any person may apply to have the designation “father”, “mother” or “parent” appearing in their child’s act of birth correspond to the designation of sex appearing in their act of birth or, at their choice, to have the designation “parent” appear in their child’s act of birth.

A child 14 years of age or over shall be notified of such an application and may object to the change of the designation “father” or “mother”, as the case may be. If an objection is made, the designation “parent” is assigned. A minor under 14 years of age shall be informed of the change made to his act by the person having parental authority.

The rules of procedure for such an application and the duties payable by the person making the application are determined by government regulation.

2022, c. 22, s. 39.

§ 2. — *Preparation of acts and notations*

130. Where a birth, marriage, civil union or death having occurred in Québec is not attested or declared or is attested or declared inaccurately or late, the registrar of civil status makes a summary investigation, draws up the act of civil status on the basis of the information he obtains and inserts the act in the register of civil status.

Where a tardy declaration is made which adds to an earlier one without contradicting it, the registrar of civil status may, with the consent of the author of the earlier declaration, alter the act of civil status accordingly. However, in the case of a declaration of filiation, alteration of the act of civil status is conditional upon the consent of the child if he is 14 years of age or over and upon the absence of a bond of filiation established in favour of another person by the acknowledgement of a bond of filiation in the declaration of birth, uninterrupted possession of status or a legal presumption; it is also conditional upon the absence of any objection from a third person within 20 days of the publication of a notice in accordance with the rules determined by government regulation.

1991, c. 64, a. 130; 1999, c. 47, s. 8; 2002, c. 6, s. 17; 2023, c. 13, s. 5.

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131. Where the declaration and the attestation contain particulars that are contradictory yet essential to the establishment of the status of a person, no act of civil status may be drawn up except with the authorization of the court, on the application of the registrar of civil status or of an interested person.

1991, c. 64, a. 131.

132. A new act of civil status is drawn up, on the application of an interested person, where a judgment changing an essential particular in an act of civil status, such as the name or filiation of a person, has been notified to the registrar of civil status or where the decision to authorize a change of name or of designation of sex has become final. The same applies where an Aboriginal customary adoption certificate has been notified to the registrar of civil status.

To complete the act, the registrar may require the new declaration he draws up to be signed by those who could have signed it if it had been the original declaration.

The new act is substituted for the original act; it repeats all the statements and particulars that are not affected by the alterations and, in the case of an adoption with recognition of a pre-existing bond of filiation, those relating to that bond, specifying their antecedence. In the case of an Aboriginal customary adoption, the new act in addition makes mention, where applicable, of the rights and obligations that subsist between the adoptee and a parent of origin, with a reference to the altering act. Finally, the substitution is noted in the original act.

1991, c. 64, a. 132; 2016, c. 4, s. 20; 2017, c. 12, s. 2.

132.0.1. An Aboriginal customary adoption certificate states the name and sex of the child, the place, date and time of birth, the date of the adoption, the names, dates of birth and places of domicile of the father and mother or of the parents of origin and of the adopters and, where applicable, the new name given to the child.

It mentions that the adoption took place in accordance with applicable Aboriginal custom and, where applicable, mentions the recognition of a pre-existing bond of filiation, and specifies any rights and obligations that subsist between the adoptee and his parent of origin.

The certificate states the date on which it was made and the name, capacity and domicile of its author, and bears the latter's signature.

2017, c. 12, s. 3; 2022, c. 22, s. 40.

132.1. Where a child domiciled outside Québec is adopted by a person domiciled in Québec, the registrar of civil status draws up the act of birth on the basis of the judgment rendered in Québec, the decision judicially recognized in Québec or any other act notified to the registrar which, under the law, produces the effects of adoption in Québec.

The clerk of the court notifies the judgment to the registrar of civil status as soon as it becomes final and, where applicable, attaches the decision or the act thereto.

The Minister of Health and Social Services notifies to the registrar of civil status the certificate issued by the foreign competent authority and the declaration containing the name chosen for the child transmitted to the Minister under the Act to implement the Convention on Protection of Children and Co-operation in Respect of Intercountry Adoption (chapter M-35.1.3), unless the Minister has applied to the court for a ruling under the second paragraph of section 9 of that Act. Where applicable, the Minister also notifies the certificate drawn up by the Minister under the same section to attest to the conversion of the adoption.

The authority that issues an act recognizing an Aboriginal customary adoption notifies it to the registrar of civil status within 30 days after it was issued and attaches the act recognized.

2004, c. 3, s. 13; 2006, c. 34, s. 76; 2016, c. 4, s. 21; 2017, c. 12, s. 4.

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132.2. The clerk of the court that has rendered a judgment recognizing an act of birth drawn up by a foreign competent authority or recognizing a foreign decision regarding the filiation of a child born of a parental project involving surrogacy in which the woman or the person who gave birth to the child is domiciled outside Québec notifies the judgment to the registrar of civil status as soon as the judgment becomes final.

On receipt of the judgment, the registrar of civil status, as the case may be,

(1) inserts the act of birth that has been the object of a judicial recognition in the register of civil status; or

(2) draws up the act of birth from the foreign decision that has been the object of a judicial recognition, indicating the particulars consistent with the foreign decision and, where that decision has established the child's filiation with regard to only one of the spouses who formed the parental project, the particulars consistent with the judgment rendered following an application made under the second paragraph of article 541.34.

2023, c. 13, s. 6.

133. Where a declaratory judgment of death is notified to him, the registrar of civil status draws up the act of death, indicating the particulars in accordance with the judgment.

1991, c. 64, a. 133.

133.1. Where a court has found a person guilty of acts having caused the death of a missing person or the disappearance of a deceased person's body, any interested person may declare the death of the absentee to the registrar of civil status. A copy of the judgment of guilty, having become final, must be attached to the declaration of death.

The registrar draws up the act of death of the absentee. Where the date, time and place of death are unknown, the registrar fixes them on the basis of the particulars of the judgment and the presumptions that may be drawn from the circumstances.

The act drawn up by the registrar produces the same effects as a declaratory judgment of death.

2013, c. 27, s. 17.

134. The registrar of civil status makes a notation of the act of marriage or civil union in the act of birth, and makes a notation of the act of death in the act of birth and the act of marriage or civil union.

1991, c. 64, a. 134; 1999, c. 47, s. 9; 2002, c. 6, s. 18; 2013, c. 27, s. 18.

135. The registrar of civil status, upon notification of a judgment granting a divorce, shall make a notation of the judgment in the acts of birth and marriage of each of the parties.

Upon notification of a joint notarial declaration or a judgment dissolving a civil union, the registrar shall make a notation of the declaration or judgment in the acts of birth and civil union of each of the persons concerned.

Upon receiving a declaration of marriage indicating that the spouses were already in a civil union, the registrar shall make a notation of the declaration in the act of civil union.

Upon notification of a judgment declaring a marriage or civil union null or annulling a declaratory judgment of death, the registrar shall cancel the act of marriage or civil union or of death, as the case may be, and make the required entries in the register to ensure the coherence of the register.

1991, c. 64, a. 135; 1999, c. 47, s. 10; 2002, c. 6, s. 19; 2004, c. 23, s. 4; 2013, c. 27, s. 19; I.N. 2014-05-01; I.N. 2015-11-01.

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136. Where the registrar of civil status makes a notation in an act as a result of a judgment, he enters, in the act, the subject matter and date of the judgment, the court that rendered it and the number of the court record.

In any other case, he makes the necessary notations in the act to allow retrieval of the altering act.

1991, c. 64, a. 136; I.N. 2015-11-01.

137. The registrar of civil status, upon receiving an act of civil status drawn up outside Québec but relating to a person domiciled in Québec, inserts the act in the register as though it were an act drawn up in Québec.

He also inserts the juridical acts drawn up outside Québec which alter or replace acts of civil status in his possession; he then makes the entries in the register.

Notwithstanding their insertion in the register, juridical acts, including acts of civil status, drawn up outside Québec retain their status as semi-authentic acts until their validity is recognized by a court in Québec. The registrar shall mention this fact when issuing copies, certificates or attestations as to those acts.

1991, c. 64, a. 137; 1999, c. 47, s. 11; 2013, c. 27, s. 21; I.N. 2014-05-01.

138. Where there is any doubt as to the validity of an act of civil status or a juridical act drawn up outside Québec, the registrar of civil status may refuse to act until the validity of the document is recognized by a court in Québec.

1991, c. 64, a. 138; I.N. 2014-05-01.

139. If an act of civil status drawn up outside Québec has been lost or destroyed or if no copy of it can be obtained, the registrar of civil status shall not draw up an act of civil status or make a notation in an act already in his possession except with the authorization of the court.

1991, c. 64, a. 139.

140. Every act of civil status or juridical act made outside Québec and drawn up in a language other than French shall be accompanied by a translation authenticated in Québec.

The same applies to Aboriginal customary adoption certificates and to acts recognizing such adoptions drawn up in a language other than French or English.

1991, c. 64, a. 140; 2017, c. 12, s. 5; 2022, c. 14, s. 126.

§ 3. — *Rectification and reconstitution of an act and of the register*

141. Except in the cases provided for in this chapter, only the court may order the rectification of an act of civil status or its insertion in the register.

The court may also, on the application of an interested person, review any decision of the registrar of civil status relating to an act of civil status.

1991, c. 64, a. 141.

142. The registrar of civil status corrects the clerical errors in all acts.

1991, c. 64, a. 142; 1999, c. 47, s. 12; 2013, c. 27, s. 22.

143. On the basis of the information he obtains, the registrar of civil status reconstitutes, in accordance with the Code of Civil Procedure (chapter C-25.01), any act which has been lost or destroyed.

1991, c. 64, a. 143; I.N. 2016-01-01 (NCCP).

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DIVISION V

PUBLICATION OF THE REGISTER OF CIVIL STATUS

144. The register of civil status is published by the issuing of copies of acts, certificates or attestations bearing the *vidimus* of the registrar of civil status and the date of issue.

Subject to article 137, copies of acts of civil status, certificates and attestations so issued are authentic.

1991, c. 64, a. 144; I.N. 2014-05-01.

145. Any document which reproduces in their entirety the statements of an act of civil status, including the notations thereon, as altered, but excluding notations required by regulation which are not essential to the establishment of the status of a person, is a copy of that act.

1991, c. 64, a. 145; 1999, c. 47, s. 13.

146. A certificate of civil status states the person's name and designation of sex, the place and date of birth as well as the name of the father and mother or of the parents and, if the person is deceased, the place and date of death. It also states, if applicable, the place and date of the person's marriage or civil union and the name of the spouse.

The registrar of civil status may also issue certificates of birth, marriage, civil union or death bearing only the particulars determined by government regulation.

1991, c. 64, a. 146; 2002, c. 6, s. 20; 2022, c. 22, s. 41.

147. An attestation deals with the presence or absence in the register of an act or of a notation required by law to be made in the act.

A detailed attestation deals with the information contained in the copy of the attestation of birth transmitted by the accoucheur to the registrar of civil status and with the nature of the changes made to an act of birth, if any.

1991, c. 64, a. 147; 2022, c. 22, s. 42.

148. The registrar of civil status issues a copy of an act or a certificate only to the persons mentioned in the act or to persons who establish their interest. The registrar may require any person applying for a copy of an act or a certificate to produce such documents and information as are necessary to verify the person's identity or interest.

The registrar issues an attestation to all persons who apply therefor if the particular or fact he attests to is of the kind which appears on certificates; otherwise, he issues it only to persons who establish their interest. He issues detailed attestations only to the person whose birth is attested in the act of birth.

1991, c. 64, a. 148; 2001, c. 41, s. 1; 2001, c. 70, s. 1; I.N. 2014-05-01; 2022, c. 22, s. 43.

149. Where a new act has been drawn up, only the persons mentioned in the new act may obtain a copy of the original act.

In cases of adoption, the adoptee may, in accordance with article 583, obtain a copy of the original act. The same applies for the descendants in the first degree of a deceased adoptee. The other persons mentioned in the new act may obtain a copy of it if the court, having ascertained that the other conditions of law have been met, so authorizes. The authorities responsible under the law for disclosing information about the identity of the parent of origin and information making contact with that parent possible may, pursuant to an application by the adoptee or the adoptee's descendants in the first degree, if applicable, to obtain that information, obtain a copy of the original act.

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Once an act has been annulled, only persons who establish their interest may obtain a copy of the annulled act.

1991, c. 64, a. 149; 2022, c. 22, s. 44.

149.1. In the case of an Aboriginal customary adoption with subsisting rights and obligations between the adoptee and a parent of origin, the copy of an Aboriginal customary adoption certificate may only be issued to persons named in the certificate and to persons who establish their interest.

2017, c. 12, s. 6.

150. The register of civil status may be consulted only with the authorization of the registrar of civil status.

Where the registrar allows the register to be consulted, he determines the conditions required for the safeguard of the information it contains.

1991, c. 64, a. 150.

DIVISION VI

REGULATORY POWERS RELATING TO THE KEEPING AND PUBLICATION OF THE REGISTER OF CIVIL STATUS

151. The registrar of civil status may designate one or more members of his personnel to replace him temporarily if he is absent or unable to act. He may also delegate certain of his functions to his personnel.

Designations and delegations under the first paragraph are made in writing. They take effect upon their signature by the registrar of civil status. Acts of designation and delegation must be published in the *Gazette officielle du Québec*.

The additional particulars that may appear on attestations and declarations, the duties payable for the issuing of copies of acts, certificates or attestations and the charge for preparing or altering an act or for consulting the register, as well as the persons or categories of persons who may be exempt from paying the duties, are determined by regulation of the Government.

1991, c. 64, a. 151; 1996, c. 21, s. 27; 1999, c. 47, s. 14; 2022, c. 22, s. 45.

152. In Cree, Inuit or Naskapi communities, the local registry officer or another public servant appointed under any Act respecting Cree, Inuit and Naskapi native persons may be authorized, to the extent provided by regulation, to perform certain duties of the registrar of civil status.

Within the context of an agreement concluded between the Government and a Mohawk community, the registrar of civil status may agree with the person designated by the community to a special procedure for the transmission of information concerning marriages solemnized in the territory defined in the agreement and for the transmission of declarations of birth, marriage or death concerning members of the community, as well as for entry in the register of the traditional names of the members of the community.

1991, c. 64, a. 152; 1999, c. 53, s. 19.

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DIVISION VII

AUTHORITIES COMPETENT TO ISSUE ABORIGINAL CUSTOMARY ADOPTION CERTIFICATES

2017, c. 12, s. 7.

152.1. The authority that is competent to issue an Aboriginal customary adoption certificate is a person or body domiciled in Québec and designated by the Aboriginal community or nation. The competent authority may not, when called on to act, be a party to the adoption.

The act designating such an authority must be notified to the registrar of civil status within 30 days after the designation and, where applicable, the latter must be notified within that same time of the date on which the authority ceases to be competent.

2017, c. 12, s. 7.

TITLE FOUR

CAPACITY OF PERSONS

CHAPTER I

MAJORITY AND MINORITY

DIVISION I

MAJORITY

153. Full age or the age of majority is 18 years.

On attaining full age, a person ceases to be a minor and has the full exercise of all his civil rights.

1991, c. 64, a. 153.

154. In no case may the capacity of a person of full age be limited except by express provision of law or by a judgment ordering the institution of tutorship to a person of full age, homologating a protection mandate or authorizing temporary representation of an incapable person of full age.

1991, c. 64, a. 154; 2020, c. 11, s. 5.

DIVISION II

MINORITY

155. A minor exercises his civil rights only to the extent provided by law.

1991, c. 64, a. 155.

156. A minor 14 years of age or over is deemed to be of full age for all acts pertaining to his employment or to the practice of his craft or profession.

1991, c. 64, a. 156.

157. A minor may, within the limits imposed by his age and power of discernment, enter into contracts alone to meet his ordinary and usual needs.

1991, c. 64, a. 157.

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158. Except where he may act alone, a minor is represented by his tutor for the exercise of his civil rights.

Unless the law or the nature of the act does not allow it, an act that may be performed by a minor alone may also be validly performed by his representative.

1991, c. 64, a. 158.

159. In judicial matters, a minor shall be represented by his tutor; his actions are brought in the name of his tutor.

A minor may, however, with the authorization of the court, institute alone an action relating to his status, to the exercise of parental authority or to an act that he may perform alone; he may in such cases act alone as defendant.

1991, c. 64, a. 159.

160. A minor may invoke alone, in his defence, any irregularity arising from lack of representation or incapacity resulting from his minority.

1991, c. 64, a. 160; I.N. 2014-05-01.

161. An act performed alone by a minor where the law does not allow him to act alone or through a representative is absolutely null.

1991, c. 64, a. 161.

162. An act performed by the tutor without the authorization of the court although the nature of the act requires it may be annulled on the application of the minor, without any requirement to prove that he has suffered injury.

1991, c. 64, a. 162; I.N. 2014-05-01.

163. An act performed alone by a minor or performed by his tutor without the authorization of the tutorship council although the nature of the act requires it may not be annulled nor the obligations arising from it reduced, on the application of the minor, unless he suffers injury therefrom.

1991, c. 64, a. 163; I.N. 2014-05-01.

164. A minor may not bring an action in nullity or reduction of his obligations if the injury he suffers is caused by a fortuitous and unforeseen event.

A minor may not avoid an extracontractual obligation to redress injury caused to another by his fault.

1991, c. 64, a. 164; I.N. 2014-05-01.

165. The mere declaration by a minor that he is of full age does not deprive him of his action in nullity or in reduction of his obligations.

1991, c. 64, a. 165; I.N. 2014-05-01.

166. On attaining full age, a person may confirm an act he performed alone during minority for which he was required to be represented. After the accounts of the tutorship are rendered, he may also confirm an act which his tutor performed without observance of all the formalities.

1991, c. 64, a. 166; I.N. 2014-05-01; I.N. 2015-11-01.

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DIVISION III

EMANCIPATION

§ 1. — *Simple emancipation*

167. The tutor may, after obtaining the agreement of the tutorship council, emancipate a minor if he is 16 years of age or over and requests it, by filing a declaration to that effect with the Public Curator.

Emancipation is effective from the filing of the declaration.

1991, c. 64, a. 167.

168. The court may likewise, after obtaining the advice of the tutor and, where applicable, of the tutorship council, emancipate a minor.

A minor may apply alone for his emancipation.

1991, c. 64, a. 168.

169. The tutor shall render an account of his administration to the emancipated minor; he continues, however, to assist him gratuitously.

1991, c. 64, a. 169; 2016, c. 4, s. 22.

170. Emancipation does not put an end to minority nor does it confer all the rights resulting from majority, but it releases the minor from the obligation to be represented for the exercise of his civil rights.

1991, c. 64, a. 170.

171. An emancipated minor may establish his own domicile, and he ceases to be under the authority of his father and mother or of his parents.

1991, c. 64, a. 171; 2022, c. 22, s. 46.

172. In addition to the acts that a minor may perform alone, an emancipated minor may perform all acts of simple administration; thus, he may, as a lessee, enter into leases for terms not exceeding three years and make gifts of his property according to his means, provided he does not appreciably reduce his capital.

1991, c. 64, a. 172; I.N. 2014-05-01; 2016, c. 4, s. 23.

173. An emancipated minor shall be assisted by his tutor for every act beyond simple administration, and in particular in accepting a gift encumbered with a charge or in renouncing a succession.

An act performed without assistance may not be annulled nor the obligations arising from it reduced unless the minor suffers injury therefrom.

1991, c. 64, a. 173; I.N. 2014-05-01.

174. Large loans or borrowings, considering the patrimony of an emancipated minor, and acts of alienation of an immovable or enterprise require the authorization of the court, on the advice of the tutor. In the absence of such authorization, the act may not be annulled or the obligations arising from the act reduced on the application of the minor, unless he suffers injury therefrom.

1991, c. 64, a. 174; I.N. 2014-05-01; 2016, c. 4, s. 24.

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§ 2. — *Full emancipation*

175. Full emancipation is obtained by marriage.

It may also, on the application of the minor, be granted by the court for a serious reason; in that case, the person having parental authority, the tutor and any person having custody of the minor and, where applicable, the tutorship council shall be summoned to give their advice.

1991, c. 64, a. 175; I.N. 2014-05-01.

176. Full emancipation enables a minor to exercise his civil rights as if he were of full age.

1991, c. 64, a. 176.

§ 3. — *Certificate of emancipation*

2017, c. 18, s. 91.

176.1. The clerk may issue, to an emancipated minor who so requests, a certificate attesting to his emancipation by the court. The certificate states whether the emancipation is simple or full.

2017, c. 18, s. 91.

CHAPTER II

TUTORSHIP TO MINORS

DIVISION I

TUTORSHIP

177. Tutorship is established in the interest of the minor; it is intended to ensure the protection of his person, the administration of his patrimony and, generally, to secure the exercise of his civil rights.

1991, c. 64, a. 177.

178. Tutorship to minors is legal, suppletive or dative.

Tutorship resulting from the law is legal. Tutorship for which a tutor is designated by the father or mother or by the parents or one of them, as the case may be, is suppletive or dative; in the case of dative tutorship, the tutor may also be designated by the court.

1991, c. 64, a. 178; 2017, c. 12, s. 8; 2022, c. 22, s. 47.

179. Tutorship is a personal office open to every natural person capable of fully exercising his civil rights who is able to assume the office.

1991, c. 64, a. 179.

180. No one may be compelled to accept a dative tutorship except, failing any other person, the director of youth protection or, for tutorship to property, the Public Curator.

1991, c. 64, a. 180; I.N. 2015-11-01.

181. Tutorship does not pass to the heirs of the tutor; they are simply accountable for his administration. If they are of full age, they are bound to continue his administration until a new tutor is appointed.

1991, c. 64, a. 181; I.N. 2014-05-01.

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182. Tutorship exercised by the director of youth protection or the Public Curator is attached to the office.

1991, c. 64, a. 182.

183. The father and mother or the parents, the director of youth protection or the person recommended by him as tutor exercise tutorship gratuitously.

However, the father and mother or the parents may receive such remuneration as may be fixed by the court, on the advice of the tutorship council, for the administration of the property of their child where that is one of their principal occupations.

1991, c. 64, a. 183; I.N. 2014-05-01; 2022, c. 22, s. 48.

184. A dative tutor may receive such remuneration as is fixed by the court on the advice of the tutorship council or by the father or mother or the parent by whom he is appointed, or by the liquidator of their succession if so authorized. The expenses of the tutorship and the revenue from the property to be administered are taken into account.

Such remuneration and, where applicable, the terms and conditions for its renewal by the tutorship council may be fixed by the court when instituting the tutorship or subsequently.

1991, c. 64, a. 184; 2022, c. 22, s. 49; 2020, c. 11, s. 6.

185. Except where divided, tutorship extends to the person and property of the minor.

1991, c. 64, a. 185.

186. Where tutorship extends to the person of the minor and is exercised by a person other than the father or mother or the parents, the tutor acts as the person having parental authority, unless the court decides otherwise.

1991, c. 64, a. 186; 2022, c. 22, s. 50.

187. In no case may more than one tutor to the person be appointed, but several tutors to property may be appointed.

However, in the case of a suppletive tutorship, two tutors to the person may be appointed.

1991, c. 64, a. 187; 2017, c. 12, s. 9.

188. The tutor to property is responsible for the administration of the property of the minor.

Where several tutors to property are appointed, each of them is accountable for the management of the property entrusted to him.

1991, c. 64, a. 188; 2020, c. 11, s. 7.

189. A legal person may act as tutor to property, if so authorized by law.

1991, c. 64, a. 189.

190. Whenever a minor has any interest to discuss judicially with his tutor, a tutor ad hoc is appointed to him.

1991, c. 64, a. 190.

191. The tutorship is based at the domicile of the minor.

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If a tutorship is exercised by the director of youth protection or by the Public Curator, the tutorship is based at the place where that person holds office.

1991, c. 64, a. 191; I.N. 2014-05-01.

191.1. The court seized of an application relating to the appointment or replacement of a tutor takes into consideration, in particular and where applicable, the judicial record of any proposed tutor, the judgments rendered in civil matters against him as well as his bankruptcy, whether discharged from it or not.

2024, c. 37, s. 24.

DIVISION II

LEGAL TUTORSHIP

192. In addition to having the rights and duties connected with parental authority, the father and mother or the parents, if of full age or emancipated, are, by operation of law, tutors to their minor child for the purposes of representing him in the exercise of his civil rights and administering his patrimony.

They are also tutors to their child conceived but yet unborn and are responsible for acting on his behalf in all cases where his patrimonial interests require it.

1991, c. 64, a. 192; I.N. 2015-11-01; 2022, c. 22, s. 51.

193. The father and mother or the parents exercise tutorship together unless one of them is deceased or prevented from expressing their wishes or from doing so in due time.

1991, c. 64, a. 193; 2022, c. 22, s. 52.

194. Either parent may give the other the mandate to represent him in the performance of acts pertaining to the exercise of tutorship.

The mandate is presumed with regard to third persons in good faith.

1991, c. 64, a. 194.

195. Where the custody of a child is decided by judgment, the tutorship continues to be exercised by the father and mother or the parents, unless the court, for grave reasons, decides otherwise.

1991, c. 64, a. 195; 2022, c. 22, s. 53.

196. In case of disagreement relating to the exercise of the tutorship between the father and mother or the parents, either of them may refer the dispute to the court.

The court decides in the interest of the minor after fostering the conciliation of the parties and, if need be, obtaining the advice of the tutorship council.

1991, c. 64, a. 196; I.N. 2014-05-01; 2022, c. 22, s. 54.

197. Deprivation of parental authority entails loss of tutorship; withdrawal of certain attributes of parental authority or of the exercise of such attributes entails loss of tutorship only if so decided by the court.

1991, c. 64, a. 197.

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198. A father or mother or a parent deprived of tutorship as a result of having been deprived of parental authority or having had the exercise of certain attributes of parental authority withdrawn may, even after dative tutorship is instituted, be reinstated as tutor once he or she again has full exercise of parental authority.

1991, c. 64, a. 198; 2022, c. 22, s. 55.

199. Where the court declares the father and mother or the parents of a minor deprived of parental authority without appointing another tutor, the director of youth protection having jurisdiction in the child's place of residence becomes by virtue of his office legal tutor to the child unless the child is already provided with a tutor other than his father and mother or his parents.

The director of youth protection is also, until the order of placement, legal tutor to a child he has caused to be declared eligible for adoption or in whose respect he has received a general consent to adoption, except where the court has appointed another tutor.

1991, c. 64, a. 199; 2022, c. 22, s. 56.

DIVISION II.1

SUPPLETIVE TUTORSHIP

2017, c. 12, s. 10.

199.1. The father or mother of a minor child or the child's parents or one of them may designate a person to whom may be delegated or with whom may be shared the offices of legal tutor and of person having parental authority where it is impossible for them or for one of them to fully assume those offices or where there is disengagement toward the child.

Only the spouse of one of them, an ascendant of the child, a relative in the collateral line to the third degree, a spouse of that ascendant or relative or a member of the child's foster family may be so designated as tutor.

2017, c. 12, s. 10; 2022, c. 22, s. 57.

199.2. Such a designation must be authorized by the court on the application of the father or mother or of the parents or one of them.

If the father and mother or the parents are prevented from expressing their wishes, any person who may be designated as tutor and who, in fact or by law, has custody of the child may apply to the court to be entrusted with the offices of legal tutor and of person having parental authority.

2017, c. 12, s. 10; 2022, c. 22, s. 58.

199.3. The court authorizes the designation with the consent of the father or mother or of the parents or one of them. If the court fails to obtain such consent for any reason or if the refusal expressed by one of them is not justified by the interest of the child, the court may authorize the designation.

2017, c. 12, s. 10; 2022, c. 22, s. 59.

199.4. If the child is 10 years of age or over, the designation may not take place without the child's consent, unless he is unable to express his will.

However, the court may authorize the designation despite the child's refusal, unless the child is 14 years of age or over.

2017, c. 12, s. 10.

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199.5. Any interested person may contest the delegation or sharing of the offices of legal tutor and of person having parental authority as well as the designation of the tutor. However, another person may not be substituted for the tutor designated by the father or the mother or by the parents or one of them without their consent, unless they are prevented from expressing their will.

2017, c. 12, s. 10; 2022, c. 22, s. 60.

199.6. The designation of a suppletive tutor entails, for the father or mother or parent who is unable to fully assume the offices of legal tutor and of person having parental authority, the suspension of those offices.

2017, c. 12, s. 10; 2022, c. 22, s. 61.

199.7. Any provision relating to tutorship and parental authority that applies to the father or mother or one of the parents also applies, with the necessary modifications, to the suppletive tutor, except provisions relating to the appointment of a dative tutor and to deprivation of parental authority.

2017, c. 12, s. 10; 2022, c. 22, s. 62.

199.8. The father or mother or one of the parents may, if new facts arise, be reinstated by the court as legal tutor and as person having parental authority on the application of either of them, the tutor, or the child if he is 10 years of age or over.

2017, c. 12, s. 10; 2022, c. 22, s. 63.

199.9. Except in the cases provided for in this chapter, the office of tutor ceases when the rules for the institution of a dative tutorship begin to apply.

In addition, the tutor may apply to the court to be relieved of his duties provided notice of the application has been given to the father or mother or to the parents or one of them, and to the child if he is 10 years of age or over.

2017, c. 12, s. 10; 2022, c. 22, s. 64.

199.10. Conditions under any Québec Aboriginal custom that is in harmony with the principles of the interest of the child, respect for the child's rights and the consent of the persons concerned may be substituted for conditions of suppletive tutorship. In such cases, the provisions of this division, except articles 199.6 and 199.7, do not apply.

Such a tutorship is, on the application of the child or the tutor, attested by the authority that is competent for the Aboriginal community or nation of either the child or the tutor. However, if the child and the tutor are members of different nations, the tutorship is attested by the authority that is competent for the child's nation or community.

The competent authority issues a certificate attesting the tutorship after making sure that it was carried out according to custom, in particular that the required consents were validly given and that the child is in the care of the tutor; the authority also makes sure that the tutorship is in the interest of the child.

The authority is a person or body domiciled in Québec and designated by the Aboriginal community or nation. The competent authority may not, when called on to act, be a party to the tutorship.

2017, c. 12, s. 10.

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DIVISION III

DATIVE TUTORSHIP

200. The father or mother or one of the parents may appoint a tutor to their minor child by will, by a protection mandate or by filing a declaration to that effect with the Public Curator.

1991, c. 64, a. 200; 1998, c. 51, s. 22; I.N. 2016-01-01 (NCCP); 2022, c. 22, s. 65.

201. The right to appoint a tutor belongs exclusively to the last surviving person among the father and mother or among the parents or to the last person among them who is able to exercise tutorship, as the case may be, if that person has retained legal tutorship to the day of their death.

Where the father and mother or the parents die simultaneously or lose the ability to exercise tutorship during the same event, each having designated a different person as tutor, and both persons accept the office, the court decides which person will exercise it.

1991, c. 64, a. 201; 1998, c. 51, s. 23; I.N. 2014-05-01; 2022, c. 22, s. 66.

202. Unless the designation is contested, the tutor appointed by the father or mother or one of the parents assumes office upon accepting it.

If the person does not refuse the office within 30 days after learning of his appointment, he is presumed to have accepted.

1991, c. 64, a. 202; 1998, c. 51, s. 24; 2016, c. 4, s. 25; 2022, c. 22, s. 67.

203. Whether the tutor appointed by the father or mother or one of the parents accepts or refuses the office, he shall notify the liquidator of the succession and the Public Curator.

1991, c. 64, a. 203; 2022, c. 22, s. 68.

204. Where the person appointed by either parent refuses the tutorship, he shall without delay give notice of his refusal to the replacement, if any, designated by the parent.

The person may, however, retract his refusal before the replacement accepts the office or an application to institute tutorship is made to the court.

1991, c. 64, a. 204; I.N. 2014-05-01.

205. Tutorship is conferred by the court where it is expedient to appoint a tutor or a replacement, to appoint a tutor ad hoc or a tutor to property or where the designation of a tutor appointed by the father and mother or by the parents is contested.

Tutorship is conferred on the advice of the tutorship council, unless it is applied for by the director of youth protection.

1991, c. 64, a. 205; 2022, c. 22, s. 69.

206. The minor, the father or mother or one of the parents, close relatives and persons closely connected to the minor by marriage or a civil union, or any other interested person, including the Public Curator, may apply to the court and, if necessary, propose a suitable person who is willing to accept the tutorship.

1991, c. 64, a. 206; 2002, c. 6, s. 235; 2016, c. 4, s. 26; 2022, c. 22, s. 70.

207. The director of youth protection or the person recommended as tutor by him may also apply for the institution of tutorship to an orphan who is a minor and who has no tutor, or to a child whose father and

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mother or whose parents both fail, in fact, to assume his care, maintenance or education, or to a child who in all likelihood would be in danger if he returned to his father and mother or to his parents.

1991, c. 64, a. 207; 2022, c. 22, s. 71.

DIVISION IV

ADMINISTRATION OF TUTORS

208. With respect to the property of the minor, the tutor acts as an administrator charged with simple administration.

1991, c. 64, a. 208; I.N. 2014-05-01.

209. In administering the property of their minor child, fathers and mothers or parents are not bound to make an inventory of the property, furnish security for their administration, render an annual account of their management, or obtain any advice or authorization from the tutorship council or the court unless the property is worth more than $40,000 or the court so orders upon the application of an interested person.

1991, c. 64, a. 209; I.N. 2014-05-01; 2022, c. 22, s. 72; 2020, c. 11, s. 8.

210. All property given or bequeathed to a minor on condition that it be administered by a third person is withdrawn from the administration of the tutor.

If the act does not indicate the particular mode of administration of the property, the person administering it has the rights and obligations of a tutor to property.

1991, c. 64, a. 210.

211. A tutor may accept alone any gift in favour of his pupil. He may not accept any gift with a charge, however, without obtaining the authorization of the tutorship council.

1991, c. 64, a. 211.

212. A tutor may not transact or bring an appeal without the authorization of the tutorship council.

1991, c. 64, a. 212; I.N. 2014-05-01.

213. The tutor, before contracting a significant loan in relation to the patrimony of the minor, offering property as security, alienating important family property, an immovable or an enterprise, or demanding the definitive partition of immovables held by the minor in undivided co-ownership, shall obtain the authorization of the tutorship council or, if the property or security is worth more than $40,000, of the court, which seeks the advice of the tutorship council.

The tutorship council or the court does not allow the loan to be contracted, or property to be alienated by onerous title or offered as security, except where that is necessary to ensure the education and maintenance of the minor, to pay his debts, to maintain the property in good order or to safeguard the value of his patrimony. The authorization then indicates the amount and conditions of the loan, the property that may be alienated or offered as security, and sets forth the conditions under which it may be done.

1991, c. 64, a. 213; 2002, c. 19, s. 15; I.N. 2014-05-01; 2020, c. 11, s. 9.

214. No tutor may, without first obtaining an expert's appraisal, alienate property worth more than $40,000, except in the case of securities listed and traded on a recognized stock exchange in accordance with the provisions relating to investments presumed sound. A copy of the appraisal is attached to the annual management account.

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Juridical acts which are related according to their nature, their object or the time they are performed constitute one and the same act.

1991, c. 64, a. 214; I.N. 2014-05-01; 2020, c. 11, s. 10.

215. A tutor acting alone may enter into an agreement to continue in indivision, but in that case the minor may terminate the agreement within one year after reaching the age of majority, regardless of its term.

An agreement authorized by the tutorship council and by the court is binding on the minor once he attains full age.

1991, c. 64, a. 215; I.N. 2014-05-01.

216. The clerk of the court gives notice without delay to the tutorship council and to the Public Curator of any judgment relating to the patrimonial interests of a minor and of any transaction effected pursuant to an action to which the tutor is a party in that quality.

1991, c. 64, a. 216; I.N. 2014-05-01.

217. Where the property is worth more than $40,000, the liquidator of a succession which devolves or is bequeathed to a minor and the donor of property if the donee is a minor and, in any case, any person who pays an indemnity for the benefit of a minor, shall notify the Public Curator and state the value of the property or the amount of the indemnity, as the case may be, at least 15 days before its transmission or payment.

The 15-day notice period prescribed in the first paragraph does not apply to the payment of an indemnity the object of which is to make good on the obligation of support that lies on parents with respect to their child.

1991, c. 64, a. 217; 2020, c. 11, s. 11.

218. A tutor takes out of the property under his administration all sums necessary to pay the expenses of the tutorship, in particular, to provide for the exercise of the civil rights of the minor and the administration of his patrimony. He also does so where, to ensure the minor's maintenance and education, it is necessary to make good on the obligation of support that lies on the father and mother or the parents.

1991, c. 64, a. 218; I.N. 2014-05-01; 2016, c. 4, s. 27; 2022, c. 22, s. 73.

219. The tutor to the person agrees with the tutor to property as to the amounts he requires each year to pay the expenses of the tutorship.

If the tutors do not agree on the amounts or their payment, the tutorship council or, failing that, the court decides.

1991, c. 64, a. 219.

220. The minor manages the proceeds of his work and any allowances paid to him to meet his ordinary and usual needs.

Where the revenues of the minor are considerable or where justified by the circumstances, the court, after obtaining the advice of the tutor and, where applicable, the tutorship council, may fix the amounts that remain under the management of the minor. It takes into account the age and power of discernment of the minor, the general conditions of his maintenance and education and his obligations of support and those of his parents.

1991, c. 64, a. 220.

221. A director of youth protection exercising a tutorship or the person he recommends to exercise it shall obtain the authorization of the court where the law requires the tutor to obtain the advice or authorization of the tutorship council before acting.

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Where the property is worth more than $40,000, however, or, in all cases where the court so orders, tutorship to property is conferred on the Public Curator, who has from that time the rights and obligations of a dative tutor, subject to the provisions of law.

1991, c. 64, a. 221; I.N. 2014-05-01; 2020, c. 11, s. 12.

DIVISION V

TUTORSHIP COUNCIL

§ 1. — *Role and establishment of the council*

222. The role of the tutorship council is to supervise the tutorship. The tutorship council is composed of three persons designated by a meeting of relatives, persons connected by marriage or a civil union, or friends or, if the court so decides, is composed of only one person.

1991, c. 64, a. 222; 2002, c. 6, s. 235; I.N. 2014-05-01; 2016, c. 4, s. 28.

223. A tutorship council is established both in the case of dative tutorship and in that of legal tutorship, although, in the latter case, only where the father and mother or the parents are bound, with respect to the administration of the property of the minor, to make an inventory, to furnish security or to render an annual account of management.

No council is established where the tutorship is exercised by the director of youth protection, a person he has recommended as tutor, or the Public Curator.

1991, c. 64, a. 223; I.N. 2014-05-01; 2022, c. 22, s. 74.

224. Any interested person may initiate the establishment of a tutorship council by applying either to a notary, or to the court of the place where the minor has his domicile or residence, for the calling of a meeting of relatives, persons connected by marriage or a civil union, or friends.

The court examining an application for the appointment or replacement of a tutor or tutorship council may do likewise, even of its own motion.

1991, c. 64, a. 224; 2002, c. 6, s. 235; I.N. 2014-05-01; 2016, c. 4, s. 29.

225. The tutor, appointed by the father or mother or by one of the parents of a minor, or the parents, as the case may be, shall initiate the establishment of the tutorship council.

The father and mother or the parents may, at their option, call a meeting of relatives, persons connected by marriage or a civil union, or friends or make an application to the court for the establishment of a tutorship council composed of only one person designated by the court.

1991, c. 64, a. 225; 2002, c. 6, s. 235; I.N. 2014-05-01; 2016, c. 4, s. 30; 2022, c. 22, s. 75.

226. The father and mother or the parents of the minor and, if they have a known residence in Québec, his other ascendants and his brothers and sisters of full age shall be called to the meeting of relatives, persons connected by marriage or a civil union, or friends called to establish a tutorship council.

The other relatives of the minor and persons connected to him by marriage or a civil union, and his friends may be called to the meeting provided they are of full age.

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At least five persons representing, so far as possible, the maternal and paternal lines shall be called to the meeting. The meeting shall be held regardless of the number of persons participating in it. It may be held by a technological means.

1991, c. 64, a. 226; 2002, c. 6, s. 235; 2016, c. 4, s. 31; 2022, c. 22, s. 76; 2020, c. 11, s. 13.

227. Persons who shall be called are always entitled to participate in the meeting which establishes the tutorship council and give their advice even if they were not called.

1991, c. 64, a. 227; I.N. 2014-05-01; 2020, c. 11, s. 14.

228. The meeting appoints the three members of the council and designates two alternates, giving consideration so far as possible to representation of the maternal and paternal lines or the lines of each of the two parents.

It also appoints a secretary, who may or may not be a member of the council, responsible for taking and keeping the minutes of the deliberations; it fixes the remuneration of the secretary, where applicable.

The tutor may not be a member of the tutorship council.

1991, c. 64, a. 228; 2022, c. 22, s. 77.

229. Vacancies are filled by the council by selecting a designated alternate in the line where the vacancy occurred. If there is no alternate, the council selects a relative or a person connected by marriage or a civil union in the same line or, if none, a relative or a person connected by marriage or a civil union in the other line or a friend.

1991, c. 64, a. 229; 2002, c. 6, s. 235.

230. The tutorship council is bound to invite the tutor to each of its meetings to hear his advice; the minor may be invited.

1991, c. 64, a. 230; I.N. 2014-05-01.

231. The court may, on application or of its own motion, rule that the tutorship council will be composed of only one person designated by it where, owing to the family members being geographically distant, their indifference or a major impediment to them, or owing to the personal or family situation of the minor, it would be inadvisable to establish a council composed of three persons.

The court may in such a case designate a person who shows a special interest in the minor or, failing that, the director of youth protection or the Public Curator, if he is not already the tutor.

The court may exempt the person making the application from first calling a meeting of relatives, persons connected by marriage or a civil union, or friends if it is shown that sufficient effort has been made to call the meeting, but that such effort has been in vain.

1991, c. 64, a. 231; 2002, c. 6, s. 235; 2016, c. 4, s. 32.

232. Excepting the director of youth protection and the Public Curator, no one may be compelled to accept membership in the council; a person who has agreed to become a member may be released at any time provided it is not done at an inopportune moment.

Membership in a tutorship council is an office that is personal and gratuitous.

1991, c. 64, a. 232; I.N. 2014-05-01; I.N. 2015-11-01.

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§ 2. — *Rights and obligations of the council*

233. The tutorship council gives advice and makes decisions in every case provided for by law.

Moreover, where the rules for administration of the property of others provide that the beneficiary shall or may give his consent to an act, obtain advice or be consulted, the council acts on behalf of the minor who is the beneficiary.

1991, c. 64, a. 233; I.N. 2014-05-01.

233.1. Where two or more tutors are appointed for a minor and a disagreement arises between them, the tutorship council facilitates its settlement. Failing agreement between the tutors, the court decides, on the application of any interested person, including the Public Curator.

2020, c. 11, s. 15.

234. The council, where composed of three persons, meets at least once a year; deliberations are not valid unless a majority of its members attend the meeting or unless all the members can express themselves by a means which allows all of them to communicate directly with each other.

The decisions and advice of the council are taken or given by majority vote; each member shall give reasons.

As soon as it is established and whenever there is a change in its composition, the council informs the minor, if 14 years of age or older, and the minor's tutor, providing the names and contact information of its members and its secretary. The council also informs the Public Curator.

1991, c. 64, a. 234; 2014, c. 1, s. 784.

235. Whenever a minor has any interest to discuss judicially with his tutor, the council causes a tutor ad hoc to be appointed to him.

1991, c. 64, a. 235.

236. The council ascertains that the tutor makes an inventory of the property of the minor and that he furnishes and maintains a security.

The council receives the annual management account from the tutor and is entitled to examine all documents and vouchers supporting the account and obtain a copy of them.

1991, c. 64, a. 236; 2016, c. 4, s. 33.

237. Any interested person may, for a grave reason, apply to the court within 10 days to have a decision of the council reviewed or for authorization to initiate the establishment of a new council.

When an application for the review of a council decision is notified to the council secretary, the latter sends the minutes and the record relating to the decision to the office of the court without delay.

Any document to be notified to the council is notified to the council secretary.

1991, c. 64, a. 237; 2014, c. 1, s. 785.

238. The tutor may demand the convening of the council or, if it cannot be convened, apply to the court for authorization to act alone.

1991, c. 64, a. 238.

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239. The council is responsible for seeing that the records of the tutorship are preserved and for transmitting them to the minor or his heirs at the end of the tutorship.

1991, c. 64, a. 239.

DIVISION VI

SUPERVISION OF TUTORSHIPS

§ 1. — *Inventory*

240. Within 60 days of the institution of the tutorship, the tutor shall make an inventory of the property to be administered. He shall do the same for property devolved to the minor after the tutorship is instituted.

A copy of the inventory is transmitted to the Public Curator and to the tutorship council.

1991, c. 64, a. 240; I.N. 2014-05-01.

241. A tutor who continues the administration of another tutor after the rendering of account is exempt from making an inventory.

1991, c. 64, a. 241.

§ 2. — *Security*

242. The tutor is bound, if the value of the property to be administered exceeds $40,000, to take out insurance or furnish other security to guarantee the performance of his obligations. The kind and object of the security and the time granted to furnish it are determined by the tutorship council. If they have not been determined within six months after the institution of tutorship, they may be determined by the Public Curator.

The tutorship is liable for the costs of the security.

1991, c. 64, a. 242; 2016, c. 4, s. 34; 2020, c. 11, s. 16.

243. The tutor shall without delay furnish proof of the security to the tutorship council and to the Public Curator.

The tutor shall maintain the security or another of sufficient value for the duration of his office and furnish proof of it every year.

1991, c. 64, a. 243.

244. A legal person exercising tutorship to property is exempt from furnishing security.

1991, c. 64, a. 244.

245. Where it is advisable to release the security, the tutorship council or the minor, once he attains full age, may do so and, at the cost of the tutorship, apply for cancellation of the registration, if any. Notice of the cancellation is given to the Public Curator.

1991, c. 64, a. 245.

§ 3. — *Reports and accounts*

246. The tutor sends the annual account of his management to the minor 14 years of age or over, to the tutorship council and to the Public Curator.

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The tutor to property renders an annual account to the tutor to the person.

1991, c. 64, a. 246.

247. At the end of his administration, the tutor shall give a final account to the minor who has come of age; he shall also give an account to the tutor who replaces him and to the minor 14 years of age or over or, where applicable, to the liquidator of the succession of the minor. He shall send a copy of his final account to the tutorship council and to the Public Curator.

1991, c. 64, a. 247.

248. Every agreement between the tutor and the minor who has come of age relating to the administration or the account is null unless it is preceded by a detailed rendering of account and the delivery of the related vouchers.

1991, c. 64, a. 248.

249. The Public Curator examines the annual accounts of management and the final account of the tutor. He also ascertains that the security is maintained.

He may require any document and any explanation concerning the accounts and, where provided for by law, require that they be audited.

1991, c. 64, a. 249.

DIVISION VII

REPLACEMENT OF TUTOR AND END OF TUTORSHIP

250. A dative tutor may, for a serious reason, apply to the court to be relieved of his duties, provided his application is not made at an inopportune moment and notice of it has been given to the tutorship council.

1991, c. 64, a. 250.

251. The tutorship council or, in case of emergency, one of its members shall apply for the replacement of a tutor who is unable to perform his duties or neglects his obligations. A tutor to the person shall act in the same manner with regard to a tutor to property.

Any interested person, including the Public Curator, may also, for the reasons set forth in the first paragraph, apply for the replacement of the tutor.

1991, c. 64, a. 251.

252. Where tutorship is exercised by the director of youth protection, by a person he recommends as tutor or by the Public Curator, any interested person may apply for his replacement without having to justify it for any reason other than the interest of the minor.

1991, c. 64, a. 252.

253. During the proceedings, the tutor continues to exercise his duties unless the court decides otherwise and appoints a provisional administrator charged with simple administration of the property of the minor.

1991, c. 64, a. 253; I.N. 2015-11-01.

254. Every judgment terminating the duties of a tutor contains the reasons for replacing him and designates the new tutor.

1991, c. 64, a. 254.

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255. Tutorship ends when the minor attains full age, obtains full emancipation or dies.

The office of a tutor ceases at the end of the tutorship, when the tutor is replaced or on his death.

1991, c. 64, a. 255.

CHAPTER III

TUTORSHIP TO PERSONS OF FULL AGE

1991, c. 64, c. III; 2020, c. 11, s. 17.

DIVISION I

GENERAL PROVISIONS

256. Tutorship to a person of full age is established in his interest and is intended to ensure the protection of his person, the administration of his patrimony and, generally, the exercise of his civil rights.

Any incapacity resulting from the tutorship is established solely in favour of the person under tutorship.

1991, c. 64, a. 256; 2020, c. 11, s. 18.

257. Every decision relating to the institution of tutorship to a person of full age or concerning a person of full age under tutorship shall be in his interest, respect his rights and safeguard his autonomy, taking into account his wishes and preferences.

The person of full age shall, so far as possible and without delay, be informed of the decision.

1991, c. 64, a. 257; 2020, c. 11, s. 19.

258. A tutor is appointed to represent a person of full age who is incapable of caring for himself or herself or of administering property by reason, in particular, of illness, deficiency or debility due to age which impairs the person's mental faculties or physical ability to express his or her will.

A tutor may also be appointed to a prodigal who endangers the well-being of his or her married or civil union spouse or minor children.

1991, c. 64, a. 258; 2002, c. 6, s. 21; 2020, c. 11, s. 20.

259. *(Repealed).*

1991, c. 64, a. 259; 2020, c. 11, s. 21.

260. The tutor to a person of full age is responsible for his custody and maintenance, unless the court decides otherwise; he is also responsible for ensuring the moral and material well-being of the person of full age, taking into account his condition, needs and faculties and the other aspects of his situation.

He may delegate the exercise of the custody and maintenance of the person of full age but, so far as possible, he and the delegated person shall maintain a personal relationship with the person of full age, involve him in the decisions made in his regard and keep him informed of those decisions.

1991, c. 64, a. 260; 2002, c. 19, s. 15; 2020, c. 11, s. 22.

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261. The Public Curator does not exercise tutorship to a person of full age unless he is appointed by the court to do so; he may also act by virtue of his office if the person of full age is no longer provided with a tutor.

1991, c. 64, a. 261; 2020, c. 11, s. 23.

262. *(Repealed).*

1991, c. 64, a. 262; 2020, c. 11, s. 24.

263. The Public Curator does not have custody of the person of full age to whom he is appointed tutor unless, where no other person can assume it, the court entrusts it to him. He is nevertheless, in all cases, responsible for ensuring the protection of the person of full age.

The person to whom custody is entrusted, however, has the powers of a tutor to give consent to care required by the state of health of the person of full age, except care for which the Public Curator elects to reserve to himself the power to give consent.

1991, c. 64, a. 263; I.N. 2014-05-01; 2016, c. 4, s. 35; 2020, c. 11, s. 25.

264. The Public Curator acting as tutor to a person of full age may delegate the exercise of certain functions related to tutorship to a person he designates after ascertaining, where the person of full age is being treated in a health or social services establishment, that the designated person is not an employee of the establishment and has no duties therewith. He may, however, where circumstances warrant, disregard this restriction if the employee of the establishment is the spouse or a close relative of the person of full age or if the function delegated is the management, according to the Public Curator's instructions, of the monthly personal expense allowance granted to the person of full age.

The Public Curator may authorize the delegate to give consent to care required by the state of health of the person of full age, except care for which the Public Curator elects to reserve to himself the power to give consent.

1991, c. 64, a. 264; 1999, c. 30, s. 21; 2016, c. 4, s. 36; 2020, c. 11, s. 26.

265. At least once a year, the delegate renders account of the exercise of the custody to the Public Curator. The Public Curator may revoke the delegation if there is a conflict of interest between the delegate and the person of full age or for any other serious reason.

1991, c. 64, a. 265; 2020, c. 11, s. 27.

266. The rules pertaining to tutorship to minors, except those set out in article 217, apply, adapted as required, to tutorship to persons of full age.

Thus, the spouse and descendants in the first degree of the person of full age shall be called to the meeting of relatives, persons connected by marriage or a civil union, or friends, along with the persons to be called to it pursuant to article 226.

1991, c. 64, a. 266; 1998, c. 51, s. 25; 2002, c. 6, s. 235; 2016, c. 4, s. 37; 2020, c. 11, s. 28.

267. Where the person who applies for the institution or review of tutorship to a person of full age, including the Public Curator, shows that it is impossible to call five persons to the meeting of relatives, persons connected by marriage or a civil union, or friends, the court may reduce the number of persons to be called.

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The court may also exempt the person from calling a meeting of relatives, persons connected by marriage or a civil union, or friends if it is shown that sufficient effort has been made to call the meeting, but that such effort has been in vain.

1991, c. 64, a. 267; 2002, c. 6, s. 235; I.N. 2014-05-01; 2016, c. 4, s. 38; 2020, c. 11, s. 29.

DIVISION II

INSTITUTION OF TUTORSHIP TO PERSONS OF FULL AGE

1991, c. 64, Div. II; 2020, c. 11, s. 30.

268. The court institutes tutorship if it is established that the person of full age is incapable of caring for himself or of administering his property, and needs to be represented in the exercise of his civil rights.

The court then appoints a tutor to the person and to property, or a tutor either to the person or to property. It may also appoint a replacement tutor.

The court is not bound by the application. It may establish a tutorship the nature, terms and conditions of which are different from those applied for or authorize temporary representation of the incapable person of full age.

1991, c. 64, a. 268; I.N. 2014-05-01; 2020, c. 11, s. 31.

268.1. The court may appoint two tutors to the person when these are the father and mother of the person of full age.

Either parent may give the other the mandate to represent him in the performance of acts pertaining to the exercise of tutorship.

Such a mandate is presumed with regard to third persons in good faith.

2020, c. 11, s. 32.

269. The person of full age himself, his spouse, his close relatives, persons closely connected to him by marriage or a civil union, any person showing a special interest in the person or any other interested person, including the mandatary designated by the person of full age or the Public Curator, may apply for the institution of tutorship.

1991, c. 64, a. 269; 2002, c. 6, s. 235; 2016, c. 4, s. 39; 2020, c. 11, s. 33.

270. Where a person of full age receiving care or services from a health or social services institution requires to be represented in the exercise of his civil rights by reason of his isolation, the foreseeable duration of his incapacity, the nature or state of his affairs or because no mandatary already designated by him gives him adequate representation, the competent person under the Act that governs the institution reports that fact to the Public Curator, transmits a copy of his report to the person of full age and so informs a person close to that person.

Such a report includes the medical and psychosocial assessments resulting from an examination of the person of full age; it deals with the nature of his incapacity, his faculties, his environment, the extent of his needs and the other circumstances of his condition, the advisability of instituting tutorship for him as well as the time limits for medical and psychosocial reassessments. It also sets out the names, if known, of the persons qualified to apply for the institution of tutorship.

1991, c. 64, a. 270; 2016, c. 4, s. 40; 2020, c. 11, s. 34; 2023, c. 34, s. 835.

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271. The institution of tutorship to a person of full age may be applied for in the year preceding his attaining full age.

The judgment takes effect on the day the person attains full age.

1991, c. 64, a. 271; 2020, c. 11, s. 35.

272. During proceedings, the court may, even of its own motion, decide on the custody of the person of full age if it is clear that he is unable to care for himself and that custody is required to prevent serious injury for him.

Even before the proceedings, the Court may, if an application for the institution of tutorship to a person of full age is about to be made and it is necessary to act to prevent serious injury for the person of full age, provisionally designate the Public Curator or another person to ensure the personal protection of the person of full age or to represent him in the exercise of his civil rights.

1991, c. 64, a. 272; 1999, c. 30, s. 22; I.N. 2014-05-01; 2016, c. 4, s. 41; 2020, c. 11, s. 36.

273. An act under which the person of full age has already charged another person with the administration of his property continues to produce its effects notwithstanding the proceedings unless it is revoked by the court for a serious reason.

If no mandate has been given by the person of full age or by the court under article 444, the rules for the management of the business of another apply and the Public Curator and any other person who is qualified to apply for the institution of tutorship to a person of full age may, in an emergency or even before proceedings if an application for the institution of such tutorship is about to be made, perform the acts required to preserve the patrimony.

1991, c. 64, a. 273; I.N. 2014-05-01; I.N. 2015-11-01; 2020, c. 11, s. 37.

274. In cases where there is no mandate or management of the business of another or even before proceedings if an application for the institution of tutorship to a person of full age is about to be made, the court may, if it is necessary to act in order to prevent serious injury, provisionally designate the Public Curator or another person either to perform a specific act or to administer the property of the person of full age within the limits of simple administration of the property of others.

1991, c. 64, a. 274; I.N. 2014-05-01; 2020, c. 11, s. 38.

275. During proceedings and thereafter, the dwelling of the person of full age and the movable property with which it is furnished are kept at his disposal. The power to administer that property extends only to agreements granting precarious enjoyment, which cease to have effect by operation of law upon the return of the person of full age.

Should it be necessary or in the best interest of the person of full age that the movable property or the rights relating to the dwelling be disposed of, the act may be done only with the authorization of the tutorship council. Even in such a case, except for a compelling reason, souvenirs and other personal effects may not be disposed of and shall, so far as possible, be kept at the disposal of the person of full age by the health or social services establishment.

1991, c. 64, a. 275; 2016, c. 4, s. 42; 2020, c. 11, s. 39.

276. Where the court examines an application for the institution of tutorship to a person of full age, it takes into consideration, in addition to the advice of the persons who may be called to form the tutorship council, the medical and psychosocial evidence, the wishes and preferences expressed by the person of full age, including those expressed in a protection mandate which has not been homologated, and the degree of autonomy of the person in whose respect the institution of tutorship is applied for.

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The court shall give to the person of full age an opportunity to be heard, personally or through a representative where required by his state of health, on the merits of the application and, where applicable, on the nature, terms and conditions of the tutorship as well as on the person who will represent him.

1991, c. 64, a. 276; I.N. 2016-01-01 (NCCP); 2020, c. 11, s. 40.

277. A judgment concerning tutorship to a person of full age may be reviewed at any time.

1991, c. 64, a. 277; 2020, c. 11, s. 41.

278. When instituting the tutorship, the court determines the time limits for periodic reassessment of the person of full age.

The time limits for reassessment may not exceed five years. A longer time limit may however be set for the medical reassessment, without exceeding 10 years, when it is clear that the situation of the person of full age will remain unchanged. Those time limits are determined taking into account the recommendations made in the medical and psychosocial assessment reports concerning the person of full age, the nature of his incapacity, the extent of his needs and the other circumstances of his condition.

The tutor is bound to see to it that the person of full age undergoes the assessments within the fixed time limits. The person of full age may, at any time, apply to be reassessed.

1991, c. 64, a. 278; 2020, c. 11, s. 42.

278.1. Where the medical or psychosocial assessor becomes aware that the situation of the person of full age has changed sufficiently to justify modifying or terminating the tutorship, the assessor attests to that fact in a report, indicating any modifications he considers appropriate. The assessor transmits the report to the person of full age, to the tutor and to the competent person under the Act that governs the health or social services institution providing care or services to the person of full age or, failing that, to the institution's competent person that has jurisdiction in the territory in which the person of full age resides. The competent person then obtains the report of the other assessor, transmits a copy of it to the person of full age and to the tutor, and files a copy of both reports in the office of the court.

Where the medical or psychosocial assessor considers that the time limit for the reassessment of the person of full age should be modified, the assessor attests to that fact in a report, indicating the time limit he considers appropriate. He transmits the report to the person of full age and the tutor. The tutor shall then file a copy of the report concerned in the office of the court.

2020, c. 11, s. 43; 2023, c. 34, s. 832.

279. The competent person under the Act that governs the health or social services institution providing care or services to the person of full age shall, if the incapacity or need for representation that justified tutorship to a person of full age ceases, attest to that fact in a report which he files in the office of the court. Such a report includes the medical and psychosocial assessments.

1991, c. 64, a. 279; I.N. 2014-05-01; 2020, c. 11, s. 44; 2023, c. 34, s. 835.

280. On the filing of the report or reports on the review of a tutorship to a person of full age, the clerk notifies the person of full age, the tutor and the persons qualified to intervene in the application for the institution of tutorship. If no objection is made within 30 days after the date of the notice, release from or the modification of the tutorship takes effect by operation of law. An attestation is drawn up by the clerk and transmitted without delay to the person of full age, to his tutor, to the tutorship council and to the Public Curator.

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Those rules also apply to the review of a time limit for the medical or psychosocial reassessment of a person of full age, on the filing of the relevant report.

1991, c. 64, a. 280; 2002, c. 19, s. 15; I.N. 2014-05-01; 2020, c. 11, s. 45.

DIVISION III

(Repealed, 2020, c. 11, s. 46).

1991, c. 64, Div. III; 2020, c. 11, s. 46.

281. *(Repealed).*

1991, c. 64, a. 281; 2002, c. 19, s. 15; I.N. 2014-05-01; 2020, c. 11, s. 46.

282. *(Repealed).*

1991, c. 64, a. 282; I.N. 2014-05-01; 2020, c. 11, s. 46.

283. *(Repealed).*

1991, c. 64, a. 283; I.N. 2014-05-01; 2020, c. 11, s. 46.

284. *(Repealed).*

1991, c. 64, a. 284; I.N. 2015-11-01; 2020, c. 11, s. 46.

285. *(Repealed).*

1991, c. 64, a. 285; I.N. 2014-05-01; 2020, c. 11, s. 48.

DIVISION IV

CERTAIN MODALITIES OF TUTORSHIP TO PERSONS OF FULL AGE

2020, c. 11, s. 49.

286. The tutor has the simple administration of the property of the person of full age incapable of administering his property. He exercises his administration in the same manner as the tutor to a minor, unless the court decides otherwise.

1991, c. 64, a. 286.

287. The rules pertaining to the exercise of the civil rights of a minor apply, adapted as required, to a person of full age under tutorship.

1991, c. 64, a. 287.

288. When instituting the tutorship or subsequently, the court determines whether the rules concerning the capacity of the person of full age under tutorship need to be modified or clarified in light of his faculties. To do so, it takes into consideration the medical and psychosocial assessment reports and, as the case may be, the advice of the tutorship council or of the persons who may be called upon to form the tutorship council. It also takes into account, so far as possible, the opinion of the person of full age.

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The court then indicates, where applicable, the acts the person under tutorship may perform himself, alone or with the assistance of the tutor, or those he may not perform without being represented.

1991, c. 64, a. 288; 2020, c. 11, s. 50.

289. The person of full age under tutorship retains the administration of the proceeds of his work, unless the court decides otherwise.

1991, c. 64, a. 289.

289.1. The tutor, before contracting a significant loan in relation to the patrimony of the person of full age, offering property as security, alienating important family property, an immovable or an enterprise, or demanding the definitive partition of immovables held by the person of full age in undivided co-ownership, shall obtain the authorization of the tutorship council or, if the property or security is worth more than $40,000, of the court, which seeks the advice of the tutorship council.

The tutorship council or the court does not allow the loan to be contracted, or property to be alienated by onerous title or offered as security, except where that is necessary to ensure the education and maintenance of the person of full age, to pay his debts, to maintain the property in good order or to safeguard the value of his patrimony, or where that is the wish of the person of full age and he is not at risk of suffering serious injury therefrom. The authorization then indicates the amount and conditions of the loan and the property that may be alienated or offered as security, and sets forth the conditions under which it may be done.

2020, c. 11, s. 51.

290. Acts performed before the tutorship may be annulled or the obligations resulting from them reduced on the mere proof that the incapacity was notorious or known to the other contracting party at the time the acts were performed.

1991, c. 64, a. 290; I.N. 2015-11-01.

DIVISION V

(Repealed, 2020, c. 11, s. 52).

1991, c. 64, Div. V; 2020, c. 11, s. 52.

291. *(Repealed).*

1991, c. 64, a. 291; I.N. 2014-05-01; 2016, c. 4, s. 43; 2020, c. 11, s. 52.

292. *(Repealed).*

1991, c. 64, a. 292; 2020, c. 11, s. 52.

293. *(Repealed).*

1991, c. 64, a. 293; I.N. 2014-05-01; 2016, c. 4, s. 44; 2020, c. 11, s. 52.

294. *(Repealed).*

1991, c. 64, a. 294; I.N. 2014-05-01; 2020, c. 11, s. 52.

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DIVISION VI

REPLACEMENT OF TUTOR AND END OF TUTORSHIP TO A PERSON OF FULL AGE

1991, c. 64, Div. VI; 2020, c. 11, s. 53.

295. Tutorship to a person of full age ceases by a judgment of release or by the death of the person of full age.

It also ceases upon the expiry of the prescribed period for contesting the report attesting the cessation of the incapacity or of the need for representation.

1991, c. 64, a. 295; 2020, c. 11, s. 54.

296. A person of full age may at any time after being released from tutorship and, where applicable, after the rendering of account by the tutor, confirm any act otherwise null.

1991, c. 64, a. 296; 2020, c. 11, s. 55.

296.1. A tutor may renounce his office only if a replacement tutor accepts the office.

If no replacement tutor accepts the office, the tutor may, for a serious reason, apply to the court to be relieved of his duties, provided his application is not made at an inopportune moment and notice of it has been given to the tutorship council.

2020, c. 11, s. 56.

296.2. The replacement tutor who accepts the office shall file the acceptance in the office of the court. The clerk notifies the person of full age, the original tutor and the persons qualified to intervene in the application for the institution of tutorship of the filing of the acceptance. If no objection is made within 30 days after the date of the notice, the replacement of the tutor takes effect by operation of law. An attestation is drawn up by the clerk and transmitted without delay to the person of full age, to his new tutor, to the tutor the latter is replacing, to the tutorship council and to the Public Curator.

2020, c. 11, s. 56.

297. A vacancy in the office of tutor does not terminate tutorship to a person of full age.

The replacement tutor may accept the office. Failing that, the tutorship council shall initiate the appointment of a new tutor; any interested person, including the Public Curator, may also initiate such an appointment.

1991, c. 64, a. 297; 2020, c. 11, s. 57.

CHAPTER IV

TEMPORARY REPRESENTATION OF INCAPABLE PERSONS OF FULL AGE

2020, c. 11, s. 58.

297.1. The court may authorize a person to perform a specific act in the name of a person of full age if it is established that the incapacity of the person of full age is such that he needs to be temporarily represented for the performance of that act.

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The incapacity resulting from representation is temporary and pertains only to the performance of that act. It is established solely in favour of the person of full age.

2020, c. 11, s. 58.

297.2. The spouse of a person of full age, his close relatives and persons closely connected to him by marriage or a civil union, any person who shows a special interest in him, or any other interested person, including the mandatary designated by him or the Public Curator, may apply for temporary representation of the person of full age or be designated as representatives. The person of full age himself may also apply to be so represented.

2020, c. 11, s. 58.

297.3. Where the court examines an application for temporary representation, it takes into consideration the medical and psychosocial assessments resulting from the examination of the person of full age.

The court shall give to the person of full age an opportunity to be heard, personally or through a representative where required by his state of health, on the merits of the application and as to the person who will represent him.

2020, c. 11, s. 58.

297.4. The court fixes the terms and conditions of exercise of the powers conferred on the temporary representative.

The court may, in particular, order the temporary representative to render an account to the spouse or a close relative of the person of full age or to a person who shows a special interest in him or, if there are no such persons, to the Public Curator.

2020, c. 11, s. 58.

297.5. The court may authorize the temporary representative to contract a loan, to alienate property by onerous title or to offer property as security only where that is necessary to ensure the education and maintenance of the person of full age, to pay his debts, to maintain the property in good order or to safeguard the value of his patrimony, or where that is the wish of the person of full age and he is not at risk of suffering serious injury therefrom.

The authorization then indicates the amount and conditions of the loan and the property that may be alienated or offered as security, and sets forth the conditions under which it may be done.

2020, c. 11, s. 58.

297.6. Every decision relating to the designation of a temporary representative and the performance of the specific act shall be made in the interest of the person of full age, respect his rights and safeguard his autonomy, taking into account his wishes and preferences.

The person of full age shall, so far as possible, participate in the decisions made in his regard and be informed without delay of those decisions.

2020, c. 11, s. 58.

297.7. An act performed alone by a person of full age for which he was required to be represented may not be annulled or the resulting obligations reduced, unless he suffers injury therefrom.

2020, c. 11, s. 58.

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297.8. The rules relating to the office of tutor and to the replacement of a tutor to a minor apply, adapted as required, to a temporary representative.

2020, c. 11, s. 58.

297.9. Temporary representation ends when the specific act has been performed. The temporary representative then notifies the person of full age and the Public Curator in writing.

It also ends, by operation of law, as soon as a tutorship is instituted or a protection mandate homologated for the person of full age.

2020, c. 11, s. 58.

CHAPTER V

ASSISTANTS TO PERSONS OF FULL AGE

2020, c. 11, s. 58.

DIVISION I

GENERAL PROVISIONS

2020, c. 11, s. 58.

297.10. A person of full age who, by reason of a difficulty, wishes to be assisted in caring for himself, administering his patrimony and, in general, exercising his civil rights, may apply to the Public Curator to have a person who accepts to assist him, in particular in his decision-making, recognized by the Public Curator.

The recognition of the assistant is entered in a public register.

2020, c. 11, s. 58.

297.11. An assistant is authorized to act as an intermediary between the assisted person of full age and any third person, including a person bound by law to professional secrecy. The assistant is presumed to act with the consent of the person of full age.

The assistant may communicate and receive information in the name of, and communicate the decisions made by, the person of full age.

A third person may not refuse that the assistant act as such.

2020, c. 11, s. 58.

297.12. An assistant shall act with prudence and diligence. He undertakes, by acceptance of his office, to advocate for the wishes and preferences of the person of full age in dealing with third persons.

In addition, he undertakes to respect the privacy of the person of full age. Thus, he may gather, use or communicate information concerning the person of full age only with the person's consent and only to the extent necessary to perform the duties of his office.

2020, c. 11, s. 58.

297.13. An assisted person of full age retains his full capacity to exercise his civil rights.

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The assistant may not sign in the name of the person of full age and does not intervene in the acts for which he assists the person of full age.

2020, c. 11, s. 58.

297.14. Every natural person capable of fully exercising his civil rights and able to assume the office may be recognized as an assistant.

2020, c. 11, s. 58.

297.15. An assistant may not act in a situation where his personal interest is in conflict with that of the assisted person of full age.

2020, c. 11, s. 58.

297.16. A person of full age may apply for the recognition of one or two assistants. If there are two assistants, they are not bound to act jointly, unless the person of full age decides otherwise.

2020, c. 11, s. 58.

297.17. An assistant is not entitled to any remuneration.

However, the assisted person of full age reimburses the assistant for any reasonable expenses the latter has incurred in exercising the duties of his office.

2020, c. 11, s. 58.

297.18. An assistant shall inform the Public Curator of his activities, on the Public Curator's request.

2020, c. 11, s. 58.

DIVISION II

RECOGNITION OF ASSISTANTS TO PERSONS OF FULL AGE

2020, c. 11, s. 58.

297.19. An application for the recognition of an assistant to a person of full age is filed with the Public Curator by the person of full age himself, jointly with any proposed assistant.

It may also be filed with the Public Curator through an advocate or notary certified to do so by his professional order.

2020, c. 11, s. 58.

297.20. The application shall be accompanied by a summary description of the patrimony of the person of full age.

2020, c. 11, s. 58.

297.21. The Public Curator, advocate or notary ensures, out of the presence of any proposed assistant, that the person of full age understands the scope of his application and is able to express his wishes and preferences. He also meets the person of full age in the presence of any proposed assistant.

Such meetings may be held by a technological means.

2020, c. 11, s. 58.

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297.22. The Public Curator verifies the judicial record of the proposed assistant.

2020, c. 11, s. 58.

297.23. The Public Curator, advocate or notary notifies the application to at least two persons, either from the family of the person of full age or from among persons who show a special interest in him, excluding any proposed assistant. He notifies them, at the same time, of their right to object within 30 days after the date of the notice.

He is exempt from that obligation if sufficient effort has been made to notify the application but such effort has been in vain.

2020, c. 11, s. 58.

297.24. On completing his operations, the advocate or notary draws up minutes and conclusions.

The minutes must identify the person of full age and any proposed assistant, and provide a detailed account of the operations carried out and the documents submitted. The minutes must also provide an account of any testimony taken and any representations or objections received from an interested person.

The advocate or notary promptly sends the application and the minutes and conclusions to the Public Curator, together with the documents supporting the conclusions. The Public Curator is not bound by the conclusions of the advocate or notary.

2020, c. 11, s. 58.

297.25. The Public Curator recognizes the proposed assistant, except in the following cases:

(1) he has serious doubt that the person of full age understands the scope of the application;

(2) he has serious doubt that the person of full age is able to express his wishes and preferences;

(3) an element gives serious reason to fear that the person of full age will suffer injury owing to the proposed assistant's recognition; or

(4) an interested person objects to the proposed assistant's recognition for any of those reasons.

The Public Curator may refuse to recognize the proposed assistant if the latter has failed to fulfil his obligations as an assistant in the past.

The Public Curator notifies the person of full age and the proposed assistant of his decision. In the case of a refusal, the person of full age may apply to the court within 30 days of the notice to have the decision reviewed.

2020, c. 11, s. 58.

DIVISION III

END OF RECOGNITION OF ASSISTANTS TO PERSONS OF FULL AGE

2020, c. 11, s. 58.

297.26. The recognition of an assistant ends on the expiry of three years, or before if the person of full age so requests.

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It also ends when the Public Curator is informed that the assistant has ceased to act. The same applies when the Public Curator is informed

(1) that a tutorship has been instituted or a protection mandate homologated for the assisted person of full age or the assistant; or

(2) that a temporary representative has been designated for the assistant.

The assistant, tutor, mandatary or temporary representative shall so inform the Public Curator, who then deletes the entry from the register and so informs the person of full age and the assistant.

2020, c. 11, s. 58.

297.27. The Public Curator may terminate the recognition of an assistant where an element gives serious reason to fear that the person of full age will suffer injury owing to such recognition.

The Public Curator notifies the person of full age and the assistant of his decision. The person of full age may apply to the court within 30 days of the notice to have the decision reviewed.

2020, c. 11, s. 58.

TITLE FIVE

LEGAL PERSONS

CHAPTER I

JURIDICAL PERSONALITY

DIVISION I

CONSTITUTION AND KINDS OF LEGAL PERSONS

298. Legal persons are endowed with juridical personality.

Legal persons are established in the public interest or for a private interest.

1991, c. 64, a. 298.

299. Legal persons are constituted in accordance with the juridical forms provided by law, and sometimes directly by law.

Legal persons exist from the coming into force of the Act or from the time provided thereby if they are established in the public interest or are constituted directly by law or by operation of law; otherwise, they exist from the time provided by the Acts that are applicable to them.

1991, c. 64, a. 299; I.N. 2014-05-01; I.N. 2015-11-01.

300. Legal persons established in the public interest are primarily governed by the special Acts by which they are constituted and by those which are applicable to them; legal persons established for a private interest are primarily governed by the Acts applicable to their particular type.

Both kinds of legal persons are also governed by this Code where the provisions of such Acts require to be complemented, particularly with regard to their status as legal persons, their property or their relations with other persons.

1991, c. 64, a. 300.

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DIVISION II

EFFECTS OF JURIDICAL PERSONALITY

301. Legal persons have full enjoyment of civil rights.

1991, c. 64, a. 301.

302. Every legal person has a patrimony which may, to the extent provided by law, be divided or appropriated to a purpose. It also has the extra-patrimonial rights and obligations flowing from its nature.

1991, c. 64, a. 302.

303. Legal persons have capacity to exercise all their rights, and the provisions of this Code concerning the exercise of civil rights by natural persons are applicable to them, adapted as required.

They have no incapacities other than those which may result from their nature or from an express provision of law.

1991, c. 64, a. 303; I.N. 2014-05-01.

304. Legal persons may not act as tutors, mandataries or temporary representatives to the person.

They may, however, to the extent that they are authorized by law to act as such, hold office as tutor, mandatary or temporary representative to property, liquidator of a succession, sequestrator, trustee or administrator of another legal person.

1991, c. 64, a. 304; 2020, c. 11, s. 59.

305. Every legal person has a name which is assigned to it when it is constituted, and under which it exercises its rights and performs its obligations.

It shall be assigned a name which conforms to law and which includes, where required by law, an expression that clearly indicates the juridical form assumed by the legal person.

1991, c. 64, a. 305.

306. A legal person may engage in an activity or identify itself under a name other than its own name. It shall give notice to the enterprise registrar by filing a declaration to that effect in accordance with the Act respecting the legal publicity of enterprises (chapter P-44.1) and, if the legal person is a syndicate of co-owners, apply for the registration of such a notice in the land register.

1991, c. 64, a. 306; 2000, c. 42, s. 1; 2002, c. 45, s. 157; 2010, c. 7, s. 164.

307. The domicile of a legal person is at the place and address of its head office.

1991, c. 64, a. 307.

308. A legal person may change its name or its domicile by following the procedure established by law.

1991, c. 64, a. 308.

309. Legal persons are distinct from their members. Their acts bind none but themselves, except as provided by law.

1991, c. 64, a. 309.

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310. The functioning, the administration of the patrimony and the activities of a legal person are regulated by law, the constituting act and the by-laws; to the extent permitted by law, they may also be regulated by a unanimous agreement of the members.

In case of inconsistency between the constituting act and the by-laws, the constituting act prevails.

1991, c. 64, a. 310.

311. Legal persons act through their organs, such as the board of directors and the general meeting of the members.

1991, c. 64, a. 311.

312. A legal person is represented by its senior officers, who bind it to the extent of the powers vested in them by law, the constituting act or the by-laws.

1991, c. 64, a. 312.

313. The by-laws of a legal person establish contractual relations between the legal person and its members.

1991, c. 64, a. 313; I.N. 2014-05-01; 2016, c. 4, s. 45.

314. A legal person exists in perpetuity unless otherwise provided by law or its constituting act.

1991, c. 64, a. 314.

315. The members of a legal person are bound towards the legal person for anything they have promised to contribute to it, unless otherwise provided by law.

1991, c. 64, a. 315; I.N. 2014-05-01; I.N. 2015-11-01.

316. In case of fraud with regard to the legal person, the court may, on the application of an interested person, hold the founders, directors, other senior officers or members of the legal person who have participated in the alleged act or derived personal profit therefrom liable, to the extent it indicates, for any injury suffered by the legal person.

1991, c. 64, a. 316; I.N. 2014-05-01.

317. The juridical personality of a legal person may not be invoked against a person in good faith so as to dissemble fraud, abuse of right or contravention of a rule of public order.

1991, c. 64, a. 317; I.N. 2014-05-01.

318. The court, in deciding an action brought by a third person in good faith, may rule that a person or group not having the status of a legal person is bound in the same way as a legal person, if the person or group acted as such towards the third person.

1991, c. 64, a. 318; I.N. 2014-05-01.

319. A legal person may ratify an act performed for it before it was constituted; it is then substituted for the person who acted for it.

The ratification does not effect novation; the person who acted has thenceforth the same rights and is subject to the same obligations as a mandatary with respect to the legal person.

1991, c. 64, a. 319; I.N. 2014-05-01.

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320. A person who acts for a legal person before it is constituted is bound by the obligations so contracted, unless the contract stipulates otherwise and includes a statement to the effect that the legal person might not be constituted or might not assume the obligations subscribed in the contract.

1991, c. 64, a. 320.

DIVISION III

OBLIGATIONS AND DISQUALIFICATION OF DIRECTORS

321. A director is considered to be the mandatary of the legal person. He shall, in the performance of his duties, conform to the obligations imposed on him by law, the constituting act or the by-laws and he shall act within the limits of the powers conferred on him.

1991, c. 64, a. 321.

322. A director shall act with prudence and diligence.

He shall also act with honesty and loyalty in the interest of the legal person.

1991, c. 64, a. 322; 2002, c. 19, s. 15.

323. No director may mingle the property of the legal person with his own property nor may he use for his own profit or that of a third person any property of the legal person or any information he obtains by reason of his duties, unless he is authorized to do so by the members of the legal person.

1991, c. 64, a. 323.

324. A director shall avoid placing himself in any situation where his personal interest would be in conflict with his obligations as a director.

A director shall declare to the legal person any interest he has in an enterprise or association that may place him in a situation of conflict of interest and of any right he may set up against it, indicating their nature and value, where applicable. The declaration of interest is recorded in the minutes of the proceedings of the board of directors or the equivalent.

1991, c. 64, a. 324.

325. A director may, even in carrying on his duties, acquire, directly or indirectly, rights in the property under his administration or enter into contracts with the legal person.

The director shall immediately inform the legal person of any acquisition or contract described in the first paragraph, indicating the nature and value of the rights he is acquiring, and request that the fact be recorded in the minutes of proceedings of the board of directors or the equivalent. He shall abstain, except in case of necessity, from the discussion and voting on the question. This rule does not, however, apply to matters concerning the remuneration or conditions of employment of the director.

1991, c. 64, a. 325; 2016, c. 4, s. 46.

326. Where the director of a legal person fails to give information correctly and immediately of an acquisition or a contract, the court, on the application of the legal person or a member, may, among other measures, annul the act or order the director to render account and to remit the profit or benefit realized to the legal person.

The action may be brought only within one year after knowledge is gained of the acquisition or contract.

1991, c. 64, a. 326.

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327. Minors, persons of full age under tutorship or under a protection mandate, bankrupts and persons prohibited by the court from holding such office are disqualified for office as directors.

However, minors and persons of full age under tutorship or under a protection mandate may be directors of associations constituted as legal persons that do not aim to make pecuniary profits and whose objects concern them.

1991, c. 64, a. 327; 2020, c. 11, s. 60.

328. The acts of a director or senior officer may not be annulled on the sole ground that he was disqualified or that his designation was irregular.

1991, c. 64, a. 328.

329. The court, on the application of an interested person, may prohibit a person from holding office as a director of a legal person if the person has been found guilty of an indictable offence involving fraud or dishonesty in a matter related to legal persons, or who has repeatedly violated the laws relating to legal persons or failed to fulfil his obligations as a director.

1991, c. 64, a. 329; I.N. 2014-05-01.

330. No prohibition may extend beyond five years from the latest act charged.

The court may lift the prohibition under the conditions it sees fit, on the application of the person concerned by the prohibition.

1991, c. 64, a. 330.

DIVISION IV

JUDICIAL ATTRIBUTION OF PERSONALITY

331. Juridical personality may be conferred retroactively by the court on a legal person which, before being constituted, had publicly, continuously and unequivocally all the appearances of a legal person and acted as such towards both its members and third persons.

The authority that should originally have overseen the constitution of the legal person must first consent to the application.

1991, c. 64, a. 331; I.N. 2014-05-01.

332. Any interested person may intervene in the proceedings or contest a judgment which, in fraud of his rights, has attributed juridical personality.

1991, c. 64, a. 332; 2002, c. 19, s. 15.

333. The judgment confers juridical personality from the date it indicates. It in no way alters the rights and obligations existing on that date.

A copy of the judgment is transmitted without delay by the clerk of the court to the authority which accepted or issued the constituting act of the legal person. Notice of the judgment shall be published by the authority in the *Gazette officielle du Québec*.

1991, c. 64, a. 333; I.N. 2014-05-01.

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CHAPTER II

PROVISIONS APPLICABLE TO CERTAIN LEGAL PERSONS

334. Legal persons assuming a juridical form governed by another title of this Code are subject to the rules of this chapter; the same applies to any other legal person if the Act by which it is constituted or which applies to it so provides or indicates no other rules of functioning, dissolution or liquidation.

They may, however, make derogations in their by-laws from the rules concerning their functioning, provided the rights of the members are safeguarded.

1991, c. 64, a. 334.

DIVISION I

FUNCTIONAL STRUCTURE OF LEGAL PERSONS

§ 1. — *Administration*

335. The board of directors manages the affairs of the legal person and exercises all the powers necessary for that purpose; it may create management positions and other organs, and delegate the exercise of certain powers to the holders of those positions and to those organs.

The board of directors adopts and implements management by-laws, subject to approval by the members at the next general meeting.

1991, c. 64, a. 335.

336. The decisions of the board of directors are taken by the vote of a majority of the directors.

1991, c. 64, a. 336.

337. Every director is, with the other directors, liable for the decisions taken by the board of directors unless he requested that his dissent be recorded in the minutes of proceedings or the equivalent.

However, a director who was absent from a meeting of the board is presumed not to have approved the decisions taken at that meeting.

1991, c. 64, a. 337.

338. The directors of a legal person are designated by the members.

No one may be designated as a director without his express consent.

1991, c. 64, a. 338; I.N. 2015-11-01.

339. The term of office of directors is one year; at the expiry of that period, their term continues unless it is revoked.

1991, c. 64, a. 339.

340. The directors fill the vacancies on the board. Vacancies on the board do not prevent the directors from acting; if their number has become less than a quorum, the remaining directors may validly convene the members.

1991, c. 64, a. 340.

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341. Where the board is prevented from acting according to majority rule or another specified proportion owing to an impediment or the systematic opposition of some directors, the others may act alone for conservatory acts; they may also, with the authorization of the court, act alone for acts requiring immediate action.

Where the situation persists and the administration is seriously impeded as a result, the court, on the application of an interested person, may exempt the directors from acting in the specified proportion, divide their duties, grant a casting vote to one of them or make any order it sees fit in the circumstances.

1991, c. 64, a. 341; I.N. 2014-05-01.

342. The board of directors keeps the list of members and the books and registers necessary for the proper functioning of the legal person.

The documents referred to in the first paragraph are the property of the legal person and the members have access to them.

1991, c. 64, a. 342.

343. The board of directors may designate a person to keep the books and registers of the legal person.

The designated person may issue copies of the documents deposited with him; until proof to the contrary, the copies are proof of their contents without any requirement to prove the signature affixed to them or the authority of the author.

1991, c. 64, a. 343.

344. If all the directors are in agreement, they may participate in a meeting of the board of directors by the use of a means which allows all those participating to communicate directly with each other.

1991, c. 64, a. 344.

§ 2. — *General meeting*

345. The general meeting is convened each year by the board of directors, or following its directives, within six months after the close of the financial period.

The first general meeting is held within six months from the constitution of the legal person.

1991, c. 64, a. 345.

346. The notice convening the annual general meeting indicates the date, time and place of the meeting and the agenda; it is sent to each member qualified to attend, not less than 10 but not more than 45 days before the meeting.

Ordinary business need not be mentioned in the agenda of the annual meeting.

1991, c. 64, a. 346.

347. The notice convening the annual general meeting is accompanied by the balance sheet, the statement of income for the preceding financial period and a statement of debts and claims.

1991, c. 64, a. 347; I.N. 2014-05-01.

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348. No business may be discussed at a general meeting except that appearing on the agenda, unless all the members entitled to be convened are present and consent. However, at an annual meeting, each member may raise any question of interest to the legal person or its members.

1991, c. 64, a. 348.

349. The proceedings of the general meeting are invalid unless a majority of the members qualified to vote are present or represented.

1991, c. 64, a. 349.

350. A member may be represented at a general meeting if he has given a written mandate to that effect.

1991, c. 64, a. 350.

351. Decisions of the meeting are taken by a majority of the votes cast.

The vote of the members is taken by a show of hands or, upon request, by secret ballot.

1991, c. 64, a. 351; I.N. 2014-05-01.

352. If they represent 10% of the votes, members may require the directors or the secretary to convene an annual or special general meeting, stating in a written notice the business to be transacted at the meeting.

If the directors or the secretary fail to act within 21 days after receiving the notice, any of the members who signed it may convene the meeting.

The legal person is bound to reimburse to the members the useful expenses incurred by them to hold the meeting, unless the meeting decides otherwise.

1991, c. 64, a. 352; 2002, c. 19, s. 15; I.N. 2014-05-01.

§ 3. — *Provisions common to meetings of directors and general meetings*

353. The directors or the members may waive the notice convening a meeting of the board of directors, a general meeting or a meeting of any other organ.

The mere presence of the directors or the members is equivalent to a waiver of the convening notice unless they are attending to object that the meeting was not regularly convened.

1991, c. 64, a. 353.

354. Resolutions in writing signed by all the persons qualified to vote at a meeting are as valid as if passed at a meeting of the board of directors, at a general meeting or at a meeting of any other organ.

A copy of the resolutions is kept with the minutes of proceedings or the equivalent.

1991, c. 64, a. 354.

DIVISION II

DISSOLUTION AND LIQUIDATION OF LEGAL PERSONS

355. A legal person is dissolved by the annulment of its constituting act or for any other cause provided for by the constituting act or by law.

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It is also dissolved where the court confirms the fulfilment of the condition attached to the constituting act, the achievement of the object for which the legal person was constituted or the impossibility of achieving it, or the existence of some other legitimate cause.

1991, c. 64, a. 355; I.N. 2015-11-01.

356. A legal person may also be dissolved by consent of not less than two-thirds of the votes cast at a general meeting convened expressly for that purpose.

The notice convening the meeting shall be sent not less than 30 days but not more than 45 days before the meeting and not at an inopportune moment.

1991, c. 64, a. 356; I.N. 2014-05-01.

357. The juridical personality of the legal person continues to exist for the purposes of the liquidation.

1991, c. 64, a. 357.

358. The directors shall give notice of the dissolution to the enterprise registrar by filing a declaration to that effect in accordance with the Act respecting the legal publicity of enterprises (chapter P-44.1) and, if the legal person is a syndicate of co-owners, apply for the registration of the notice in the land register. They shall also appoint a liquidator, according to the by-laws, who shall proceed immediately with the liquidation.

If the directors fail to fulfil these obligations, they may be held liable for the acts of the legal person, and any interested person may apply to the court for the appointment of a liquidator.

1991, c. 64, a. 358; 2000, c. 42, s. 2; 2002, c. 45, s. 158; 2010, c. 7, s. 165.

359. Notice of the appointment of a liquidator, as also of any revocation, is filed in the same place and in the same manner as the notice of dissolution. The appointment and revocation may be set up against third persons from the filing of the notice in the enterprise register kept under Chapter II of the Act respecting the legal publicity of enterprises (chapter P-44.1).

1991, c. 64, a. 359; 2010, c. 7, s. 166; 2010, c. 40, s. 92.

360. The liquidator is seized of the property of the legal person and acts as an administrator of the property of others charged with full administration.

The liquidator is entitled to require from the directors and the members of the legal person any document and any explanation concerning the rights and obligations of the legal person.

1991, c. 64, a. 360; I.N. 2014-05-01; I.N. 2015-11-01.

361. The liquidator first repays the debts, then effects the reimbursement of the capital contributions.

The liquidator, subject to the provisions of the following paragraph, then partitions the assets among the members in proportion to their rights or, otherwise, in equal portions, following if need be the rules relating to the partition of property in undivided co-ownership. Any residue devolves to the State.

If the assets include property coming from contributions of third persons, the liquidator shall remit such property to another legal person or a trust sharing objectives similar to those of the legal person being liquidated; if that is not possible, it devolves to the State or, if of little value, is shared equally among the members.

1991, c. 64, a. 361.

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362. The liquidator retains the books and records of the legal person for five years from the closing of the liquidation; he holds them for a longer period if the books and records are required as evidence in proceedings.

He disposes of them thereafter as he sees fit.

1991, c. 64, a. 362; I.N. 2014-05-01.

363. Unless the liquidator obtains an extension from the court, the Minister of Revenue undertakes or continues a liquidation that is not terminated within five years from the filing of the notice of dissolution.

The Minister of Revenue has, in that case, the same rights and obligations as a liquidator.

1991, c. 64, a. 363; 2005, c. 44, s. 54.

364. The liquidation of a legal person is closed by the filing of a notice of closure in the same place and in the same manner as the notice of dissolution. The filing of the notice in the register cancels any other registrations concerning the legal person.

1991, c. 64, a. 364; 2010, c. 7, s. 167.

BOOK TWO

THE FAMILY

TITLE ONE

MARRIAGE

CHAPTER I

MARRIAGE AND SOLEMNIZATION OF MARRIAGE

365. Marriage shall be contracted openly, in the presence of two witnesses, before a competent officiant.

1991, c. 64, a. 365; 2002, c. 6, s. 22.

366. Every clerk or deputy clerk of the Superior Court designated by the Minister of Justice, every notary authorized by law to execute notarial acts and, within the territory defined in the instrument of designation, any other person designated by the Minister of Justice, including mayors, members of municipal or borough councils and municipal officers, is competent to solemnize marriage.

In addition, every minister of religion authorized to solemnize marriage by the religious society to which he belongs is competent to do so, provided that he is resident in Québec, that he carries on the whole or part of his ministry in Québec, that the existence, rites and ceremonies of his confession are of a permanent nature, that he solemnizes marriages in places which conform to those rites and to the rules prescribed by the Minister of Justice and that he is authorized by the latter.

Any minister of religion not resident but living temporarily in Québec may also be authorized to solemnize marriage in Québec for such time as the Minister of Justice determines.

In the territory defined in an agreement concluded between the Government and a Mohawk community, the persons designated by the Minister of Justice and the community are also competent to solemnize marriages.

1991, c. 64, a. 366; 1996, c. 21, s. 28; 1999, c. 53, s. 20; 2002, c. 6, s. 23; 2004, c. 5, s. 1; 2007, c. 32, s. 10; I.N. 2014-05-01; 2016, c. 12, s. 5.

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367. No minister of religion may be compelled to solemnize a marriage to which there is any impediment according to his religion and to the discipline of the religious society to which he belongs.

1991, c. 64, a. 367.

368. Publication shall be effected by means of a notice posted, for 20 days before the date fixed for the solemnization of the marriage, on the website of the registrar of civil status. No publication is required if the intended spouses are already in a civil union.

1991, c. 64, a. 368; 2004, c. 23, s. 5; 2016, c. 12, s. 6.

369. The publication sets forth the name and domicile of each of the intended spouses, the year and place of their birth, the scheduled solemnization date and the name of the officiant. The correctness of these particulars is confirmed by a witness of full age. The other rules governing publication of the marriage are determined by the Minister of Justice.

On receipt of the notice of publication, the registrar of civil status shall ensure that the officiant is competent.

1991, c. 64, a. 369; 2016, c. 12, s. 7.

370. The registrar of civil status may, for a serious reason, grant a dispensation from publication on an application by the intended spouses and the officiant.

However, if the life of one of the intended spouses is endangered and the marriage must be solemnized promptly without it being possible to obtain a dispensation from the registrar, the officiant may grant the dispensation. In such a case, when sending the declaration of marriage to the registrar of civil status, the officiant shall include the dispensation, which must specify the grounds for granting it.

1991, c. 64, a. 370; 2016, c. 12, s. 8.

371. If a marriage is not solemnized within three months from the twentieth day after publication, the publication shall be renewed.

1991, c. 64, a. 371.

372. Any interested person may oppose the solemnization of a marriage between persons incapable of contracting it, in particular if, in the person's opinion, the consent of one of the intended spouses is likely not to be free or enlightened.

A minor may oppose a marriage alone. He may also act alone as defendant.

1991, c. 64, a. 372; 2016, c. 12, s. 9.

373. Before solemnizing a marriage, the officiant ascertains the identity of the intended spouses, compliance with the conditions for the formation of the marriage and observance of formalities prescribed by law. More particularly, the officiant ascertains that the intended spouses are free from any previous bond of marriage or civil union, except in the case of a civil union between the same spouses, and, in the case of minors, that the court has authorized the solemnization of the marriage.

The minor may apply alone for the court's authorization. The person having parental authority or, if applicable, the tutor must be summoned to give his or her advice.

1991, c. 64, a. 373; 2002, c. 6, s. 24; 2004, c. 23, s. 6; I.N. 2014-05-01; I.N. 2015-11-01; 2016, c. 12, s. 10.

374. In the presence of the witnesses, the officiant reads articles 392 to 396 to the intended spouses.

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He requests and receives, from each of the intended spouses personally, a declaration of their wish to take each other as husband and wife. He then declares them united in marriage.

1991, c. 64, a. 374.

375. The officiant draws up the declaration of marriage and sends it within 30 days after the solemnization to the registrar of civil status.

1991, c. 64, a. 375; 1999, c. 47, s. 15; 2016, c. 12, s. 11.

376. Clerks and deputy clerks, notaries and persons designated by the Minister of Justice solemnize marriages according to the rules prescribed by the Minister of Justice.

Clerks and deputy clerks collect the duties fixed by regulation of the Government from the intended spouses, on behalf of the Minister of Finance.

Notaries and designated persons collect the agreed fees from the intended spouses. However, mayors, other members of municipal or borough councils and municipal officers collect the duties fixed by municipal by-law from the intended spouses, on behalf of the municipality; such duties must be in keeping with the minimum and maximum amounts fixed by regulation of the Government.

1991, c. 64, a. 376; 2002, c. 6, s. 25.

376.1. The rules governing the solemnization of marriage prescribed by the Minister of Justice apply, to the extent determined by the Minister, to the persons authorized by the Minister to solemnize marriages.

2016, c. 12, s. 12.

376.2. The measures that may be taken in the event of an officiant's non-compliance with the rules governing the solemnization of marriages are determined by regulation of the Minister of Justice.

2016, c. 12, s. 13.

377. Unless the Minister of Justice has already delegated to the registrar of civil status the power to grant the authorizations and make the designations provided for in article 366, the Minister of Justice keeps the registrar informed of the authorizations, designations and revocations the Minister of Justice gives, makes or takes part in with respect to officiants competent to solemnize marriages, so that appropriate entries and corrections may be made in a register.

For the same purposes, the secretary of the Ordre des notaires du Québec maintains, and communicates to the registrar of civil status, an updated list of the notaries who are competent to solemnize marriages, specifying the date on which each notary became so competent and, if known, the date on which the notary will cease to be so competent.

If an officiant becomes disqualified or dies, the religious society, the clerk of the Superior Court or the secretary of the Ordre des notaires du Québec, as the case may be, is responsible for informing the registrar of civil status so that the appropriate corrections may be made in the register.

1991, c. 64, a. 377; 1996, c. 21, s. 29; 2002, c. 6, s. 26; 2007, c. 32, s. 11; 2016, c. 4, s 47.

CHAPTER II

PROOF OF MARRIAGE

378. Marriage is proved by an act of marriage, except in cases where the law authorizes another mode of proof.

1991, c. 64, a. 378.

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379. Possession of the status of spouses compensates for a defect of form in the act of marriage.

1991, c. 64, a. 379.

CHAPTER III

NULLITY OF MARRIAGE

380. A marriage which is not solemnized as prescribed by this Title and the necessary conditions for its formation may be declared null upon the application of any interested person, although the court may decide according to the circumstances.

No action lies after the lapse of three years from the solemnization, except where public order is concerned, in particular if the consent of one of the spouses was not free or enlightened.

1991, c. 64, a. 380; 2002, c. 19, s. 15; I.N. 2014-05-01; 2016, c. 12, s. 14.

381. The nullity of a marriage, for whatever reason, does not deprive the children of the advantages secured to them by law or by the marriage contract.

The rights and duties of fathers and mothers or of the parents towards their children are unaffected by the nullity of their marriage.

1991, c. 64, a. 381; 2022, c. 22, s. 78.

382. A marriage that has been declared null produces its effects in favour of spouses who were in good faith.

In particular, the liquidation of the patrimonial rights that are then presumed to have existed is proceeded with, unless the spouses each agree to take back their property.

1991, c. 64, a. 382; I.N. 2014-05-01.

383. If the spouses were in bad faith, they each take back their property.

1991, c. 64, a. 383.

384. If only one spouse was in good faith, that spouse may either take back his or her property or apply for the liquidation of the patrimonial rights resulting to him or her from the marriage.

1991, c. 64, a. 384.

385. Subject to article 386, spouses in good faith are entitled to the gifts made to them in consideration of marriage.

However, the court may, when declaring a marriage null, declare the gifts to have lapsed or reduce them, or order the payment of the gifts *inter vivos* deferred for the period of time it fixes, taking the circumstances of the parties into account.

1991, c. 64, a. 385.

386. The nullity of the marriage renders null the gifts *inter vivos* made in consideration of the marriage to a spouse in bad faith.

It also renders null the gifts *mortis causa* made by one spouse to the other in consideration of the marriage.

1991, c. 64, a. 386.

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387. A spouse is presumed to have contracted marriage in good faith unless, when declaring the marriage null, the court declares that spouse to be in bad faith.

1991, c. 64, a. 387.

388. The court decides, as in proceedings for separation from bed and board, as to the provisional measures pending suit, the custody, maintenance and education of the children and, in declaring nullity, it decides as to the right of a spouse in good faith to support or to a compensatory allowance.

1991, c. 64, a. 388.

389. Nullity of marriage extinguishes the right which the spouses had to claim support unless, on a demand, the court, in declaring nullity, orders one of them to pay support to the other or, being unable, owing to the circumstances, to decide the question equitably, reserves the right to claim support.

The right to claim support may not be reserved for a period of over two years; it is extinguished by operation of law at the expiry of that period.

1991, c. 64, a. 389.

390. Where the court has awarded support or reserved the right to claim support, it may at any time after the marriage is annulled declare the right to support extinguished.

1991, c. 64, a. 390.

CHAPTER IV

EFFECTS OF MARRIAGE

391. In no case may spouses derogate from the provisions of this chapter, whatever their matrimonial regime.

1991, c. 64, a. 391.

DIVISION I

RIGHTS AND DUTIES OF SPOUSES

392. The spouses have the same rights and obligations in marriage.

They owe each other respect, fidelity, succour and assistance.

They are bound to share a community of life.

1991, c. 64, a. 392; 2016, c. 4, s. 48.

393. In marriage, both spouses retain their respective names, and exercise their respective civil rights under those names.

1991, c. 64, a. 393.

394. The spouses together take in hand the moral and material direction of the family, exercise parental authority and assume the tasks resulting therefrom.

1991, c. 64, a. 394.

395. The spouses choose the family residence together.

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In the absence of an express choice, the family residence is presumed to be the residence where the members of the family live while carrying on their principal activities.

1991, c. 64, a. 395.

396. The spouses contribute towards the expenses of the marriage in proportion to their respective means.

The spouses may make their respective contributions by their activities within the home.

1991, c. 64, a. 396.

397. A spouse who enters into a contract for the current needs of the family also binds the other spouse for the whole, if they are not separated from bed and board.

However, the non-contracting spouse is not liable for the debt if he or she had previously informed the other contracting party of his or her unwillingness to be bound.

1991, c. 64, a. 397.

398. Either spouse may give the other a mandate in order to be represented in acts relating to the moral and material direction of the family.

This mandate is presumed if one spouse is unable to express his or her will for any reason or if he or she is unable to do so in due time.

1991, c. 64, a. 398.

399. Either spouse may be authorized by the court to enter alone into any act for which the consent of the other would be required, provided such consent is unobtainable for any reason, or its refusal is not justified by the interest of the family.

The authorization is special and for a specified time; it may be amended or revoked.

1991, c. 64, a. 399.

400. If the spouses disagree as to the exercise of their rights and the performance of their duties, they or either of them may apply to the court, which will decide in the interest of the family after fostering the conciliation of the parties.

1991, c. 64, a. 400.

DIVISION II

FAMILY RESIDENCE

401. Neither spouse may, without the consent of the other, alienate, hypothecate or remove from the family residence the movable property serving for the use of the household.

The movable property serving for the use of the household includes only the movable property destined to furnish the family residence or decorate it; decorations include pictures and other works of art, but not collections.

1991, c. 64, a. 401.

402. A spouse having neither consented to nor ratified an act concerning any movable property serving for the use of the household may apply to have it annulled.

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However, an act by onerous title may not be annulled if the other contracting party was in good faith.

1991, c. 64, a. 402.

403. Neither spouse, if the lessee of the family residence, may, without the written consent of the other, sublet it, transfer the right or terminate the lease where the lessor has been notified, by either of them, that the dwelling is used as the family residence.

A spouse having neither consented to nor ratified the act may apply to have it annulled.

1991, c. 64, a. 403.

404. Neither spouse, if the owner of an immovable with fewer than five dwellings that is used in whole or in part as the family residence, may, without the written consent of the other, alienate the immovable, charge it with a real right or lease that part of it reserved for the use of the family.

A spouse having neither consented to nor ratified the act may apply to have it annulled if a declaration of family residence was previously registered against the immovable.

1991, c. 64, a. 404; I.N. 2014-05-01.

405. Neither spouse, if the owner of an immovable with five dwellings or more that is used in whole or in part as the family residence may, without the written consent of the other, alienate the immovable or lease that part of it reserved for the use of the family.

Where a declaration of family residence was previously registered against the immovable, a spouse not having consented to the act of alienation may require from the acquirer the grant of a lease of the premises already occupied as a dwelling, under the conditions governing the lease of a dwelling; on the same condition, a spouse having neither consented to nor ratified the act of lease may apply to have it annulled.

1991, c. 64, a. 405; I.N. 2014-05-01.

406. The usufructuary, the emphyteuta and the user are subject to the rules of articles 404 and 405.

Neither spouse may, without the consent of the other, dispose of rights held by another title conferring use of the family residence.

1991, c. 64, a. 406; I.N. 2014-05-01.

407. The declaration of family residence is made by both spouses or by either of them.

It may also result from a declaration to that effect contained in an act intended for publication.

1991, c. 64, a. 407.

408. A spouse not having given consent to an act for which it was required may, without prejudice to any other right, claim damages from the other spouse or from any other person having, through his fault, caused the spouse injury.

1991, c. 64, a. 408; I.N. 2014-05-01.

409. In the event of separation from bed and board, divorce or nullity of a marriage, the court may, upon the application of either spouse, award to the spouse of the lessee the lease of the family residence.

The award binds the lessor upon being notified to him and relieves the original lessee of the rights and obligations arising out of the lease from that time forward.

1991, c. 64, a. 409; I.N. 2016-01-01 (NCCP).

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410. In the event of separation from bed and board, or the dissolution or nullity of a marriage, the court may award, to either spouse or to the surviving spouse, the ownership or use of the movable property of the other spouse which serves for the use of the household.

It may also award the right of use of the family residence to the spouse to whom it awards custody of a child.

The user is exempted from furnishing security and from making an inventory of the property unless the court decides otherwise.

1991, c. 64, a. 410; I.N. 2014-05-01.

411. The award of the right of use or ownership is effected, failing agreement between the parties, on the conditions determined by the court and, in particular, on condition of payment of any equalizing sum, all at once or by instalments.

When the equalizing sum is payable by instalments, the court fixes the terms and conditions of guarantee and payment.

1991, c. 64, a. 411; I.N. 2014-05-01; 2016, c. 4, s. 49.

412. Judicial award of a right of ownership is subject to the provisions relating to sale.

1991, c. 64, a. 412.

413. A judgment awarding a right of use or ownership is equivalent to title and has the effects thereof.

1991, c. 64, a. 413.

DIVISION III

FAMILY PATRIMONY

§ 1. — *Establishment of patrimony*

414. Marriage entails the establishment of a family patrimony consisting of certain property of the spouses regardless of which of them holds a right of ownership in that property.

1991, c. 64, a. 414.

415. The family patrimony is composed of the following property owned by one or the other of the spouses: the residences of the family or the rights which confer use of them, the movable property with which they are furnished or decorated and which serves for the use of the household, the motor vehicles used for family travel and the benefits accrued during the marriage under a retirement plan. The payment of contributions into a pension plan entails an accrual of benefits under the pension plan; so does the accumulation of service recognized for the purposes of a pension plan.

This patrimony also includes the registered earnings, during the marriage, of each spouse pursuant to the Act respecting the Québec Pension Plan (chapter R-9) or to similar plans.

The earnings contemplated in the second paragraph and accrued benefits under a retirement plan governed or established by an Act which grants a right to death benefits to the surviving spouse where the marriage is dissolved as a result of death are, however, excluded from the family patrimony.

Property devolved to one of the spouses by succession or gift before or during the marriage is also excluded from the family patrimony.

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For the purposes of the rules on family patrimony, a retirement plan is any of the following:

— a plan governed by the Supplemental Pension Plans Act (chapter R-15.1) or by the Voluntary Retirement Savings Plans Act (chapter R-17.0.1) or that would be governed by one of those Acts if one of them applied where the spouse works;

— a retirement plan governed by a similar Act of a legislative jurisdiction other than the Parliament of Québec;

— a plan established by an Act of the Parliament of Québec or of another legislative jurisdiction;

— a retirement-savings plan;

— any other retirement-savings instrument, including an annuity contract, into which sums from any of such plans have been transferred.

1991, c. 64, a. 415; 2002, c. 19, s. 3; 2013, c. 26, s. 128.

§ 2. — *Partition of patrimony*

416. In the event of separation from bed and board, or the dissolution or nullity of a marriage, the value of the family patrimony of the spouses, after deducting the debts contracted for the acquisition, improvement, maintenance or preservation of the property composing it, is equally divided between the spouses or between the surviving spouse and the heirs, as the case may be.

Where partition is effected upon separation from bed and board, no new partition is effected upon the subsequent dissolution or nullity of the marriage unless the spouses had voluntarily resumed their community of life; where a new partition is effected, the date when the spouses resumed their community of life is substituted for the date of the marriage for the purposes of this section.

1991, c. 64, a. 416; 2016, c. 4, s. 50.

417. The net value of the family patrimony is determined according to the value of the property composing the patrimony and the debts contracted for the acquisition, improvement, maintenance or preservation of the property composing it on the date of death of the spouse or on the date of the institution of the action in which separation from bed and board, divorce or nullity of the marriage, as the case may be, is decided; the property is valued at its market value.

The court may, however, upon the application of one or the other of the spouses or of their successors, decide that the net value of the family patrimony will be determined according to the value of such property and such debts on the date when the spouses ceased sharing a community of life.

1991, c. 64, a. 417; I.N. 2015-11-01; 2016, c. 4, s. 51.

418. Once the net value of the family patrimony has been determined, a deduction is made from it of the net value, at the time of the marriage, of the property then owned by one of the spouses that is included in the family patrimony; similarly, a deduction is made from it of the net value of a contribution made by one of the spouses during the marriage for the acquisition or improvement of property included in the family patrimony, where the contribution was made out of property devolved by succession or gift, or its reinvestment.

A further deduction from the net value is made, in the first case, of the increase in value acquired by the property during the marriage, proportionately to the ratio existing at the time of the marriage between the net value and the gross value of the property, and, in the second case, of the increase in value acquired since the contribution, proportionately to the ratio existing at the time of the contribution between the value of the contribution and the gross value of the property.

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Reinvestment during the marriage of property included in the family patrimony that was owned at the time of the marriage gives rise to the same deductions, adapted as required.

1991, c. 64, a. 418; I.N. 2015-11-01.

419. Partition of the family patrimony is effected by giving in payment or by payment in money.

If partition is effected by giving in payment, the spouses may agree to transfer ownership of other property than that composing the family patrimony.

1991, c. 64, a. 419.

420. The court may, at the time of partition, award certain property to one of the spouses and may also, where it is necessary to avoid injury, order the debtor spouse to perform his or her obligation by way of instalments spread over a period of not more than 10 years.

It may also order any other measure it considers appropriate to ensure that the judgment is properly executed, and, in particular, order that security be granted to one of the parties to guarantee performance of the obligations of the debtor spouse.

1991, c. 64, a. 420; I.N. 2014-05-01.

421. Where property included in the family patrimony was alienated or misappropriated in the year preceding the death of one of the spouses or the institution of proceedings for separation from bed and board, divorce or annulment of marriage and was not replaced, the court may order that a compensatory payment be made to the spouse who would have benefited from the inclusion of that property in the family patrimony.

The same rule applies where the property was alienated over one year before the death of one of the spouses or the institution of proceedings and the alienation was made for the purpose of decreasing the share of the spouse who would have benefited from the inclusion of that property in the family patrimony.

1991, c. 64, a. 421.

422. The court may, on an application, make an exception to the rule of partition into equal shares, and decide that there will be no partition of earnings registered pursuant to the Act respecting the Québec Pension Plan (chapter R-9) or to similar plans where it would result in an injustice considering, in particular, the brevity of the marriage, the waste of certain property by one of the spouses, or the bad faith of one of them.

1991, c. 64, a. 422.

423. The spouses may not, by way of their marriage contract or otherwise, renounce their rights in the family patrimony.

A spouse may, however, from the death of the other spouse or from the judgment of divorce, separation from bed and board or nullity of marriage, renounce such rights, in whole or in part, by notarial act *en minute*; that spouse may also renounce them by a judicial declaration which is recorded, in the course of proceedings for divorce, separation from bed and board or nullity of marriage.

Renunciation shall be entered in the register of personal and movable real rights. Failing entry within a period of one year from the time when the right to partition arose, the renouncing spouse is deemed to have accepted.

1991, c. 64, a. 423; 1992, c. 57, s. 716; I.N. 2014-05-01.

424. Renunciation by one of the spouses, by notarial act, of partition of the family patrimony may be annulled by reason of lesion or any other cause of nullity of contracts.

1991, c. 64, a. 424.

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425. The partition of the earnings registered in the name of each spouse pursuant to the Act respecting the Québec Pension Plan (chapter R-9) or to a similar plan is effected by the body responsible for administering the plan, in accordance with that Act or the Act applicable to that plan, unless the latter Act provides no rules for partition.

1991, c. 64, a. 425.

426. The partition of the accrued benefits of one of the spouses under a pension plan governed or established by an Act is effected according to the rules of valuation and devolution contained in that Act or, where there are no such rules, according to the rules determined by the court seized of the application.

In no case, however, may the partition of such benefits deprive the original holder of such benefits of over one-half of the total value of the benefits accrued to him before or during the marriage, or confer more benefits on the beneficiary of the right to partition than the original holder of these benefits has under his plan.

Between the spouses or for their benefit, and notwithstanding any provision to the contrary, such benefits and benefits accrued under any other pension plan are transferable and seizable for partition of the family patrimony.

1991, c. 64, a. 426; 2002, c. 19, s. 4.

DIVISION IV

COMPENSATORY ALLOWANCE

427. The court, in declaring separation from bed and board, divorce or nullity of marriage, may order either spouse to pay to the other, as compensation for the latter's contribution, in property or services, to the enrichment of the patrimony of the former, an allowance payable all at once or by instalments, taking into account, in particular, the advantages of the matrimonial regime and of the marriage contract. The same rule applies in case of death; in such a case, the advantages of the succession to the surviving spouse are also taken into account.

Where the right to the compensatory allowance is founded on the regular cooperation of the spouse in an enterprise, whether the enterprise deals in property or in services and whether or not it is a commercial enterprise, it may be applied for from the time the cooperation ends, if this results from the alienation, dissolution or voluntary or forced liquidation of the enterprise.

1991, c. 64, a. 427; 2016, c. 4, s. 52.

428. The cooperating spouse may adduce any evidence to prove his or her contribution to the enrichment of the patrimony of the other spouse.

1991, c. 64, a. 428.

429. Where a compensatory allowance is to be paid, the court, failing agreement between the parties, fixes the amount thereof. It may also, where applicable, fix the terms and conditions of payment and order that the allowance be paid all at once or by instalments or that it be paid by the awarding of rights in certain property.

If the court awards a right in the family residence, a right in the movable property serving for the use of the household or retirement benefits accrued under a retirement plan to one of the spouses or to the surviving spouse, the provisions of Sections II and III are applicable.

1991, c. 64, a. 429; 2016, c. 4, s 53.

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430. One of the spouses may, during the marriage, agree with the other spouse to make partial payment of the compensatory allowance. The payment received shall be deducted when the time comes to fix the value of the compensatory allowance.

1991, c. 64, a. 430.

CHAPTER V

MATRIMONIAL REGIMES

DIVISION I

GENERAL PROVISIONS

§ 1. — *Choice of matrimonial regime*

431. Any kind of stipulation may be made in a marriage contract, subject to the imperative provisions of law and public order.

1991, c. 64, a. 431.

432. Spouses who, before the solemnization of their marriage, have not fixed their matrimonial regime in a marriage contract, are subject to the regime of partnership of acquests.

1991, c. 64, a. 432.

433. A matrimonial regime, whether legal or conventional, takes effect on the day when the marriage is solemnized.

A change made to the matrimonial regime during the marriage takes effect on the day of the act attesting the change.

In no case may the parties stipulate that their matrimonial regime or any change to it will take effect on another date.

1991, c. 64, a. 433.

434. A minor authorized to marry may, before the marriage is solemnized, make all such matrimonial agreements as the marriage contract admits of, provided he is authorized to that effect by the court.

The person having parental authority or, as the case may be, the tutor shall be summoned to give his advice.

The minor may apply for the authorization alone.

1991, c. 64, a. 434; I.N. 2014-05-01.

435. Agreements not authorized by the court may be impugned only by the minor or by the persons who had to be summoned to give their advice; no such agreement may be impugned if one year has elapsed since the marriage was solemnized.

1991, c. 64, a. 435; I.N. 2014-05-01.

436. No person of full age under tutorship or under a protection mandate may make matrimonial agreements without the assistance of his tutor or mandatary; the tutor or mandatary shall be authorized for this purpose by the court, if applicable, upon the advice of the tutorship council.

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No agreement made in violation of this article may be impugned except by the person of full age himself, his tutor or his mandatary, as the case may be, nor except in the year immediately following the solemnization of the marriage or the day of the act changing the matrimonial agreements.

1991, c. 64, a. 436; 2020, c. 11, s. 61.

437. Intended spouses may change their matrimonial agreements before the solemnization of the marriage, in the presence and with the consent of all those who were parties to the marriage contract, provided the changes themselves are made by marriage contract.

1991, c. 64, a. 437.

438. During marriage, spouses may change their matrimonial regime and any stipulation in their marriage contract, provided the change itself is made by marriage contract.

Gifts made in marriage contracts, including gifts *mortis causa*, may be changed even if they are stipulated as irrevocable, provided that the consent of all interested persons is obtained.

If a creditor suffers injury as the result of a change to a marriage contract, he may, within one year of becoming aware of the change, obtain a declaration that it may not be set up against him.

1991, c. 64, a. 438; I.N. 2014-05-01.

439. Children to be born are represented by the spouses for the modification or cancellation, before or during the marriage, of gifts made to them by the marriage contract.

1991, c. 64, a. 439.

440. Marriage contracts shall be established by a notarial act *en minute*, on pain of absolute nullity.

1991, c. 64, a. 440.

441. The notary executing a marriage contract changing a previous contract shall immediately notify the depositary of the original marriage contract and the depositary of any contract changing the matrimonial regime. The depositary is bound to enter the change on the contract and on any copy he may make of it, indicating the date of the contract, the name of the notary and its minute number. The notation of the change may be made on the contract or, if applicable, on a copy of it or on a writing attached to the contract or copy, directly or by a reference.

1991, c. 64, a. 441; I.N. 2014-05-01; 2023, c. 23, s. 1.

442. A notice of every marriage contract shall be entered in the register of personal and movable real rights at the requisition of the officiating notary.

1991, c. 64, a. 442; I.N. 2014-05-01.

§ 2. — *Exercise of rights and powers arising out of the matrimonial regime*

443. Either spouse may give a mandate to the other in order to be represented in the exercise of rights and powers granted by the matrimonial regime.

1991, c. 64, a. 443.

444. Where an expression of will cannot be given or cannot be given in due time by one spouse, the court may confer a mandate upon the other spouse to administer the property of that spouse or property administered by that spouse under the matrimonial regime.

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The court fixes the terms and conditions of exercise of the powers conferred.

1991, c. 64, a. 444.

445. The court may declare the judicial mandate withdrawn once it is established that it is no longer necessary.

The mandate ceases by operation of law upon tutorship being instituted or a protection mandate homologated for the other spouse.

1991, c. 64, a. 445; 2020, c. 11, s. 62.

446. Either spouse, having administered the property of the other, is accountable even for the fruits and revenues consumed before being in default for failing to render an account.

1991, c. 64, a. 446; I.N. 2015-11-01.

447. If one spouse exceeds the powers granted by the matrimonial regime and the other has not ratified the act, the latter may apply to have it declared null.

As regards movable property, however, each spouse is deemed, with respect to third persons in good faith, to have power to enter alone into acts by onerous title for which the consent of the other spouse would be necessary.

1991, c. 64, a. 447; I.N. 2014-05-01.

DIVISION II

PARTNERSHIP OF ACQUESTS

§ 1. — *Composition of the partnership of acquests*

448. The property that each of the spouses possesses when the regime comes into effect or that each subsequently acquires constitutes acquests or private property according to the rules that follow.

1991, c. 64, a. 448; I.N. 2014-05-01; 2016, c. 4, s. 54.

449. The acquests of each spouse include all property not declared to be private property by law, and, in particular,

(1) the proceeds of that spouse's work during the regime;

(2) the fruits and income due or collected from all that spouse's private property or acquests during the regime.

1991, c. 64, a. 449.

450. The private property of each spouse consists of

(1) property owned or possessed by that spouse when the regime comes into effect;

(2) property which devolves to that spouse during the regime by succession or gift, and the fruits and income derived from it if the testator or donor has so provided;

(3) property acquired by that spouse to replace private property and any insurance indemnity relating thereto;

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(4) the rights or benefits devolved to that spouse as a subrogated holder or as a specified beneficiary under a contract or plan of retirement, other annuity or insurance of persons;

(5) that spouse's clothing and personal papers, wedding ring, decorations and diplomas;

(6) the instruments required for that spouse's occupation, saving compensation where applicable.

1991, c. 64, a. 450.

451. Property acquired with private property and acquests is also private property, subject to compensation, if the value of the private property used is greater than one-half of the total cost of acquisition of the property. Otherwise, it is an acquest subject to compensation.

The same rule applies to life insurance, retirement pensions and other annuities. The total cost is the aggregate of the premiums or sums paid, except in term insurance where it is the amount of the latest premium.

1991, c. 64, a. 451.

452. Where, during the regime, a spouse who is already a co-owner in indivision of property, held as private property, acquires another part of it, this acquired part is also that spouse's private property, saving compensation where applicable.

However, if the value of the acquests used to acquire that part is equal to or greater than one-half of the total value of the property of which the spouse has become the owner, this property becomes an acquest, subject to compensation.

1991, c. 64, a. 452; I.N. 2014-05-01.

453. The right of a spouse to support, to a disability pension or to any other benefit of the same nature remains the private property of that spouse; however, all pecuniary benefits derived from these are acquests, if they fall due or are collected during the regime or are payable to that spouse's heirs and successors at death.

No compensation is due by reason of any amount or premium paid with the acquests or the private property to acquire the support, allowance or other benefits.

1991, c. 64, a. 453; I.N. 2014-05-01.

454. The right to claim damages and the compensation received for moral or bodily injury are also the private property of the spouse.

The same rule applies to the right and the compensation arising from an insurance contract or any other indemnification scheme, but no compensation is due by reason of the premiums or amounts paid with the acquests.

1991, c. 64, a. 454; I.N. 2014-05-01.

455. Property acquired as an accessory of or an annex to private property, and any construction, work or plantation on or in an immovable which is private property, remain private, saving compensation, if need be.

However, if the accessory or annex was acquired, or the construction, work or plantation made, from acquests, and if its value is equal to or greater than that of the private property, the whole becomes an acquest subject to compensation.

1991, c. 64, a. 455.

456. Securities acquired by the effect of a declaration of dividends on securities that are the private property of either spouse remain that spouse's private property, saving compensation.

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Securities acquired by the effect of the exercise of a subscription right, a pre-emptive right or any other similar right conferred on either spouse by securities that are that spouse's private property likewise remain so, saving compensation, if need be.

Redemption premiums and prepaid premiums on securities that are the private property of either spouse remain that spouse's private property without compensation.

1991, c. 64, a. 456.

457. Income derived from the operation of an enterprise that is the private property of either spouse remains that spouse's private property, subject to compensation, if it is reinvested in the enterprise.

No compensation is due, however, if the investment was necessary in order to maintain the income of the enterprise.

1991, c. 64, a. 457; I.N. 2014-05-01; I.N. 2015-11-01.

458. Intellectual and industrial property rights are private property, but all fruits and income arising from them and collected or fallen due during the regime are acquests.

1991, c. 64, a. 458.

459. All property is presumed to constitute an acquest, both between the spouses and with respect to third persons, unless it is established that it is private property.

1991, c. 64, a. 459.

460. Any property that a spouse is unable to prove to be his or her exclusive private property or acquest is presumed to be held by both spouses in undivided co-ownership, one-half by each.

1991, c. 64, a. 460; 2016, c. 4, s. 55.

§ 2. — *Administration of property and liability for debts*

461. Each spouse has the administration, enjoyment and free disposal of his or her private property and acquests.

1991, c. 64, a. 461.

462. Neither spouse may, however, without the consent of the other, dispose of acquests *inter vivos* by gratuitous title, with the exception of property of small value or customary presents.

A spouse may be authorized by the court to enter into the act alone, however, if consent cannot be obtained for any reason or if refusal is not justified in the interest of the family.

1991, c. 64, a. 462.

463. The restriction to the right to dispose of acquests does not limit the right of either spouse to designate a third person as a beneficiary or subrogated holder of an insurance of persons, a retirement pension or any other annuity, subject to the application of the rules concerning the family patrimony.

No compensation is due by reason of the sums or premiums paid with the acquests if the designation is in favour of the other spouse or of the children of either spouse.

1991, c. 64, a. 463; I.N. 2014-05-01.

464. The spouses, individually, are liable on both their private property and their acquests for all debts incurred by them before or during the marriage.

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While the regime lasts, neither spouse is liable for the debts incurred by the other, subject to articles 397 and 398.

1991, c. 64, a. 464.

§ 3. — *Dissolution and liquidation of the regime*

465. The regime of partnership of acquests is dissolved by

(1) the death of one of the spouses;

(2) a conventional change of regime during the marriage;

(3) a judgment of divorce, separation from bed and board, or separation as to property;

(4) the absence of one of the spouses in the cases provided for by law;

(5) the nullity of the marriage if, nevertheless, the marriage produces effects.

The effects of the dissolution are produced immediately, except in the cases of subparagraphs 3 and 5, where they are retroactive, between the spouses, to the day of the application.

1991, c. 64, a. 465.

466. In any case of dissolution of a regime, the court may, upon the application of either spouse or of the latter's successors, decide that, in the relations between the spouses, the effects of the dissolution are retroactive to the date when they ceased sharing a community of life.

1991, c. 64, a. 466; I.N. 2014-05-01; 2016, c. 4, s. 56.

467. Each spouse retains his or her private property after the regime is dissolved.

One spouse may accept or renounce the partition of the other spouse's acquests, notwithstanding any agreement to the contrary.

1991, c. 64, a. 467.

468. Acceptance may be either express or tacit.

A spouse who has interfered in the management of the acquests of the other spouse after the regime is dissolved may not receive the share of the acquests of the other spouse to which he or she is entitled unless the other spouse has accepted the partition of the acquests of the spouse who interfered.

Acts of simple administration do not constitute interference.

1991, c. 64, a. 468; I.N. 2014-05-01.

469. Renunciation shall be made by notarial act *en minute* or by a judicial declaration which is recorded.

Renunciation shall be entered in the register of personal and movable real rights; failing entry within one year from the date of the dissolution, the spouse is deemed to have accepted.

1991, c. 64, a. 469.

470. If either spouse renounces partition, the share of the other's acquests to which he or she would have been entitled remains vested in the other.

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However, the creditors of the spouse who renounces partition to the prejudice of their rights may apply to the court for a declaration that the renunciation may not be set up against them, and accept the share of the acquests of their debtor's spouse in his or her place and stead.

In that case, their acceptance has effect only in their favour and only to the extent of the amount of their claims; it is not valid in favour of the renouncing spouse.

1991, c. 64, a. 470.

471. A spouse who has misappropriated or concealed acquests, wasted his or her acquests or administered them in bad faith forfeits his or her share of the acquests of the other spouse.

1991, c. 64, a. 471; 2016, c. 4, s. 57.

472. Acceptance and renunciation are irrevocable. Renunciation may be annulled, however, by reason of lesion or any other cause of nullity of contracts.

1991, c. 64, a. 472.

473. When the regime is dissolved by death and the surviving spouse has accepted the partition of the acquests of the deceased spouse, the heirs of the deceased spouse may accept or renounce the partition of the surviving spouse's acquests, and, excepting preferential awards which only the surviving spouse is entitled to receive, the provisions on the dissolution and liquidation of the regime apply to them.

If one of the heirs accepts partition and the others renounce it, the heir who accepts may not take more than the portion of the acquests that he would have had if all had accepted.

Renunciation by the surviving spouse may be set up against the creditors of the deceased spouse.

1991, c. 64, a. 473.

474. When a spouse dies while still entitled to renounce partition, the heirs have a further period of one year from the date of death in which to have their renunciation registered.

1991, c. 64, a. 474; I.N. 2014-05-01.

475. When the partition of a spouse's acquests is accepted, the property of the patrimony of that spouse is first divided into two masses, one comprising the private property and the other the acquests.

A statement is then prepared of the compensation owed by the mass of private property to the mass of the spouse's acquests, and *vice versa*.

The compensation is equal to the enrichment enjoyed by one mass to the detriment of the other.

1991, c. 64, a. 475.

476. Property susceptible of compensation is assessed according to its condition at the time of dissolution of the regime and to its value at the time of liquidation.

The enrichment is valued as on the day the regime is dissolved; however, when the property acquired or improved was alienated during the regime, the enrichment is valued as on the day of the alienation.

1991, c. 64, a. 476; I.N. 2014-05-01.

477. No compensation is due by reason of disbursements necessary or useful for the maintenance or preservation of the property.

1991, c. 64, a. 477; I.N. 2014-05-01.

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478. Unpaid debts incurred for the benefit of the private property give rise to compensation as if they had already been paid with the acquests.

1991, c. 64, a. 478.

479. Payment with the acquests of any fine imposed by law gives rise to compensation.

1991, c. 64, a. 479.

480. If the statement shows a balance in favour of the mass of acquests, the spouse who holds the patrimony makes a return to that mass for partition, either by taking less, or in value, or with his or her private property.

If the statement shows a balance in favour of the mass of private property, the spouse removes assets from his or her acquests up to the amount owed.

1991, c. 64, a. 480.

481. Once the settlement of compensation has been effected, the net value of the mass of acquests is determined and evenly divided between the spouses. The spouse who holds the patrimony may pay the portion due to the other spouse by paying him or her in money or by giving in payment.

1991, c. 64, a. 481; I.N. 2015-11-01.

482. If the dissolution of the regime results from the death or absence of the spouse who holds the patrimony, the other spouse may require to be given in payment, on condition of payment of any equalizing sum, all at once or by instalments, the family residence and the movable property serving for the use of the household or any other family property to the extent that they were acquests or property forming part of the family patrimony.

If there is no agreement on the payment of the equalizing sum, the court fixes the terms and conditions of guarantee and payment.

1991, c. 64, a. 482; I.N. 2014-05-01; 2016, c. 4, s. 58.

483. If the parties do not agree on the valuation of the property, it is valued by experts designated by the parties or, failing them, the court.

1991, c. 64, a. 483.

484. Before the partition, dissolution of the regime does not prejudice the rights of pre-existing creditors against the whole of their debtor's patrimony.

After the partition, the pre-existing creditors may only pursue payment of their claims against the debtor spouse. However, if the claims were not taken into account when the partition was made, they may, after discussion of the property of their debtor, pursue the other spouse. Each spouse then retains a remedy against the other for the amounts he or she would have been entitled to if the claims had been paid before the partition.

In no case may the spouse of the debtor spouse be called upon to pay a greater amount than the portion of the acquests he or she received from the latter.

1991, c. 64, a. 484; I.N. 2014-05-01; 2016, c. 4, s. 59.

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DIVISION III

SEPARATION AS TO PROPERTY

§ 1. — *Conventional separation as to property*

485. The regime of conventional separation as to property is established by a simple declaration to this effect in the marriage contract.

1991, c. 64, a. 485.

486. Under the regime of separation as to property, each spouse has the administration, enjoyment and free disposal of all his or her property.

1991, c. 64, a. 486; I.N. 2014-05-01.

487. Property over which the spouses are unable to establish their exclusive right of ownership is presumed to be held by both in undivided co-ownership, one-half by each.

1991, c. 64, a. 487.

§ 2. — *Judicial separation as to property*

488. Either spouse may seek separation as to property when the application of the rules of the matrimonial regime proves to be contrary to the interests of that spouse or of the family.

1991, c. 64, a. 488; I.N. 2014-05-01.

489. Separation as to property judicially obtained entails dissolution of the matrimonial regime and puts the spouses in the situation of those who are conventionally separate as to property.

Between spouses, the effects of the separation are retroactive to the day of the application unless the court makes them retroactive to the date on which the spouses ceased sharing a community of life.

1991, c. 64, a. 489; 2016, c. 4, s. 60.

490. Creditors of the spouses may not apply for separation as to property, but may intervene in the action.

They may also institute proceedings against separation as to property pronounced or executed in fraud of their rights.

1991, c. 64, a. 490.

491. Dissolution of the matrimonial regime effected by separation as to property does not give rise to the rights of survivorship, unless otherwise stipulated in the marriage contract.

1991, c. 64, a. 491.

DIVISION IV

COMMUNITY REGIMES

492. Where the spouses elect for a community matrimonial regime and it is necessary to supplement the provisions of the agreement, reference shall be made to the rules of partnership of acquests, adapted as required.

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Spouses married under the former regime of legal community may invoke the rules of dissolution and liquidation of the regime of partnership of acquests where these are not inconsistent with their matrimonial regime.

1991, c. 64, a. 492; I.N. 2014-05-01.

CHAPTER VI

SEPARATION FROM BED AND BOARD

DIVISION I

GROUNDS FOR SEPARATION FROM BED AND BOARD

493. Separation from bed and board is granted when the will to share a community of life is gravely undermined.

1991, c. 64, a. 493; 2016, c. 4, s. 61.

494. The will to share a community of life is gravely undermined particularly

(1) where proof of an accumulation of facts making the continuation of community of life hardly tolerable is adduced by the spouses or either of them;

(2) where, at the time of the application, the spouses are living apart;

(3) where either spouse has seriously failed to perform an obligation resulting from the marriage; however, the spouse may not invoke his or her own failure.

1991, c. 64, a. 494; 2016, c. 4, s. 62.

495. If the spouses submit to the approval of the court a draft agreement settling the consequences of their separation from bed and board, they may apply for separation without disclosing the ground.

The court then grants the separation if it is satisfied that the spouses truly consent and that the agreement sufficiently preserves the interests of each of them and of the children.

1991, c. 64, a. 495.

DIVISION II

PROCEEDINGS FOR SEPARATION FROM BED AND BOARD

§ 1. — *General provision*

496. At all stages of the proceedings for separation from bed and board, it is within the role of the court to counsel the spouses and foster their conciliation, and to see to the interests of the children and the respect of their rights.

1991, c. 64, a. 496; I.N. 2014-05-01.

§ 2. — *Application and proof*

497. An application for separation from bed and board may be presented by both spouses or either of them.

1991, c. 64, a. 497.

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498. Proof that the continuation of community of life is hardly tolerable may result from the testimony of one party but the court may require additional proof.

1991, c. 64, a. 498; 2016, c. 4, s. 63.

§ 3. — *Provisional measures*

499. An application for separation from bed and board releases the spouses from the obligation to share a community of life.

1991, c. 64, a. 499; 2016, c. 4, s. 64.

500. The court may order either spouse to leave the family residence during the proceedings.

It may also authorize either spouse to retain temporarily certain movable property which until that time had served for common use.

1991, c. 64, a. 500.

501. The court may decide as to the custody and education of the children.

It fixes the contribution of each spouse to the maintenance of the children during the proceedings.

1991, c. 64, a. 501; I.N. 2014-05-01.

502. The court may order either spouse to pay support to the other, and a provision to cover the costs of the proceedings.

1991, c. 64, a. 502; 2016, c. 4, s. 65.

503. Provisional measures may be reviewed whenever warranted by any new fact.

1991, c. 64, a. 503.

§ 4. — *Adjournments and reconciliation*

504. The court may adjourn the hearing of the application for separation from bed and board if it considers that adjournment can foster the reconciliation of the spouses or avoid serious injury to either spouse or to any of their children.

The court may also adjourn the hearing if it considers that the spouses are able to settle the consequences of their separation from bed and board and to make agreements in that respect which the court will be able to take into account.

1991, c. 64, a. 504; I.N. 2014-05-01.

505. Reconciliation between the spouses occurring after the application is presented terminates the proceedings.

Either spouse may nevertheless present a new application on any ground arising after the reconciliation and, in that case, may invoke the previous grounds in support of the application.

1991, c. 64, a. 505.

506. Resumption of cohabitation for less than 90 days does not by itself create a presumption of reconciliation.

1991, c. 64, a. 506.

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DIVISION III

EFFECTS BETWEEN SPOUSES OF SEPARATION FROM BED AND BOARD

507. Separation from bed and board releases the spouses from the obligation to share a community of life; it does not break the bond of marriage.

1991, c. 64, a. 507; 2016, c. 4, s. 66.

508. Separation from bed and board carries with it separation as to property, where applicable.

Between spouses, the effects of separation as to property are produced from the day of the application for separation from bed and board, unless the court makes them retroactive to the date on which the spouses ceased sharing a community of life.

1991, c. 64, a. 508; 2016, c. 4, s. 67.

509. Separation from bed and board does not immediately give rise to rights of survivorship, unless otherwise stipulated in the marriage contract.

1991, c. 64, a. 509.

510. Separation from bed and board does not entail the lapse of gifts made to the spouses in consideration of marriage.

However, the court, when granting a separation, may declare the gifts lapsed or reduce them, or order the payment of gifts *inter vivos* deferred for such time as it may fix, taking the circumstances of the parties into account.

1991, c. 64, a. 510.

511. The court, when granting a separation from bed and board or subsequently, may order either spouse to pay support to the other.

1991, c. 64, a. 511.

512. In any decision relating to the effects of separation from bed and board as regards the spouses, the court takes their circumstances into account; it considers, among other things, their needs and means, the agreements made between them, their age and state of health, their family obligations, their chances of finding employment, their existing and foreseeable patrimonial situation, evaluating both their capital and their income, and, as the case may be, the time needed by the creditor of support to acquire sufficient autonomy.

1991, c. 64, a. 512; I.N. 2014-05-01.

DIVISION IV

EFFECTS OF SEPARATION FROM BED AND BOARD ON CHILDREN

513. Separation from bed and board does not deprive the children of the advantages secured to them by law or by the marriage contract.

The rights and duties of the father and mother or of the parents towards their children are unaffected by separation from bed and board.

1991, c. 64, a. 513; 2022, c. 22, s. 79.

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514. The court, in granting separation from bed and board or subsequently, decides as to the custody, maintenance and education of the children, in their interest and in the respect of their rights, taking into account , where appropriate, any agreements made between the spouses.

1991, c. 64, a. 514; 2016, c. 4, s. 68.

DIVISION V

END OF SEPARATION FROM BED AND BOARD

515. Separation from bed and board is terminated upon the spouses' voluntarily resuming their community of life.

Separation as to property remains unless the spouses elect another matrimonial regime by marriage contract.

1991, c. 64, a. 515; 2016, c. 4, s. 69.

CHAPTER VII

DISSOLUTION OF MARRIAGE

DIVISION I

GENERAL PROVISIONS

516. Marriage is dissolved by the death of either spouse or by divorce.

1991, c. 64, a. 516.

517. Divorce is granted in accordance with the Divorce Act of Canada. The rules governing proceedings for separation from bed and board enacted by this Code and the rules of the Code of Civil Procedure (chapter C-25.01) apply to such applications to the extent that they are consistent with the Divorce Act of Canada.

1991, c. 64, a. 517; I.N. 2016-01-01 (NCCP).

DIVISION II

EFFECTS OF DIVORCE

518. Divorce carries with it the dissolution of the matrimonial regime.

The effects of the dissolution of the regime, as between the spouses, are retroactive to the date of the application, unless the court makes them retroactive to the date on which the spouses ceased sharing a community of life.

1991, c. 64, a. 518; I.N. 2014-05-01; 2016, c. 4, s. 70.

519. Divorce entails the lapse of gifts *mortis causa* made by one spouse to the other in consideration of marriage.

1991, c. 64, a. 519.

520. Divorce does not entail the lapse of other gifts *mortis causa* or gifts *inter vivos* made to the spouses in consideration of marriage.

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The court may, however, when granting a divorce, declare such gifts lapsed or reduce them, or order the payment of gifts *inter vivos* deferred for such time as it may fix.

1991, c. 64, a. 520.

521. Divorce has the same effects with regard to the children as separation from bed and board.

1991, c. 64, a. 521; I.N. 2014-05-01.

TITLE I.1

CIVIL UNION

2002, c. 6, s. 27.

CHAPTER I

FORMATION OF CIVIL UNION

2002, c. 6, s. 27.

521.1. A civil union is a commitment by two persons 18 years of age or over who express their free and enlightened consent to share a community of life and to uphold the rights and obligations that derive from that status.

A civil union may only be contracted between persons who are free from any previous bond of marriage or civil union and who in relation to each other are neither an ascendant or a descendant, nor a brother or a sister.

2002, c. 6, s. 27; 2016, c. 4, s. 71.

521.2. A civil union must be contracted openly before an officiant competent to solemnize marriages and in the presence of two witnesses.

No minister of religion may be compelled to solemnize a civil union to which there is an impediment according to the minister's religion and the discipline of the religious society to which he or she belongs.

2002, c. 6, s. 27.

521.3. Before proceeding with a civil union, the officiant ascertains the identity of the intended spouses as well as compliance with the conditions for the formation of a civil union and observance of formalities prescribed by law.

The solemnization of a civil union is subject to the same rules, with the necessary modifications, as are applicable to the solemnization of a marriage, including the rules relating to prior publication.

2002, c. 6, s. 27; I.N. 2014-05-01; I.N. 2015-11-01.

521.4. Any interested person may oppose a civil union between persons incapable of contracting a civil union, in particular if, in the person's opinion, the consent of one of the intended spouses is likely not to be free or enlightened.

A minor may act alone to oppose a civil union.

2002, c. 6, s. 27; 2016, c. 12, s. 15.

521.5. A civil union is proved by an act of civil union, except where another mode of proof is authorized by law.

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Possession of the status of civil union spouses compensates for a defect of form in the act of civil union.

2002, c. 6, s. 27.

CHAPTER II

CIVIL EFFECTS OF CIVIL UNION

2002, c. 6, s. 27.

521.6. The spouses in a civil union have the same rights and obligations.

They owe each other respect, fidelity, succour and assistance.

They are bound to share a community of life.

The effects of the civil union as regards the direction of the family, the exercise of parental authority, contribution towards expenses, the family residence, the family patrimony and the compensatory allowance are the same as the effects of marriage, with the necessary modifications.

Whatever their civil union regime, the spouses may not derogate from the provisions of this article.

2002, c. 6, s. 27; 2016, c. 4, s. 72.

521.7. A civil union creates a family connection between each spouse and the relatives of his or her spouse.

2002, c. 6, s. 27.

521.8. A civil union regime may be created by and any kind of stipulation may be made in a civil union contract, subject to the imperative provisions of law and public order.

Spouses who, before the solemnization of their civil union, have not so fixed their civil union regime are subject to the regime of partnership of acquests.

Civil union regimes, whether legal or conventional, and civil union contracts are subject to the same rules as are applicable to matrimonial regimes and marriage contracts, with the necessary modifications.

2002, c. 6, s. 27.

521.9. If spouses cannot agree as to the exercise of their rights and the performance of their duties, they or either of them may apply to the court, which will decide in the interest of the family after fostering conciliation of the parties.

2002, c. 6, s. 27; I.N. 2014-05-01.

CHAPTER III

NULLITY OF CIVIL UNION

2002, c. 6, s. 27.

521.10. A civil union which is not contracted as prescribed by this Title may be declared null upon the application of any interested person, although the court may decide according to the circumstances.

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No action lies after the lapse of three years from the solemnization, except where public order is concerned, in particular if the consent of one of the spouses was not free or enlightened.

2002, c. 6, s. 27; I.N. 2014-05-01; 2016, c. 12, s. 16.

521.11. The nullity of a civil union entails the same effects as the nullity of a marriage.

2002, c. 6, s. 27.

CHAPTER IV

DISSOLUTION OF CIVIL UNION

2002, c. 6, s. 27.

521.12. A civil union is dissolved by the death of either spouse. It is also dissolved by a court judgment or by a joint notarial declaration where the spouses' will to share a community of life is irretrievably undermined.

A civil union is also dissolved by the marriage of the spouses to one another. The sole consequence of the dissolution is the severing of the bond of civil union. The effects of the civil union are maintained and are considered to be effects of the marriage from the date of the civil union, and the civil union regime of the spouses becomes the matrimonial regime, unless they have made changes to it by marriage contract.

2002, c. 6, s. 27; 2004, c. 23, s. 7; I.N. 2014-05-01; I.N. 2015-11-01; 2016, c. 4, s. 73.

521.13. The spouses may consent, by way of a joint declaration, to the dissolution of the civil union provided they settle all the consequences of the dissolution in an agreement.

The declaration and the agreement must be executed before a notary and recorded in notarial acts *en minute*.

The notary may not execute the declaration before the agreement is recorded in a notarial transaction contract. The notary must inform the spouses beforehand of the consequences of the dissolution and make sure that they truly consent to the dissolution and that the agreement is not contrary to imperative provisions of law or public order. If he considers it appropriate, the notary may inform the spouses of services of which he is aware that are likely to foster their conciliation.

2002, c. 6, s. 27; I.N. 2015-11-01; 2016, c. 4, s. 74.

521.14. The transaction contract specifies the date on which the net value of the family patrimony is determined. The date may not be earlier than the date of the joint proceeding for the dissolution of the civil union or the date on which the spouses ceased their community of life, or later than the date of the execution of the contract before a notary.

2002, c. 6, s. 27; I.N. 2014-05-01; I.N. 2015-11-01; 2016, c. 4, s. 75.

521.15. The joint declaration dissolving a civil union states the names and domicile of the spouses, their places and dates of birth and the place and date of solemnization of the union; it also indicates the places and dates of execution of the transaction contract and of the declaration as well as the minute number given to each of those acts.

2002, c. 6, s. 27.

521.16. From the date of their execution before a notary and without further formality, the joint declaration dissolving the civil union and the transaction contract have the effects of a judgment dissolving a civil union.

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In addition to being notified to the registrar of civil status, the notarial declaration must be sent to the depositary of the original civil union contract and to the depositary of any contract modifying the civil union regime. The depositary is bound to make a reference to the joint declaration of dissolution on the contract and on any copy issued, specifying the date of the declaration, the minute number and the name and address of the notary who executed the declaration. Such a notation of the reference may be made on the contract or, if applicable, on a copy of it or on a writing attached to the contract or copy, directly or by a reference. The notarial declaration and transaction must also be sent to Retraite Québec.

A notice of the notarial declaration must be entered in the register of personal and movable real rights on the application of the officiating notary.

2002, c. 6, s. 27; I.N. 2014-05-01; I.N. 2015-11-01; 2015, c. 20, s. 61; 2023, c. 23, s. 2.

521.17. In the absence of a joint declaration dissolving the civil union executed before a notary or where the interests of the common children of the spouses are at stake, the dissolution of the union must be pronounced by the court.

The court must ascertain that the spouses' will to share a community of life is irretrievably undermined, foster conciliation and see to the interests of the children and the respect of their rights. During the proceeding, the court may determine provisional measures, as in the case of separation from bed and board.

Upon or after pronouncing the dissolution, the court may order one of the spouses to pay support to the other and decide as to the custody, maintenance and education of the children, in their interest and the respect of their rights, taking into account, where appropriate, any agreements made between the spouses.

2002, c. 6, s. 27; I.N. 2014-05-01; 2016, c. 4, s. 76.

521.18. The dissolution of a civil union does not deprive the children of the advantages secured to them by law or by the civil union contract.

The rights and duties of parents towards their children are unaffected by the dissolution of the union.

2002, c. 6, s. 27; I.N. 2014-05-01.

521.19. The dissolution of a civil union entails the dissolution of the civil union regime. Between the spouses, the effects of the dissolution of the regime are retroactive to the day of the death, the day of execution of the joint declaration of dissolution before a notary or, if the spouses so stipulated in the notarial transaction, the day on which the net value of the family patrimony is determined. If the dissolution is pronounced by the court, its effects are retroactive to the day of the application to the court, unless the court makes them retroactive to the day on which the spouses ceased sharing a community of life.

Dissolution, otherwise than by death, entails the lapse of gifts *mortis causa* made by one spouse to the other in consideration of the civil union. It does not entail the lapse of other gifts *mortis causa* or of gifts *inter vivos* between the spouses in consideration of the union, except that the court may, upon pronouncing the dissolution, declare such gifts lapsed or reduce them, or order the payment of gifts *inter vivos* deferred for such time as it may fix.

2002, c. 6, s. 27; I.N. 2015-11-01; 2016, c. 4, s. 77.

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TITLE I.2

PARENTAL UNION

2024, c. 22, s. 3.

CHAPTER I

GENERAL PROVISIONS

2024, c. 22, s. 3.

521.20. A parental union is formed upon *de facto* spouses becoming the father and mother or the parents of the same child. The same applies where the father and mother or the parents of the same child become *de facto* spouses or become *de facto* spouses again.

Where one of the spouses is married or in a civil union or a parental union, a parental union with a new spouse is formed only from the date of the dissolution of the marriage or civil union or, as the case may be, of the end of the parental union.

Persons who are, in relation to each other, an ascendant, a descendant, a brother or a sister cannot form a parental union.

Within the meaning of this article, *de facto* spouses are two persons who share a community of life and who represent themselves publicly as a couple, regardless of how long they have shared a community of life. Persons who cohabit and are the father and mother or the parents of the same child are presumed to share a community of life.

2024, c. 22, s. 3.

521.21. The spouses are, upon formation of the parental union, subject to the rules of this Title, from which they may not derogate, except as otherwise provided by law.

2024, c. 22, s. 3.

521.22. A parental union ends by the death of either spouse, by the spouses ceasing their community of life, by the marriage or civil union of both spouses or by the marriage or civil union of either spouse with a third person.

2024, c. 22, s. 3.

CHAPTER II

FAMILY RESIDENCE

2024, c. 22, s. 3.

521.23. Parental union spouses choose the family residence together.

In the absence of an express choice, the family residence is presumed to be the residence where the members of the family live while carrying on their principal activities.

2024, c. 22, s. 3.

521.24. The provisions relating to the family residence of married spouses apply to parental union spouses, with the necessary modifications.

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Moreover, the protective measures set out in articles 401 to 407 subsist for 120 days following the spouses ceasing their community of life.

2024, c. 22, s. 3.

521.25. Either spouse may be authorized by the court to enter alone into any act concerning the family residence for which the consent of the other would be required, provided such consent is unobtainable for any reason, or its refusal is not justified by the interest of the family.

2024, c. 22, s. 3.

521.26. Where a union ends by the spouses ceasing their community of life, the spouse who intends to apply alone for cancellation of the registration of a declaration of family residence in the land register must, not less than 120 days before applying to the Land Register, serve on the other spouse a prior notice of that intention.

2024, c. 22, s. 3.

521.27. Applications relating to the award of the ownership or use of the movable property which serves for the household, or to the award of the lease or of a right of use of the family residence, must be submitted to the court not later than 120 days after the end of the union.

2024, c. 22, s. 3.

521.28. The court may order either spouse to leave the family residence during any proceedings to settle the consequences of the end of the union.

It may also authorize either spouse to retain temporarily certain movable property which until that time had served for common use.

2024, c. 22, s. 3.

CHAPTER III

PARENTAL UNION PATRIMONY

2024, c. 22, s. 3.

DIVISION I

GENERAL PROVISIONS

2024, c. 22, s. 3.

521.29. Parental union entails the establishment of a parental union patrimony consisting of certain property of the spouses regardless of which of them holds a right of ownership in that property.

2024, c. 22, s. 3.

521.30. The parental union patrimony is composed, upon its establishment, of the following property owned by one or the other of the spouses: the residences of the family or the rights which confer use of them, the movable property with which they are furnished or decorated and which serves for the use of the household, and the motor vehicles used for family travel.

Property devolved to one of the spouses by succession or gift before or during the union is, however, excluded from the parental union patrimony.

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The same applies to the property of a spouse who is a minor, which property is to be included in the parental union patrimony only once the spouse attains full age.

2024, c. 22, s. 3.

521.31. The spouses may, during the union, change the composition of the parental union patrimony.

Any change whose purpose is to exclude property referred to in the first paragraph of article 521.30 from the parental union patrimony must be attested to, on pain of absolute nullity, by notarial act *en minute*. The change takes effect on the day of the act attesting the change.

2024, c. 22, s. 3.

521.32. No person of full age under tutorship or under a protection mandate may enter into an agreement concerning the parental union patrimony without the assistance of the person's tutor or mandatary; the tutor or mandatary must be authorized for this purpose by the court, if applicable, upon the advice of the tutorship council.

No agreement entered into in violation of this article may be impugned except by the person of full age himself or by the person's tutor or mandatary, as the case may be, nor except in the year immediately following the signing of the agreement.

2024, c. 22, s. 3.

521.33. The spouses may, during the union, by notarial act *en minute*, on pain of absolute nullity, withdraw by mutual agreement from the application of the provisions of this chapter.

The withdrawal takes effect on the day of the act attesting the withdrawal. Where the withdrawal is attested to within 90 days of the beginning of the union, the parental union patrimony is deemed never to have been established.

2024, c. 22, s. 3.

DIVISION II

PARTITION OF PARENTAL UNION PATRIMONY

2024, c. 22, s. 3.

521.34. Upon the end of the parental union, where the spouses withdraw from the application of the provisions of this chapter or where a judgment enabling the liquidation of the patrimonial rights of an absentee spouse is rendered, the value of the parental union patrimony, after deducting the debts contracted for the acquisition, improvement, maintenance or preservation of the property composing it, is equally divided between the spouses or between the surviving spouse and the heirs, as the case may be.

2024, c. 22, s. 3.

521.35. The net value of the parental union patrimony is determined according to the market value, on the date on which the right to partition arises, of the property composing it and of the debts contracted for the acquisition, improvement, maintenance or preservation of the property.

The net value of the parental union patrimony also includes the net value of the property referred to in the first paragraph of article 521.30, but that was excluded from the patrimony by the spouses. The net value of that property is determined at the time of the exclusion.

2024, c. 22, s. 3.

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521.36. Once the net value of the parental union patrimony has been determined, a deduction is made from it of the net value, at the time it was included in the patrimony, of the property that was then owned by one of the spouses and that forms part of the patrimony, as well as of the increase in value acquired by the property while forming part of the patrimony, proportionately to the ratio existing, at the time it was included in the patrimony, between the net value and the gross value of the property.

A further deduction from the net value of the parental union patrimony is made of the net value of the contribution made by one of the spouses for the acquisition or improvement of property in the patrimony while that property forms part of the patrimony as well as of the increase in value acquired since the contribution, proportionately to the ratio existing, at the time of the contribution, between the value of the contribution and the gross value of the property, where the contribution was made out of

(1) the property accumulated before the establishment of the parental union patrimony and that does not form part of it;

(2) the property of a spouse who is a minor accumulated before the spouse attains full age and that does not form part of the parental union patrimony;

(3) the property devolved by succession or gift before or during the union; or

(4) the fruits and revenues derived from the property referred to in subparagraphs 1 to 3.

Reinvestment, during the union, of property referred to in this article gives rise to the same deductions, with the necessary modifications.

2024, c. 22, s. 3.

521.37. Partition of the parental union patrimony is effected by payment in money or by giving in payment.

If partition is effected by giving in payment, the spouses may agree to transfer ownership of other property than that composing the parental union patrimony.

2024, c. 22, s. 3.

521.38. The court may, at the time of partition, award certain property to one of the spouses and may also, where it is necessary to avoid injury, order the debtor spouse to perform his or her obligation by way of instalments spread over a period of not more than 10 years.

It may also order any other measure it considers appropriate to ensure that the judgment is properly executed, and, in particular, order that security be granted to one of the parties to guarantee performance of the obligations of the debtor spouse.

2024, c. 22, s. 3.

521.39. Where property that formed part of the parental union patrimony was alienated or misappropriated in the year preceding the time at which the right to partition arose and where that property was not replaced, the court may order that a compensatory payment be made to the spouse who would have benefited from the inclusion of that property in the parental union patrimony.

The same applies where the property was alienated over one year before the right to partition arose and where the alienation was made for the purpose of decreasing the share of the spouse who would have benefited from the inclusion of that property in the parental union patrimony.

2024, c. 22, s. 3.

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521.40. The court may, on an application, make an exception to the rule of partition into equal shares where it would result in an injustice considering, in particular, the brevity of the parental union, the waste of certain property by one of the spouses, or the bad faith of one of them.

2024, c. 22, s. 3.

521.41. A spouse may, from the end of the union, renounce partition of the parental union patrimony in whole or in part; the spouse may renounce partition only by notarial act *en minute* or by a judicial declaration which is recorded, in the course of an application in a family matter.

Renunciation must be entered in the register of personal and movable real rights. Failing entry within a period of one year from the day the union ended, the renouncing spouse is deemed to have accepted.

2024, c. 22, s. 3.

521.42. Renunciation by one of the spouses, by notarial act, may be annulled by reason of lesion or any other cause of nullity of contracts.

2024, c. 22, s. 3.

CHAPTER IV

COMPENSATORY ALLOWANCE

2024, c. 22, s. 3.

521.43. A spouse may, from the end of the parental union, apply to the court for an order directing the other spouse to pay to the former, as compensation for the impoverishment attributable to that spouse's contribution, in property or services, to the enrichment of the patrimony of the other spouse, an allowance payable all at once or by instalments, taking into account, in particular, the advantages of the parental union patrimony. The same rule applies in case of death; in such a case, the advantages of the succession to the surviving spouse are also taken into account.

Where the right to the compensatory allowance is founded on the regular cooperation of the spouse in an enterprise, whether the enterprise deals in property or in services and whether or not it is a commercial enterprise, it may be applied for from the time the cooperation ends, if it ends due to the alienation, dissolution or voluntary or forced liquidation of the enterprise.

2024, c. 22, s. 3.

521.44. Proof of a spouse's impoverishment and contribution to the enrichment of the other spouse's patrimony may be made by any means.

2024, c. 22, s. 3.

521.45. The court may award a provision to the spouse applying for a compensatory allowance to cover the costs of the proceedings.

2024, c. 22, s. 3.

521.46. Where a compensatory allowance is to be paid, the court, failing agreement between the parties, establishes its value based on the lesser of the value of the spouse's impoverishment attributable to the latter's contribution or the value of the enrichment of the other spouse. The court may also, where applicable, fix the terms and conditions of payment and order that the allowance be paid all at once or by instalments or that it be paid by the awarding of rights in certain property.

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If the court awards a right in the family residence or a right in the movable property serving for the use of the household to one of the spouses or to the surviving spouse, the provisions of chapters II and III of this Title apply.

The Minister of Justice may, by regulation, determine standards for establishing the values of the impoverishment and of the enrichment.

2024, c. 22, s. 3.

521.47. Either spouse may, during the union, agree with the other spouse to make partial payment of the compensatory allowance. The payment received must be deducted when the time comes to establish the value of the compensatory allowance.

2024, c. 22, s. 3.

TITLE TWO

FILIATION

CHAPTER I

GENERAL PROVISIONS

1991, c. 64; 2023, c. 13, s. 7.

522. All children whose filiation is established have the same rights and obligations, regardless of their circumstances of birth.

1991, c. 64, a. 522.

522.1. The filiation of a child is proved by his act of birth, regardless of the manner in which filiation is established.

2023, c. 13, s. 8.

CHAPTER II

FILIATION BY BIRTH

1991, c. 64, c. I; 2023, c. 13, s. 9.

DIVISION I

GENERAL PROVISION

1991, c. 64, Div. I; 2023, c. 13, s. 9.

522.2. All children have a right to the establishment of their filiation in accordance with the conditions provided for in this chapter, without further consideration.

2023, c. 13, s. 9.

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DIVISION II

FILIATION BY ACKNOWLEDGEMENT OR BY BLOOD

2023, c. 13, s. 9.

523. The filiation of a child is established with regard to the mother or parent by the fact of their having given birth to him and, with regard to the father or other parent, by the acknowledgement of a bond of filiation in the declaration of birth in accordance with the rules prescribed by this Code.

In the absence of such an acknowledgement in the declaration of birth, uninterrupted possession of status is sufficient.

1991, c. 64, a. 523; 2023, c. 13, s. 10.

524. Uninterrupted possession of status is established by an adequate combination of facts which indicate the relationship of filiation between the child and the person who acts toward him as his parent. For possession to be uninterrupted, such conduct must begin at the child's birth and continue for a minimum period of 24 months, except in exceptional circumstances.

Uninterrupted possession of status may not be established in cases where it is exercised by more than one person simultaneously.

1991, c. 64, a. 524; 2023, c. 13, s. 11.

525. A child born during a marriage, civil union or *de facto* union or within 300 days after its dissolution or annulment or, in the case of a *de facto* union, its end, is presumed to have as the other parent the spouse of his mother or of the parent who gave birth to him.

The presumption is rebutted with regard to the former spouse where the child is born within 300 days of the dissolution or annulment of the marriage or civil union or of the end of the *de facto* union, but after a subsequent marriage, civil union or *de facto* union of his mother or of the parent who gave birth to him.

The presumption is also rebutted if the child is born more than 300 days after the judgment ordering separation from bed and board of married spouses, unless the spouses have voluntarily resumed their community of life before the birth.

The presumption is rebutted as well if the child is born of an assisted procreation activity carried out after the death of the spouse of his mother or of the parent who gave birth to him.

1991, c. 64, a. 525; 2002, c. 6, s. 28; I.N. 2014-05-01; 2016, c. 4, s. 78; 2022, c. 22, s. 80.

526. *(Repealed).*

1991, c. 64, a. 526; 2023, c. 13, s. 13.

527. *(Repealed).*

1991, c. 64, a. 527; 2023, c. 13, s. 13.

528. *(Repealed).*

1991, c. 64, a. 528; 2023, c. 13, s. 13.

529. *(Repealed).*

1991, c. 64, a. 529; 2023, c. 13, s. 13.

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530. *(Repealed).*

1991, c. 64, a. 530; I.N. 2014-05-01; 2023, c. 13, s. 13.

531. *(Repealed).*

1991, c. 64, a. 531; 2023, c. 13, s. 13.

532. *(Repealed).*

1991, c. 64, a. 532; 2023, c. 13, s. 13.

533. *(Repealed).*

1991, c. 64, a. 533; 2023, c. 13, s. 13.

534. *(Repealed).*

1991, c. 64, a. 534; I.N. 2014-05-01; 2023, c. 13, s. 13.

535. *(Repealed).*

1991, c. 64, a. 535; 2002, c. 6, s. 29; 2022, c. 22, s. 81; 2023, c. 13, s. 13.

535.1. *(Repealed).*

2002, c. 19, s. 5; 2023, c. 13, s. 13.

535.2. *(Repealed).*

2022, c. 22, s. 82; 2023, c. 13, s. 13.

536. *(Repealed).*

1991, c. 64, a. 536; 2023, c. 13, s. 13.

537. *(Repealed).*

1991, c. 64, a. 537; 2023, c. 13, s. 13.

DIVISION III

FILIATION OF CHILDREN BORN OF PROCREATION INVOLVING THE CONTRIBUTION OF A THIRD PERSON

2002, c. 6, s. 30; 2023, c. 13, s. 14.

§ 1. — *Parental project involving the use of a third person's reproductive material*

2023, c. 13, s. 14.

538. A parental project involving the use of the reproductive material of a third person is formed from the moment a person alone or spouses have decided, in order to have a child, to use the reproductive material of a person who is not party to the parental project and who agrees to their material being used for that purpose.

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The reproductive material may be provided through assisted procreation activities carried out in a centre for assisted procreation. The material may also be provided through artisanal insemination or sexual intercourse.

The parental project comprises all children born of it and it must not entail their being dissociated.

1991, c. 64, a. 538; 2002, c. 6, s. 30; 2023, c. 13, s. 15.

538.1. The filiation of a child born of a parental project involving the use of the reproductive material of a third person is established with regard to the mother or the parent by the fact of their having given birth to the child.

Filiation is established with regard to the other parent, if applicable, by the acknowledgement of a bond of filiation in the declaration of birth in accordance with the rules prescribed by this Code. In the absence of such an acknowledgement in the declaration of birth, uninterrupted possession of status is sufficient.

Uninterrupted possession of status is established by an adequate combination of facts which indicate the relationship of filiation between the child and the person who acts toward him as his parent. For the possession to be uninterrupted, such conduct must begin at the child's birth and continue for a minimum period of 24 months, except in exceptional circumstances.

Uninterrupted possession of status may not be established in cases where it is exercised by more than one person simultaneously.

2002, c. 6, s. 30; 2023, c. 13, s. 16.

538.2. A child born of a parental project involving the use of the reproductive material of a third person may not claim filiation with regard to the third person who provided such reproductive material for the purposes of the project. Likewise, that third person may not claim a bond of filiation with regard to the child.

2002, c. 6, s. 30; I.N. 2014-05-01; 2023, c. 13, s. 17.

538.3. A child born of a parental project between spouses involving the use of the reproductive material of a third person and whose birth occurred during the spouses' union or within 300 days after the dissolution or annulment of their marriage or civil union or the end of their *de facto* union is presumed to have as the other parent the spouse of his mother or of the parent who gave birth to him.

The presumption is rebutted with regard to the former spouse where the child is born within 300 days of the dissolution or annulment of the marriage or civil union or of the end of the *de facto* union, but after a subsequent marriage, civil union or *de facto* union of his mother or of the parent who gave birth to him.

The presumption is also rebutted if the child is born more than 300 days after the judgment ordering separation from bed and board of married spouses, unless the spouses have voluntarily resumed their community of life before the birth.

The presumption is rebutted as well if the child is born of an assisted procreation activity carried out after the death of the spouse of his mother or of the parent who gave birth to him.

2002, c. 6, s. 30; I.N. 2014-05-01; 2016, c. 4, s. 78; 2022, c. 22, s. 83.

539. Where a necessary condition for the validity of the parental project is not met, the filiation of the child is established in accordance with the rules of filiation by acknowledgement or by blood. However, no bond of filiation may be established with regard to the person who agreed to provide their reproductive material as a third person for the purposes of the project or with regard to the person who wanted to form the project but did not give birth to the child.

1991, c. 64, a. 539; 2002, c. 6, s. 30; I.N. 2014-05-01; 2022, c. 22, s. 84; 2023, c. 13, s. 18.

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539.1. If both parents are women, the rights and obligations assigned by law to the father, insofar as they differ from the mother's, are assigned to the mother who did not give birth to the child.

2002, c. 6, s. 30.

540. *(Repealed).*

1991, c. 64, a. 540; 2002, c. 6, s. 30; I.N. 2015-11-01; 2022, c. 22, s. 85.

541. *(Repealed).*

1991, c. 64, a. 541; 2002, c. 6, s. 30; 2023, c. 13, s. 19.

§ 2. — *Parental project involving surrogacy*

2023, c. 13, s. 20.

I. — *General provisions*

2023, c. 13, s. 20.

541.1. A parental project involving surrogacy is formed from the moment a person alone or spouses domiciled in Québec have decided, in order to have a child, to resort to a woman or a person who is not party to the parental project to give birth to the child.

The parental project comprises all children born of it and must not entail their being dissociated.

2023, c. 13, s. 20.

541.2. The person alone or the spouses who have formed the parental project must, prior to the planned pregnancy, enter into a surrogacy agreement with the woman or the person who has agreed to give birth to the child. No other person may be a party to the agreement.

The woman or the person who has agreed to give birth to the child must be 21 years of age or over at the time the agreement is entered into. If the woman or the person is the sister, ascendant or descendant of the person alone or of one of the spouses who formed the parental project, there may be no combining, whatsoever, of the reproductive material of the woman or the person with that of a sibling, ascendant or descendant of the woman or the person.

2023, c. 13, s. 20.

541.3. The contribution made to the parental project by the woman or the person who has agreed to give birth to a child must be gratuitous. However, the woman or person is entitled, in accordance with the standards determined by government regulation, to the reimbursement or payment of certain expenses and to compensation, where applicable, for loss of work income resulting from that contribution. If domiciled outside Québec, the woman or person is also entitled, as provided for by the law of the State of their domicile, to the reimbursement or payment of certain expenses and to compensation for loss of work income.

The person alone or the spouses who formed the parental project may not claim reimbursement of the amounts they paid under the first paragraph for the sole reason that the project was not carried to completion.

2023, c. 13, ss. 20 and 70.

541.4. For the parental project involving surrogacy to be carried to completion, the woman or the person who gave birth to the child shall, after the birth, consent to the filiation of the child being established exclusively with regard to the person alone or both spouses who formed the parental project.

2023, c. 13, s. 20.

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541.5. Renunciation by the woman or the person who has agreed to give birth to the child of their right to express, after the child's birth, their will as to the establishment of the child's filiation is without effect.

A clause tending to prevent the woman or the person who has agreed to give birth to a child from expressing consent in a free and enlightened manner, after the child's birth, is without effect. A penal clause intended for the same purpose is also without effect.

2023, c. 13, s. 20.

541.6. The child may not claim filiation with regard to the woman or the person who gave birth to him in the context of a parental project involving surrogacy to which the woman or person contributed. Likewise, the woman or person may not claim a bond of filiation with regard to the child once their consent to the filiation of the child being established exclusively with regard to the person alone or both spouses who formed the parental project has been given or is deemed to have been given.

2023, c. 13, s. 20.

II. — *Children born of a parental project in which the parties to the agreement are domiciled in Québec*

2023, c. 13, s. 20.

1. — *General provisions*

2023, c. 13, s. 20.

541.7. The person alone or the spouses who formed the parental project and the woman or the person who has agreed to give birth to the child must have been domiciled in Québec for at least one year prior to entering into the surrogacy agreement in order for the rules allowing the legal or judicial establishment of the child's filiation to apply to the parental project involving surrogacy.

2023, c. 13, ss. 20 and 68.

541.8. Only the woman or the person who has agreed to give birth to a child in the context of a parental project involving surrogacy may, at any time before the child's birth, unilaterally terminate the surrogacy agreement; the woman or the person must then do so in writing and notify a copy to the person alone or the spouses who formed the parental project. In the latter case, notification given to one of the spouses is deemed to have been given to the other spouse.

Where there is a termination of the pregnancy, the surrogacy agreement is terminated without further formality.

2023, c. 13, s. 20.

541.9. To give consent, the woman or the person who gave birth to the child must expressly consent to their bond of filiation with regard to the child being deemed never to have existed and to the establishment of a bond of filiation with regard to the person alone or both spouses who formed the parental project.

Consent shall be given by notarial act en minute or by a private writing before two witnesses who have no interest in the surrogacy project. In the latter case, the author and the witnesses sign it, indicating the date and place the consent is given. Consent may also be given by a judicial declaration, in the course of proceedings relating to the filiation of the child. Refusal to consent is subject to no formal requirement.

Consent given in a language other than French shall be accompanied by a translation authenticated in Québec.

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A government regulation may determine other elements to be covered by the consent as well as the contents of the document in which it is stated.

2023, c. 13, s. 20.

541.10. The amounts reimbursed for certain expenses and, if applicable, paid as compensation for loss of work income to the woman or the person who has agreed to give birth to the child, in consideration of their contribution to a parental project involving surrogacy, are exempt from seizure. However, compensation paid for loss of work income is seizable with regard to a debt of support in accordance with articles 694 and following of the Code of Civil Procedure (chapter C-25.01), with the necessary modifications.

2023, c. 13, s. 20.

2. — *Prior conditions and legal establishment of filiation*

2023, c. 13, s. 20.

541.11. Before the beginning of the pregnancy, the woman or the person who has agreed to give birth to the child must meet, without the presence of the person alone or the spouses who formed the parental project, with a professional qualified to inform the woman or the person of the psychosocial implications of the surrogacy project and of the ethical issues it involves. The same applies to the person alone or the spouses who formed the parental project.

At the end of the meeting, the professional gives a signed attestation to each person the professional met with confirming that they attended the meeting.

The professional must be a member of a professional order designated by the Minister of Justice. The latter determines, by regulation, any standard relating to the conduct of the information meeting.

2023, c. 13, s. 20.

Note *See M.O. 2023-5103, 2023-10-19, (2023) 155 G.O. 2, 2702.*

541.12. Following the information meeting, the parties to the surrogacy project who wish to pursue it must, by notarial act en minute, enter into a surrogacy agreement.

The agreement is drawn up in French. The parties may be bound only by a version in a language other than French if, after examining the French version, such is their express wish.

The notary shall obtain from each of the parties the attestation received at the information meeting, and shall mention having done so in the agreement.

2023, c. 13, s. 20.

541.13. The surrogacy agreement establishes the nature of the expenses that may be paid or reimbursed to the woman or the person who has agreed to give birth to the child and provides whether the woman or person is entitled to compensation for loss of work income, in accordance with the regulation referred to in article 541.3. The agreement also provides for the deposit, in a trust account of the notary who executes it, of an amount to allow the performance of the obligations of the person alone or the spouses who formed the parental project.

The agreement also contains the information determined by government regulation concerning the profile of the woman or the person who has agreed to give birth to the child and of any other party to the agreement who intends to provide their reproductive material.

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A government regulation may provide for any other standard relating to the content of the agreement or to the deposit referred to in the first paragraph, including cases in which such a deposit need not be made.

2023, c. 13, s. 20.

541.14. After his birth, the child is entrusted to the person alone or the spouses who formed the parental project, unless the woman or the person who gave birth to the child objects to it. In the event that the person alone or the spouses are deceased or unable to act, the child is entrusted to the director of youth protection.

Entrusting the child entails, by operation of law, the delegation of the exercise of parental authority and of tutorship to the person alone, the spouses or the director of youth protection, as the case may be.

Where the delegation is evidenced in writing, it shall be evidenced by notarial act en minute or by a private writing drawn up before two witnesses who have no interest in the surrogacy project. In the latter case, the author and the witnesses sign it, indicating the date and place of execution.

2023, c. 13, s. 20.

541.15. The consent of the woman or the person who gave birth to the child must be given within 30 days from the birth of the child, but not before seven days have elapsed since the birth.

2023, c. 13, s. 20.

541.16. If the conditions for the legal establishment of filiation are met, the child's filiation is deemed established exclusively with regard to the person alone or both spouses who formed the parental project from the child's birth.

The child's birth is declared to the registrar of civil status in accordance with the rules prescribed by this Code.

2023, c. 13, s. 20.

541.17. If the woman or the person who gave birth to the child disappears with the child before expressing their will concerning the establishment of the child's filiation or refuses to have their bond of filiation with regard to the child be deemed never to have existed and to have a bond of filiation be established with regard to the person alone or both spouses who formed the parental project, as the case may be, the filiation of the child is established in accordance with the rules of filiation by acknowledgement or by blood.

However, the presumption with regard to the spouse of the woman or person who gave birth to the child does not apply. Furthermore, no bond of filiation may be established with regard to the person who has agreed to provide their reproductive material as a third person for the purposes of the project.

2023, c. 13, s. 20.

541.18. Where the woman or the person who gave birth to the child dies before expressing their will concerning the establishment of the child's filiation, their consent is deemed to have been given. Filiation is then deemed established exclusively with regard to the person alone or both spouses who formed the parental project from the child's birth.

The same applies in cases where the woman or the person became incapable of giving consent before expressing their will, provided the incapacity is certified by a member of a professional order designated by the Minister of Justice. Such certification may be communicated to the person alone or to the spouses who formed the parental project, despite the professional being bound by professional secrecy with regard to the person to whom the certificate pertains. This presumption applies only if 30 days have elapsed since the child's birth.

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The child's birth is declared to the registrar of civil status in accordance with the rules prescribed by this Code.

2023, c. 13, s. 20.

Note *See M.O. 2024-5310, 2024-10-30, (2024) 156 G.O. 2, 4103.*

541.19. Should the person alone or the spouses who formed the parental project, or one of them, die, be unable to act or disappear, the child's filiation is deemed established exclusively with regard to that person alone or those spouses, subject to the consent of the woman or the person who gave birth to the child.

The child's birth is declared to the registrar of civil status in accordance with the rules prescribed by this Code.

2023, c. 13, s. 20.

3. — *Judicial establishment of filiation*

2023, c. 13, s. 20.

541.20. Where a prior condition for the legal establishment of the child's filiation is not met, the filiation of the child is established in accordance with the rules of filiation by acknowledgement or by blood. However, the presumption with regard to the spouse of the woman or person who gave birth to the child does not apply. Furthermore, no bond of filiation may be established with regard to the person who has agreed to provide their reproductive material as a third person for the purposes of the parental project.

Only the court is then authorized to change the filiation. An application to that effect must be submitted to the court within 60 days after the birth of the child, except in exceptional circumstances.

2023, c. 13, ss. 20 and 68.

541.21. Where the court is seized of an application to change the child's filiation, it ascertains that the general conditions relating to the parental project involving surrogacy have been met. It therefore ascertains, in particular, that the woman or the person who gave birth to the child has consented to their bond of filiation with regard to the child being deemed never to have existed and to such a bond being established with regard to the person alone or both spouses who formed the parental project, as the case may be.

If the court finds the parental project to be compliant, it confirms the existence of a parental project involving surrogacy and changes the child's filiation to establish it with regard to that person or to the spouses. Filiation is then deemed established exclusively with regard to them from the child's birth.

If the court finds otherwise, it declares the parental project involving surrogacy null and dismisses the application.

2023, c. 13, s. 20.

541.22. Where the child's filiation is changed with regard to the person alone or the spouses who formed the parental project, the change is made despite their death, their inability to act or their disappearance.

2023, c. 13, s. 20.

541.23. In the event that the woman or the person who gave birth to the child dies before expressing their will concerning the establishment of the child's filiation, their consent is deemed to have been given.

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The same rule applies in the event that the woman or the person who gave birth to the child becomes incapable of giving consent before expressing their will. This presumption applies only if 30 days have elapsed since the child's birth.

2023, c. 13, s. 20.

541.24. In the event that the woman or the person who gave birth to the child disappears without the child before expressing their will concerning the establishment of the child's filiation, their consent is presumed to have been given if 30 days have elapsed since the child's birth.

2023, c. 13, s. 20.

541.25. Where the court is seized of an application related to the filiation of a child born of a parental project involving surrogacy, it rules, if need be, on the fees payable to the advocate or, as the case may be, to the notary representing the woman or the person who gave birth to the child, which are borne by the person alone or by the spouses who formed the parental project, who are solidarily liable for them.

2023, c. 13, s. 20.

III. — *Children born of a parental project in which the woman or the person who gave birth to the child is domiciled outside Québec*

2023, c. 13, s. 20.

1. — *Prior conditions*

2023, c. 13, s. 20.

541.26. Every parental project involving surrogacy in which the woman or the person who has agreed to give birth to a child is domiciled outside Québec must comply with the general conditions applicable to any parental project involving surrogacy and those prescribed by this subdivision, regardless of the nationality of the person alone or the spouses who formed the project, of whether they have a residence in the State of the domicile of the woman or the person who has agreed to give birth to the child or otherwise have a right to act in a foreign State under the applicable law in that State and regardless of whether the filiation of the child born of such project has been established in a foreign State.

2023, c. 13, s. 20.

541.27. The parental project shall, before the process is set in motion, be submitted for prior authorization to the Minister of Health and Social Services by the person alone or the spouses who formed the project.

The authorization is given on condition, in particular, that the person alone or the spouses who formed the parental project provide the attestation received after the information meeting, that the State chosen by the person or the spouses is designated by the Government and that the project meets the other conditions prescribed by law.

The Government may, by regulation, prescribe additional conditions the parental project must meet for the authorization to be obtained.

The Minister notifies the registrar of civil status of every parental project the Minister receives for authorization, whether the project is authorized or not.

2023, c. 13, s. 20.

541.28. The person alone or the spouses who formed the parental project must have been domiciled in Québec for at least one year before applying for prior authorization.

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Where the woman or the person who has agreed to give birth to the child is domiciled outside Canada, the person alone or at least one of the spouses must, in addition, be a Canadian citizen or a permanent resident. If the parental project does not involve a Canadian citizen, the reproductive material provided for the conception of the child who is the subject of the parental project must be the permanent resident's reproductive material.

The Government may, by regulation, determine other conditions that must be met by the person alone or the spouses who formed such a parental project.

2023, c. 13, ss. 20 and 69.

541.29. The person alone or the spouses who formed the parental project must meet with a professional qualified to inform them of the psychosocial implications of such a project and of the ethical issues it involves.

At the end of the meeting, the professional gives a signed attestation to each person the professional met with confirming that they attended the meeting.

The professional must be a member of a professional order designated by the Minister of Justice. The latter determines, by regulation, any standard relating to the conduct of the information meeting.

2023, c. 13, s. 20.

Note *See M.O. 2023-5103, 2023-10-19, (2023) 155 G.O. 2, 2702.*

541.30. The consent of the woman or the person who gave birth to the child must be given in express terms, in writing or by a judicial declaration in the course of proceedings relating to the filiation of the child.

Consent given in a language other than French shall be accompanied by a translation authenticated in Québec.

2023, c. 13, s. 20.

541.31. The parental project may be carried out only if the woman or the person who has agreed to give birth to the child is domiciled in a foreign State designated by the Government.

The Government may only designate a foreign State where the rules and practices relating to surrogacy are not contrary to public order and respect the interest of the child once born, including the child's safety and integrity, as well as the safety and integrity of the other persons involved in a surrogacy project. The Government may also take into account any other criteria it considers appropriate.

Such a designation is made on the joint recommendation of the Minister of Justice and the Minister of Health and Social Services as well as, as the case may be, the Minister of International Relations or the Minister responsible for Canadian Intergovernmental Affairs.

2023, c. 13, s. 20.

Note *See Order in Council 843-2024 dated 15 May 2024, (2024) 156 G.O. 2, 1837.*

541.32. Once the prior authorization has been obtained, the surrogacy agreement, accompanied by the information concerning the profile of the woman or the person who has agreed to give birth to the child and the documents determined by government regulation, must, before being signed, be submitted to the Minister of Health and Social Services for authorization, according to the terms prescribed by such a regulation.

If the Minister considers that the agreement is compliant, the Minister issues an authorization to proceed with the parental project involving surrogacy.

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A copy of the signed agreement is filed with the Minister, together with the necessary documents, by the person alone or the spouses who formed the project. Any modification to the agreement must be authorized by the Minister.

2023, c. 13, s. 20.

541.33. The Minister of Health and Social Services must be notified, by the person alone or the spouses who formed the parental project, of every birth resulting from a project that the Minister has authorized. The Minister then ascertains that the project is compliant as a whole and may require any information or any document he considers necessary from that person or those spouses.

In analyzing the project, the Minister shall, among other things, ascertain that the child was born in a designated State.

If the Minister considers that the implementation of the project is compliant with the project the Minister has authorized, the Minister issues a certificate of compliance to the person alone or the spouses who formed the project. If the Minister finds otherwise, the Minister informs the person or the spouses of the refusal to issue such a certificate and of the reasons for the refusal.

2023, c. 13, s. 20.

2. — *Judicial recognition of filiation*

2023, c. 13, s. 20.

541.34. An act of birth drawn up by a foreign competent authority proving the child's filiation with regard to the person alone or the spouses who formed a parental project or one of them must be recognized by the court in Québec. The same applies to a decision rendered abroad that establishes such a filiation.

In the case of a filiation that is proved or established with regard to only one spouse, an application to claim status concerning the other spouse must be attached to the application for recognition.

2023, c. 13, s. 20.

541.35. The steps necessary for the recognition of an act of birth drawn up by a foreign authority or of a decision establishing filiation rendered abroad shall be undertaken by the person alone or the spouses who formed a parental project as soon as possible after they receive the certificate of compliance from the Minister of Health and Social Services or a notice of the Minister's refusal to issue the certificate.

If the steps for recognition are not undertaken or completed within a reasonable time, the director of youth protection may, at the request of the Minister of Health and Social Services, take, in the place and stead of the person alone or the spouses who formed the parental project, all necessary measures to undertake or complete those steps or put an end to them.

2023, c. 13, s. 20.

541.36. The court, where called upon to recognize an act of birth drawn up by a foreign competent authority proving filiation with regard to the person alone or the spouses who formed the parental project involving surrogacy or one of them or to recognize a decision establishing such a filiation rendered abroad, ascertains that all the rules applicable to such a project have been complied with, both according to the law of Québec and the law of the State from which the act of birth or decision originates.

It thus ascertains, in particular, that the woman or the person who gave birth to the child gave their consent, after the birth of the child, to the child's filiation being established exclusively with regard to the person alone or both spouses who formed the parental project. Where the woman or the person who gave birth to the child died before expressing their will concerning the establishment of the child's filiation, their consent is deemed

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to have been given. The same applies where the woman or person became incapable of giving consent before expressing their will after the child's birth.

The court also ascertains that the Minister of Health and Social Services has issued a certificate of compliance. In the absence of such a certificate, the court hears the parties, including the Minister, and, if it finds that the surrogacy project does not comply with the general conditions applicable to any parental project involving surrogacy, it refuses to recognize the act or decision.

Recognition may, for serious reasons and if the interest of the child demands it, be granted even if no steps have been undertaken with the Minister by the person alone or by the spouses who formed a parental project or if steps are only partly completed.

2023, c. 13, s. 20.

541.37. The recognition of an act of birth drawn up by a foreign competent authority or of a decision rendered abroad produces, from the date on which the child's filiation took effect in the foreign State with regard to the person alone or the spouses who formed the parental project or one of them, the same effects as if that act had been drawn up in Québec or as if the decision had been rendered there.

2023, c. 13, s. 20.

3. — *Confidentiality of personal information and documents relating to the procreation of a child involving the contribution of a third person and rules for communicating such information and documents*

2023, c. 13, s. 21.

I. — *Confidentiality of personal information and documents relating to the procreation of a child involving the contribution of a third person*

2023, c. 13, s. 21.

542. Personal information and documents relating to the procreation of a child involving the contribution of a third person and held by a centre for assisted procreation, a professional or a public body, as the case may be, are confidential, except as otherwise provided by law.

However, the court may allow such information and those documents to be examined for the purposes of study, teaching, research or a public inquiry, provided that the anonymity of the child, of the third person who contributed to the child's procreation and of the person alone or the spouses who formed the parental project is preserved.

1991, c. 64, a. 542; 2002, c. 6, s. 30; 2006, c. 22, s. 177; 2017, c. 12, s. 11; 2023, c. 13, ss. 21 and 72.

II. — *Rules respecting communication of personal information and documents related to the procreation of a child involving the contribution of a third person*

2023, c. 13, s. 21.

542.1. A person born of procreation involving the contribution of a third person, including one under 14 years of age who has obtained the approval of his father and mother, of his parents or of his tutor, has the right to obtain, from the authority designated by law and among the information contained in the register referred to in article 542.10, the name of the third person, the information concerning the third person's profile determined by government regulation and, unless a contact veto bars its disclosure, the information making contact with the third person possible.

The person also has the right to obtain, according to the terms determined by government regulation, a copy of the surrogacy agreement, of the judgment concerning the person's filiation, if applicable, as well as of the other documents contained in the judicial file and of any other documents determined by the regulation.

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The communication of any document must, however, be made in keeping with any contact veto registered, and the passages that provide information making contact with the third person possible must be deleted or redacted accordingly.

2023, c. 13, s. 21.

542.2. It is the responsibility of the child's parent to inform the child of the fact that he was born of procreation involving the contribution of a third person.

It is also the parent's responsibility to inform the child of the rules concerning the disclosure of the third person's name, the information concerning the third person's profile, the information making contact with the third person possible and the documents to which the child is entitled.

2023, c. 13, s. 21.

542.3. A person 14 years of age or over born of assisted procreation involving the contribution of a third person who makes a request with the authority designated by law is entitled to be informed whether he was born of procreation involving the contribution of a third person, provided that the information is available in the register referred to in article 542.10. The designated authority also informs the person of the rules concerning the disclosure of the third person's name, the information concerning the third person's profile, the information making contact with the third person possible and the documents to which the person is entitled.

2023, c. 13, s. 21.

542.4. The descendants 14 years of age or over in the first degree of a person born of procreation involving the contribution of a third person may, if the person born of such procreation is deceased, obtain from the authority designated by law the same information and the same documents that the person may obtain under this subdivision, subject to the same conditions.

2023, c. 13, s. 21.

542.5. A third person who has contributed to the procreation of a child shall, at the time of the first request for information about them, be informed of the request by the authority designated by law so as to have the opportunity to express their will regarding contact, indicating, if applicable, the conditions under which contact is authorized. If the third person is untraceable or incapable of expressing their will, disclosure of the third person's name entails, by operation of law, a contact veto. In the event the third person is found or again becomes capable of expressing their will, the third person must be given the opportunity to maintain or withdraw the veto.

A third person who has registered a contact veto following a first request may, at any time, withdraw the veto by so notifying the authority designated by law.

2023, c. 13, s. 21.

542.6. In the event the person sought is deceased, only the person's name, the information concerning the person's profile and, if applicable, the documents referred to in the second paragraph of article 542.1 are communicated.

2023, c. 13, s. 21.

542.7. Where a contact veto is registered or where contact is authorized on conditions, the name of the person sought is disclosed on the condition that the contact veto or the conditions on which contact is authorized be complied with.

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The person who obtains the information on that condition but violates the condition is liable towards the person sought and may also be required to pay punitive damages.

2023, c. 13, s. 21.

542.8. Where the request concerns the woman or the person who gave birth to the child in the context of a parental project involving surrogacy while domiciled outside Québec, communication of the information making contact with the woman or person possible is subject to the woman's or person's consent, unless the law of the State of the woman's or person's domicile provides otherwise.

2023, c. 13, s. 21.

542.9. Psychosocial support services are offered to any person who undertakes steps to receive communication of information and documents to which the person is entitled, and also to any other person who is the subject of such steps, where they express the need for such services to the authority designated by law.

The authority refers those persons to the person or institution designated by the Minister of Health and Social Services for the provision of such services.

2023, c. 13, s. 21.

542.10. The Minister of Employment and Social Solidarity keeps a register containing the information and documents to which a person born of procreation involving the contribution of a third person is entitled as well as those relating to the third person's will regarding contact with that person.

2023, c. 13, s. 21.

542.11. The Minister of Employment and Social Solidarity is the designated authority for disclosing to any person born of a parental project involving the use of reproductive material from a third person or involving surrogacy in which all the parties are domiciled in Québec, or to his descendants in the first degree, if applicable, who apply to the Minister, the information and documents held by the Minister and that they are entitled to obtain under this subdivision. The Minister is also the designated authority for disclosing, to a physician who provides to the Minister a certificate confirming that the health of the person born of such a project, of the third person who contributed to it or of a close relative genetically linked to them, as the case may be, warrants the communication of medical information, information held by the Minister under this subdivision which the physician is entitled to obtain under article 542.18.

If the Minister has grounds to believe that information or documents are lacking or incomplete, the Minister may make a summary investigation to obtain the required information.

2023, c. 13, s. 21.

542.12. The Minister of Health and Social Services is the designated authority for disclosing to any person born of a parental project involving surrogacy in which the woman or the person who gave birth to the child is domiciled outside Québec, or to his descendants in the first degree, if applicable, who apply to the Minister, the information and documents contained in the register kept by the Minister of Employment and Social Solidarity and that they are entitled to obtain under this subdivision. The Minister of Health and Social Services is also the designated authority for disclosing, to a physician who provides to the Minister a certificate confirming that the health of the person born of such a project, of the third person who contributed to it or of a close relative genetically linked to them, as the case may be, warrants the communication of medical information, information contained in that register which the physician is entitled to obtain under article 542.18. In addition, the Minister is responsible for entering in the register the information and wishes collected in the exercise of the Minister's functions as the designated authority and for depositing the documents received in the register.

2023, c. 13, s. 21.

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542.13. The Minister of Employment and Social Solidarity and the Minister of Health and Social Services may require from public bodies holding information or documents necessary for locating the third person who contributed to the procreation the communication of such information or documents. They may also have access, if applicable, to the judicial file relating to the filiation of a person born of a parental project involving surrogacy.

2023, c. 13, s. 21.

542.14. In the case of a surrogacy project in which all the parties are domiciled in Québec and at the end of which the child's filiation was established by law, the registrar of civil status deposits in the register the authentic copy of the surrogacy agreement, in the form of a notarial act en minute, which accompanies the declaration of birth.

After drawing up the child's act of birth, the registrar enters the child's name and date of birth and any other information determined by government regulation in the register.

2023, c. 13, s. 21.

542.15. In the case of a parental project involving the use of a third person's reproductive material through artisanal insemination or sexual intercourse, the name of the third person, the information making it possible to contact them and the information concerning their profile, determined by government regulation, are collected by the person alone or the spouses who formed the parental project. The same applies in the case of a parental project involving the use of reproductive material from outside Québec in the context of assisted procreation activities carried out in a centre for assisted procreation, to the extent that the information is known.

In the case of a parental project involving the use of reproductive material from Québec in the context of assisted procreation activities carried out in a centre for assisted procreation, the third person's identifier assigned by the centre is collected by the person alone or the spouses who formed the parental project.

The information is transmitted, at the time the child's declaration of birth is made, to the registrar of civil status by the person alone or the spouses who formed the parental project. After drawing up the act of birth, the registrar of civil status enters that information, the child's name and date of birth, and the other information determined by government regulation, in the register.

2023, c. 13, s. 21.

542.16. Once the judgment recognizing an act of birth drawn up outside Québec or a foreign decision has become final, the Minister of Health and Social Services files that judgment and the surrogacy agreement in the register and enters therein the name of the woman or the person who gave birth to the child and the information making it possible to contact the woman or the person. The Minister also enters in the register the information concerning the profile of that woman or that person, determined by government regulation, that accompanied the agreement that was submitted to the Minister for authorization by the person alone or by the spouses who formed a parental project involving surrogacy in which the woman or the person who gave birth to the child is domiciled outside Québec.

2023, c. 13, s. 21.

542.17. For the purposes of this division, where no bond of filiation is established between a child born of procreation involving surrogacy and a party to the parental project who has provided their reproductive material, that party is considered to be a third person having contributed to the procreation of the child; the woman or the person who gave birth to the child is then considered to be a person alone having formed a parental project involving the use of the reproductive material of that third person.

In such a case, the woman or person sends to the registrar of civil status, at the time the child's declaration of birth is made, the name of the third person, the information making it possible to contact the latter and the

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information concerning the latter's profile, determined by government regulation. After drawing up the act of birth, the registrar of civil status enters that information, the child's name and date of birth, and the other information determined by government regulation in the register.

2023, c. 13, s. 21.

III. — *Disclosure of medical information*

2023, c. 13, s. 21.

542.18. Where a physician is of the opinion that the health of a person born of procreation involving the contribution of a third person, of that third person or of a close relative genetically linked to them warrants it, the physician may obtain the necessary medical information from the medical authorities concerned, subject to the consent of the person whose information is requested. In the absence of such consent, the court's authorization is required to obtain such information.

The authority designated by law shall, after obtaining the consent of the person whose medical information is requested, disclose the information making it possible to identify that person and to contact that person or the person's physician to a physician who provides the authority with a written attestation confirming that the health of the person born of procreation involving the contribution of a third person, of that third person or of a close relative genetically linked to them, as the case may be, warrants the disclosure of medical information. Where the information requested concerns a woman or a person who gave birth to a child in the context of a parental project involving surrogacy who is domiciled outside Québec, that obligation applies, provided such disclosure of information is not prohibited by the State of their domicile.

The anonymity of the persons concerned must be preserved. A physician who receives information referred to in the second paragraph must take appropriate security measures to ensure its confidentiality.

2023, c. 13, s. 21.

DIVISION IV

ACTIONS RELATING TO FILIATION

2023, c. 13, s. 21.

542.19. No one may claim filiation contrary to that assigned by their act of birth and the uninterrupted possession of status consistent with that act.

Unless otherwise provided by law, no one may contest the status of a person whose uninterrupted possession of status is consistent with their act of birth.

Where uninterrupted possession of status cannot be established because it is exercised by more than one person simultaneously, the person who is biologically related to the child takes precedence. However, in the case of a child born of procreation involving the contribution of a third person, the person who formed a parental project with the child's parent takes precedence.

2023, c. 13, s. 21.

542.20. No one may contest the filiation of a child on the sole ground that he was born of a parental project involving the contribution of a third person.

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However, the filiation of a child whose uninterrupted possession of status is not consistent with his act of birth may be contested by providing proof that the person with whom the filiation is established was not a party to the parental project or, as the case may be, that the child was not born of that project.

2023, c. 13, s. 21.

542.21. Any interested person, including the father or mother or one of the child's parents, may, by any means, contest the filiation of a person whose uninterrupted possession of status is not consistent with his act of birth.

2023, c. 13, s. 21.

542.22. A child may contest his filiation on the sole ground that he was born as a result of sexual assault committed by his father or by the parent who did not give birth to him, whether or not there is uninterrupted possession of status consistent with his act of birth. The contestation can only be granted if the interest of the child demands it.

The child may apply for the definitive restoration of the bond of filiation that was withdrawn at his request, unless he has been adopted.

2023, c. 13, s. 21.

542.23. A child whose filiation appearing in his act of birth is not consistent with the filiation established by uninterrupted possession of status may claim his filiation before the court. Similarly, the father and mother or the parents may claim a bond of filiation with regard to a child whose uninterrupted possession of status is not consistent with his act of birth.

If the child already has another filiation established by the acknowledgement of a bond of filiation in the declaration of birth, by uninterrupted possession of status, or by the effect of the presumption with regard to the spouse of the woman or person who gave birth to him, an action to claim status may not be brought unless it is joined to an action contesting the status thus established.

2023, c. 13, s. 21.

542.24. A child born as a result of sexual assault may object to a bond of filiation being established between him and the person who committed the assault.

The child's objection shall not prevent the child from claiming such a bond of filiation.

2023, c. 13, s. 21.

542.25. Actions are directed against the child and, if applicable, against the person who is the subject of the claim or contestation.

2023, c. 13, s. 21.

542.26. Proof of filiation may be made by any mode of proof. However, testimony is not admissible unless there is a commencement of proof, or unless the presumptions or indications resulting from already clearly established facts are sufficiently strong to permit its admission.

2023, c. 13, s. 21.

542.27. Commencement of proof results from the family documents, domestic records and papers, and all other public or private writings originating from a party engaged in the contestation or who would have an interest therein if the party were alive.

2023, c. 13, s. 21.

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542.28. Every mode of proof is admissible to contest an action concerning filiation.

2023, c. 13, s. 21.

542.29. For the purposes of articles 542.22 and 542.24, sexual assault may be proved, among other means, by the production of a judgment recognizing its existence.

2023, c. 13, s. 21.

542.30. Where the court is seized of an action concerning filiation, it may, on the application of an interested person, order the analysis of a sample of a bodily substance so that the genetic profile of a person involved in the action may be established.

However, where the purpose of the action is to establish filiation, the court may not issue such an order unless a commencement of proof of filiation has been established by the person having brought the action or unless the presumptions or indications resulting from facts already clearly established by that person are sufficiently strong to warrant such an order.

The court determines conditions for the sample-taking and analysis that are as respectful as possible of the physical integrity of the person concerned or of the body of the deceased. These conditions include the nature and the date and place of the sample-taking, the identity of the expert charged with taking and analyzing the sample, the use of any sample taken and the confidentiality of the analysis results.

The court may draw a negative presumption from an unjustified refusal to submit to the analysis ordered by the court.

2023, c. 13, s. 21.

542.31. The court may establish the filiation of a child born of an assisted procreation activity with regard to a person who was deceased at the time the activity was carried out if it is shown to the court that

(1) the person was a party to the parental project at the time of the death; and

(2) the child was conceived using the reproductive material of the person or, as the case may be, the reproductive material that the person had decided to use to have a child.

Participation of that person in the parental project is presumed if that person and the parent with regard to whom filiation with the child is established were spouses at the time of the death and if the child is born of the transfer of an embryo created before the death.

2023, c. 13, s. 21.

542.32. Actions concerning filiation are not subject to prescription.

In the event that the child or the child’s father or mother or parent is deceased, the heirs must act within three years of the death, under pain of forfeiture.

2023, c. 13, s. 21.

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DIVISION V

FINANCIAL CONTRIBUTION AS SUPPORT FOR THE NEEDS OF A CHILD BORN AS A RESULT OF SEXUAL ASSAULT

2023, c. 13, s. 21.

542.33. A person who commits a sexual assault must, in the absence of a bond of filiation with the child born as a result of the assault, pay to the victim of the assault a financial contribution as support, in the form of a lump sum, to meet the child's needs from his birth until he attains sufficient autonomy.

The sexual assault may be proved, among other means, by the production of a judgment recognizing its existence.

The Minister of Justice may, by regulation, determine standards according to which the contribution is set, including the minimum amount of the contribution.

2023, c. 13, s. 21.

542.34. If there is a significant change in the child's state of health due to circumstances unknown or unforeseeable at the time the initial contribution was determined and the change is such as to substantially alter the child's needs or significantly delay or prevent the child from attaining autonomy, the person who committed the sexual assault must pay a contribution to meet the child's additional needs until he attains autonomy, given the circumstances.

2023, c. 13, s. 21.

542.35. If the victim of the sexual assault does not exercise the rights conferred by this division, the child of full age may apply to have the part of the contribution intended to meet his needs from the time he reaches the age of majority paid directly to him. The application must be notified to the victim.

The contribution may not extend to a need whose existence dates back more than three years before the application.

2023, c. 13, s. 21.

542.36. For the purposes of article 542.33, where the sexual assault is proved, the court may order the analysis of a sample of a bodily substance, so that the genetic profile of the person who committed the sexual assault may be established.

The court determines conditions for the sample-taking and analysis that are as respectful as possible of the physical integrity of the person concerned or of the body of the deceased. These conditions include the nature and the date and place of the sample-taking, the identity of the expert charged with taking and analyzing the sample, the use of any sample taken and the confidentiality of the analysis results.

The court may draw a negative presumption from an unjustified refusal to submit to the analysis ordered by the court.

2023, c. 13, s. 21.

542.37. Where an action to claim a contribution to meet the needs of a child born as a result of a sexual assault is brought by the victim of the assault, it is not subject to prescription.

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In the event that the person who committed the sexual assault is deceased, the action must be brought within six months after the death. The same applies where the action is brought by a child of full age.

2023, c. 13, s. 21.

CHAPTER III

FILIATION BY ADOPTION

1991, c. 64, c. II; 2017, c. 12, s. 12; 2023, c. 13, s. 22.

DIVISION I

CONDITIONS FOR ADOPTION

§ 1. — *General provisions*

543. No adoption may take place except in the interest of the child and on the conditions prescribed by law.

No adoption may take place for the purpose of confirming a filiation already established by birth.

1991, c. 64, a. 543; 2023, c. 13, s. 23.

543.1. Conditions of adoption under any Québec Aboriginal custom that is in harmony with the principles of the interest of the child, respect for the child's rights and the consent of the persons concerned may be substituted for conditions prescribed by law. In such cases, unless otherwise provided, the provisions of this chapter that follow, except Division III, do not apply to an adoption made in accordance with such a custom.

Such an adoption which, according to custom, creates a bond of filiation between the child and the adopter is, on the application of either of them, attested by the authority that is competent for the Aboriginal community or nation of either the child or the adopter. However, if the child and the adopter are members of different nations, the adoption is attested by the authority that is competent for the child's nation or community.

The competent authority issues a certificate attesting the adoption after making sure that it was carried out according to custom, in particular that the required consents were validly given and that the child is in the care of the adopter; the authority also makes sure that the adoption is in the interest of the child.

2017, c. 12, s. 13.

544. No minor child may be adopted unless his father and mother, his parents or his tutor have consented to the adoption or unless he has been judicially declared eligible for adoption.

1991, c. 64, a. 544; 2022, c. 22, s. 86.

544.1. Consents to adoption are given for an adoption with recognition of the pre-existing bond or bonds of filiation, an adoption without such recognition or, indiscriminately, for either.

2017, c. 12, s. 14.

545. No person of full age may be adopted except by the persons who fulfilled the role of a parent towards him when he was a minor.

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The court, however, may dispense with this requirement in the interest of the person to be adopted, taking into consideration, among other things, the quality, duration and continuity of relations between the adopter and the person of full age.

1991, c. 64, a. 545; 2016, c. 4, s. 80; 2017, c. 12, s. 15.

546. Any person of full age may, alone or jointly with another person, adopt a child.

1991, c. 64, a. 546.

547. A person may not be an adopter unless he is at least 18 years older than the person adopted, except where the person adopted is the child of the spouse of the adopter.

The court may, however, dispense with this requirement in the interest of the person to be adopted.

1991, c. 64, a. 547.

547.1. Every person wishing to adopt a minor child shall undergo a psychosocial assessment made in accordance with the conditions provided in the Youth Protection Act (chapter P-34.1), unless the adoption is based on a special consent, in which case the assessment is at the discretion of the court.

2017, c. 12, s. 16.

548. Consent provided for in this chapter shall be given in writing and before two witnesses.

The same rule applies to the withdrawal of consent.

1991, c. 64, a. 548.

§ 2. — *Consent of the adopted person*

549. No child 10 years of age or over may be adopted without his consent, unless he is unable to express his will.

However, when a child under 14 years of age refuses to give his consent, the court may defer its judgment for the period of time it indicates, or grant adoption notwithstanding his refusal.

1991, c. 64, a. 549.

550. Refusal by a child 14 years of age or over is a bar to adoption.

1991, c. 64, a. 550.

§ 3. — *Consent of parents or tutor*

551. When adoption takes place with the consent of the parents, the consent of both parents to the adoption is necessary if the filiation of the child is established with regard to both of them.

If the filiation of the child is established with regard to only one parent, the consent of that parent is sufficient.

1991, c. 64, a. 551.

552. If either parent is deceased, is unable to express his or her will or is deprived of parental authority, the consent of the other parent is sufficient and must be given separately for each of the child's bonds of filiation.

1991, c. 64, a. 552; I.N. 2014-05-01; 2017, c. 12, s. 17.

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553. If both parents are deceased, if they are unable to express their will, or if they are deprived of parental authority, the adoption of the child is subject to the consent of the tutor, if the child has a tutor. The tutor's consent must be given separately for each of the child's bonds of filiation.

1991, c. 64, a. 553; 2017, c. 12, s. 18.

554. A parent of minor age may himself, without authorization, give his consent to the adoption of his child.

1991, c. 64, a. 554.

555. Consent to adoption may be general or special; special consent may be given only in favour of an ascendant of the child, a relative in the collateral line to the third degree or the spouse of that ascendant or relative; it may also be given in favour of the spouse of the father or mother or of either parent. However, in the case of *de facto* spouses, they must have been cohabiting for at least three years.

1991, c. 64, a. 555; 2002, c. 6, s. 31; 2022, c. 22, s. 87.

556. Until the order of placement, consent to adoption entails, by operation of law, delegation of parental authority to the person to whom the child is entrusted.

1991, c. 64, a. 556; I.N. 2014-05-01; 2016, c. 4, s. 81.

557. A person who has given his consent to adoption may withdraw it within 30 days from the date it was given.

The child shall then be returned without formality or delay to the person who has withdrawn his consent.

1991, c. 64, a. 557.

558. If a person has not withdrawn his consent within 30 days, he may, at any time before the order of placement, apply to the court to have the child returned.

1991, c. 64, a. 558.

§ 4. — *Declaration of eligibility for adoption*

559. The following may be judicially declared eligible for adoption:

(1) a child over three months old, if neither his paternal filiation nor his maternal filiation nor his filiation with regard to either of his parents has been established;

(2) a child whose care, maintenance or education has not in fact been assumed by his father and mother or parents or tutor for at least six months;

(3) a child whose father and mother or parents have been deprived of parental authority, if he has no tutor;

(4) a child who has neither father nor mother nor parents, if he has no tutor.

1991, c. 64, a. 559; I.N. 2014-05-01; 2022, c. 22, s. 88.

560. An application for a declaration of eligibility for adoption may be made by no one except an ascendant of the child, a relative in the collateral line to the third degree, the spouse of such an ascendant or relative, the child himself if 14 years of age or over, or a director of youth protection.

1991, c. 64, a. 560.

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561. A child may not be declared eligible for adoption unless it is unlikely that his father, his mother, one of his parents or his tutor will resume custody of him and assume his care, maintenance or education. This unlikelihood is presumed.

1991, c. 64, a. 561; I.N. 2014-05-01; 2022, c. 22, s. 89.

562. The court, when declaring a child eligible for adoption, designates the person who is to exercise parental authority in his regard.

1991, c. 64, a. 562.

§ 5. — *Special conditions as to adoption of a child domiciled outside Québec*

1991, c. 64, Sd. 5; I.N. 2014-05-01.

562.1. Every person domiciled in Québec wishing to adopt a child domiciled outside Québec shall comply with the provisions of this chapter that concern such an adoption, regardless of the person's nationality or of whether the person has a residence in the State of the child's domicile or otherwise has a right to act in a foreign State under the applicable law in that State, and regardless of whether the adoption is to take place in Québec or in a foreign State.

2017, c. 12, s. 19.

562.2. A person domiciled in Québec may not adopt a child who is in Québec unless that child is authorized to remain permanently in Canada.

2017, c. 12, s. 19.

563. Every person domiciled in Québec wishing to adopt a minor child domiciled outside Québec shall, even if the person is related to the child, first undergo a psychosocial assessment made in accordance with the conditions provided in the Youth Protection Act (chapter P-34.1).

1991, c. 64, a. 563; I.N. 2014-05-01; 2017, c. 12, s. 20.

564. Arrangements for the adoption of a minor child must be made by a body certified by the Minister of Health and Social Services pursuant to the Youth Protection Act (chapter P-34.1), unless that minister prescribes otherwise by regulation.

1991, c. 64, a. 564; 2004, c. 3, s. 14; 2017, c. 12, s. 21.

565. The adoption of a child domiciled outside Québec must be granted abroad or granted by judicial decision in Québec. A judgment granted in Québec is preceded by an order of placement. A decision granted abroad must be recognized by the court in Québec, unless the adoption has been certified by the competent authority of the State where it took place as having been made in accordance with the Convention on Protection of Children and Co-operation in Respect of Intercountry Adoption.

1991, c. 64, a. 565; 2004, c. 3, s. 14.

565.1. The adoption of a child domiciled outside Québec granted or recognized in Québec results in the dissolution of the pre-existing bond of filiation between the child and his family of origin. The court must make sure, where applicable, that the consents have been given to that effect.

2017, c. 12, s. 22.

565.2. An Aboriginal customary adoption of a child domiciled outside Québec, but in Canada, which creates a bond of filiation between the child and an adopter domiciled in Québec may be recognized in Québec if the adoption is confirmed by an act issued under the applicable law in the State of the child's

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domicile. The adoption may be recognized either by the court or by the authority that is competent to issue a customary adoption certificate for the adopter's community or nation.

2017, c. 12, s. 22.

DIVISION II

ORDER OF PLACEMENT AND ADOPTION JUDGMENT

566. The placement of a minor may not take place except by order of the court nor may the adoption of a child be granted unless the child has lived with the adopter for at least six months since the court order.

The period may be reduced by up to three months, however, particularly in consideration of the time during which the minor has already lived with the adopter before the order.

1991, c. 64, a. 566; I.N. 2014-05-01.

567. An order of placement may not be granted before the lapse of 30 days after the giving of consent to adoption.

1991, c. 64, a. 567.

568. Before granting an order of placement, the court ascertains that the conditions for adoption have been complied with.

Where the placement of a child domiciled outside Québec is made under an agreement entered into by virtue of the Youth Protection Act (chapter P-34.1), the court also verifies that the procedure followed is as provided in the agreement. Where the placement of a child is made within the framework of the Convention on Protection of Children and Co-operation in Respect of Intercountry Adoption, the court verifies that the conditions provided therein have been complied with.

Even if the adopter has not complied with the provisions of articles 563 and 564, the placement may be ordered for serious reasons and if the interest of the child demands it. However, the application shall be accompanied with a psychosocial assessment made by the director of youth protection.

1991, c. 64, a. 568; 2004, c. 3, s. 15; I.N. 2014-05-01; 2017, c. 12, s. 23.

568.1. The court grants an order of placement for the purposes of an adoption in accordance with the application filed and with the consents given, if any were required.

The court may not grant an order of placement for the purposes of an adoption with recognition of a pre-existing bond of filiation unless it is in the interest of the child to recognize the bond in order to protect a meaningful identification of the child with the parent of origin.

2017, c. 12, s. 24.

569. The order of placement confers the exercise of parental authority on the adopter; it allows the child, for the term of the placement, to exercise his civil rights under the surname and given names that the court may assign to the child under article 576, which, if assigned, are recorded in the order.

The order is a bar to the return of the child to his parents or to his tutor and to the establishment of the child's filiation under the rules of filiation by birth.

1991, c. 64, a. 569; 2017, c. 12, s. 25; 2023, c. 13, s. 24.

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570. The effects of the order of placement cease if placement terminates or if the court refuses to grant the adoption.

1991, c. 64, a. 570.

571. If the adopter fails to present his application for adoption within a reasonable time after the expiry of the minimum period of placement, the order of placement may be revoked on the application of the child himself if he is 14 years of age or over or by any interested person.

1991, c. 64, a. 571.

572. Where the effects of the order of placement cease and no adoption has taken place, the court, even of its own motion, designates the person who is to exercise parental authority over the child; the director of youth protection who was the legal tutor before the order of placement again becomes the legal tutor.

1991, c. 64, a. 572.

573. The court grants adoption on the application of the adopters unless a report indicates that the child has not adapted to his adopting family. In this case or whenever the interest of the child demands it, the court may require any additional proof it considers necessary.

The adoption must be granted in accordance with the provisions of the order of placement as to whether a pre-existing bond of filiation is recognized or, in the case of an adoption of a person of full age, in accordance with the person's consent and the application filed.

1991, c. 64, a. 573; 2017, c. 12, s. 26.

573.1. Where the court, within the framework of the Convention on Protection of Children and Co-operation in Respect of Intercountry Adoption, grants an adoption in Québec of a child habitually residing outside Québec, it issues the certificate provided for in the Convention as soon as the adoption judgment becomes final.

2004, c. 3, s. 16; 2016, c. 4, s. 82.

574. The court, where called upon to recognize a decision granting an adoption made outside Québec, ascertains that the rules that apply to consent to adoption and eligibility for adoption have been complied with.

Where the decision granting the adoption has been made outside Québec under an agreement entered into by virtue of the Youth Protection Act (chapter P-34.1), the court also verifies that the procedure followed is as provided in the agreement.

Even if the adopter has not complied with the provisions of articles 563 and 564, recognition may be granted for serious reasons and if the interest of the child demands it. However, the application shall be accompanied with a psychosocial assessment.

1991, c. 64, a. 574; 2004, c. 3, s. 17; I.N. 2014-05-01; 2017, c. 12, s. 27.

574.1. The authority called on to recognize an act evidencing an Aboriginal customary adoption other than a judgment verifies that the act meets the conditions for recognition of foreign decisions. If such is the case, the authority enters on the act the same statements and notations as an Aboriginal customary adoption certificate and signs the act.

The same provisions apply to the court when called on to recognize an act evidencing an Aboriginal customary adoption.

2017, c. 12, s. 28.

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575. If either of the adopters dies after the order of placement, the court may grant adoption even with regard to the deceased adopter.

The court may also recognize a decision granting an adoption made outside Québec notwithstanding the death of the adopter.

1991, c. 64, a. 575; 2004, c. 3, s. 18.

576. The court assigns to the adopted person the surname and given names chosen by the adopter unless, at the request of the adopter or of the adopted person, it allows him to keep his original surname and given names or assigns him a surname consisting of not more than two parts taken from those forming the adopter's surname or the surnames of the child's father and mother or parents with whom a pre-existing bond of filiation has been recognized.

1991, c. 64, a. 576; 2017, c. 12, s. 29; 2022, c. 22, s. 90.

DIVISION III

EFFECTS OF ADOPTION

577. Adoption confers on the adoptee a filiation which succeeds the person's pre-existing filiations.

However, in the case of an adoption by the spouse of the child's father or mother or of one of his parents, the new filiation only succeeds the established filiation, if any, with the child's other parent.

Although there may be recognition of the adoptee's pre-existing bonds of filiation, he ceases to belong to his family of origin, subject to impediments to marriage, civil union or parental union.

1991, c. 64, a. 577; 2002, c. 6, s. 32; 2017, c. 12, s. 30; 2022, c. 22, s. 91; 2024, c. 22, s. 4.

577.1. When an adoption is granted, the effects of the pre-existing filiation cease. The adoptee and the parent of origin lose all rights and are released from all obligations with respect to each other. The tutor, if any, loses all rights and is released from all obligations with respect to the adoptee, except the obligation to render accounts. The same applies when an Aboriginal customary adoption certificate is notified to the registrar of civil status, subject to any provisions to the contrary that are in accordance with Aboriginal custom and specified in the certificate.

2017, c. 12, s. 30.

578. Adoption creates the same rights and obligations as filiation by birth.

The court may, however, according to circumstances, permit a marriage or civil union or recognize a parental union in the collateral line between the adopted person and a member of his or her adoptive family.

1991, c. 64, a. 578; 2002, c. 6, s. 33; 2023, c. 13, s. 25; 2024, c. 22, s. 5.

578.1. If the parents of an adopted child are of the same sex and where different rights and obligations are assigned by law to the father and to the mother, the parent who is biologically related to the child has the rights and obligations assigned to the father in the case of a male couple and those assigned to the mother in the case of a female couple. The adoptive parent has the rights and obligations assigned by law to the other parent.

If neither parent is biologically related to the child, the rights and obligations of each parent are determined in the adoption judgment or in any act which, under the law, produces the effects of adoption in Québec.

2002, c. 6, s. 34; 2017, c. 12, s. 31.

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579. In the case of an adoption of a child domiciled in Québec by a person also domiciled in Québec, exchanges of information concerning the adoptee and members of his family of origin may be provided for, or personal relations between those persons may be maintained or developed, to the extent that establishing such exchanges or maintaining or developing such relations is in the interest of the adoptee. If the adoptee is 10 years of age or over, his consent must be obtained, unless he is unable to express his will. Those exchanges may take place and those relations may be maintained or developed by any means appropriate to the situation and the persons are not required to be in the physical presence of each other. The terms for the exchanges or relations shall be agreed on in writing between the adopter, as the adoptee's tutor, or the adoptee 14 years of age or over and the members concerned of the family of origin.

Where an adoptee 10 years of age or over, but under 14 years of age, does not consent to exchanging information or to maintaining or developing relations with a parent or grandparent of origin, or if there is a disagreement between the parties in that respect, the exchanges or the maintenance or development of the relations are determined by the court, to the extent that they are in the interest of the adoptee and that they concern persons who are important to him.

In all cases, the consent of the adoptee 14 years of age or over is required to provide for such exchanges or for the maintenance or development of such relations and the adoptee may, from that age, put an end to such exchanges or relations without formality, whether or not an order has been issued by the court.

1991, c. 64, a. 579; 2002, c. 6, s. 35; 2017, c. 12, s. 32; 2022, c. 22, s. 92.

580. Where one of the adopters dies after the order of placement is made, the adoption produces its effects from the date of the order.

1991, c. 64, a. 580.

581. The recognition of a decision granting an adoption produces the same effects as an adoption judgment rendered in Québec from the time the decision granting the adoption was pronounced outside Québec.

The recognition by operation of law of an adoption as provided for in the Convention on Protection of Children and Co-operation in Respect of Intercountry Adoption produces the same effects as an adoption judgment rendered in Québec from the time the decision granting the adoption is pronounced, subject to section 9 of the Act to implement the Convention on Protection of Children and Co-operation in Respect of Intercountry Adoption (chapter M-35.1.3).

Recognition of an Aboriginal customary adoption that took place outside Québec, but in Canada, produces, from the date on which the adoption took effect in the child's State of origin, the same effects as an Aboriginal customary adoption certificate.

1991, c. 64, a. 581; 2004, c. 3, s. 19; 2017, c. 12, s. 33.

DIVISION IV

CONFIDENTIALITY OF ADOPTION FILES

582. The judicial and administrative files concerning the adoption of a child are confidential and no information contained in them may be revealed except as required by law.

However, the court may allow an adoption file to be examined for the purposes of study, teaching, research or a public inquiry, provided that the anonymity of the child, of the parents of origin, of the tutor and of the adopter is preserved.

1991, c. 64, a. 582; I.N. 2014-05-01; 2017, c. 12, s. 34.

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583. An adoptee, including one under 14 years of age who has obtained the approval of his father and mother, of his parents or of his tutor, has the right to obtain, from the authorities responsible under the law for disclosing such information, his original name, the name of his parents of origin, whether or not the bond of filiation has been entered in the original act of birth, and information making it possible for him to contact them.

The adoptee also has the right to obtain a copy of his original act of birth and of the judgments concerning the adoption, according to the terms determined by government regulation.

Likewise, once the adoptee has reached full age, his parents of origin have the right to obtain the name given to him and information making it possible for them to contact him.

No such information may be disclosed, however, if an identity disclosure veto or a contact veto, as the case may be, bars their disclosure. In addition, the communication of a document must be made in keeping with any contact veto registered and the passages providing information making contact with a parent of origin possible must be deleted or redacted accordingly.

The authorities that disclose information concerning a parent of origin whose filiation with regard to the adoptee has not been entered in the original act of birth are not liable for any injury which may result from an error not due to their act or omission in the identification of the parent.

1991, c. 64, a. 583; 2017, c. 12, s. 35; 2022, c. 22, s. 93.

583.0.1. The descendants in the first degree of an adoptee who are 14 years of age or over may, if the adoptee is deceased, obtain from the authorities responsible under the law for disclosing such information and documents, the same information and the same documents that the adoptee may obtain under this division, subject to the same conditions.

2022, c. 22, s. 94.

583.1. An identity disclosure veto by a parent of origin, in addition to barring disclosure of that parent's name, bars disclosure of the adoptee's original name if it reveals that parent's identity.

2017, c. 12, s. 35.

583.2. When only contact is barred, or when it is authorized on conditions, the name of the person sought or the adoptee's original name is disclosed on the condition that the contact veto or the conditions on which contact is authorized be complied with.

An adoptee or a parent of origin who obtains the information on that condition but violates the condition is liable toward the other person and may also be required to pay punitive damages.

2017, c. 12, s. 35.

583.3. *(Repealed).*

2017, c. 12, s. 35; 2020, c. 11, s. 63; 2022, c. 22, s. 95.

583.4. A parent of origin may register an identity disclosure veto in the 30 days following the birth of the child. In such a case, the child's identity is protected, by operation of law, from that parent.

When the first request for information about the parent of origin is made, the parent of origin must be informed of it so as to have the opportunity to maintain or withdraw the veto.

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Such an identity disclosure veto by the parent of origin ceases to have effect on the adoptee's eighteenth birthday. The same applies to the identity protection granted, by operation of law, to the adoptee where such a veto is registered by the parent of origin.

2017, c. 12, s. 35; 2022, c. 22, s. 96.

583.5. In the case of an adoption that took place before 16 June 2018, if the adoptee has not yet expressed his will concerning disclosure of information about him to the authorities responsible under the law for disclosing such information, his identity is protected by operation of law.

2017, c. 12, s. 35; 2022, c. 22, s. 97.

583.6. Whether or not the bond of filiation has been entered in the original act of birth, an adoptee or a parent of origin may, at any time before his identity is disclosed, register a contact veto barring any contact between them or, where applicable, in the case of the parent of origin, barring any contact between the latter and the adoptee's descendants in the first degree, or may allow contact subject to conditions he determines.

2017, c. 12, s. 35; 2022, c. 22, s. 98.

583.7. Before the identity of the person sought is disclosed, he must be informed of the request for information about him and given the opportunity to register a contact veto or to maintain or withdraw a veto already registered by him. The same applies in the case of a parent of origin whose identity would be revealed if the adoptee's original name were disclosed to the adoptee.

If the person sought is untraceable or incapable of expressing his will, disclosure of his identity entails, by operation of law, a contact veto. In the event the person sought is found or again becomes capable of expressing his will, he must be given the opportunity to maintain or withdraw the veto.

2017, c. 12, s. 35; 2022, c. 22, s. 99.

583.8. If a veto is registered by operation of law, the person in whose behalf the veto is registered must, at the time the first request for information about him is made, be informed of the request and given the opportunity to maintain or withdraw the veto.

If the person is untraceable or incapable of expressing his will, the veto registered by operation of law is maintained. In the event the person is found or again becomes capable of expressing his will, he must be given the opportunity to maintain or withdraw the veto.

2017, c. 12, s. 35; 2022, c. 22, s. 100.

583.9. An identity disclosure veto or a contact veto may be withdrawn at any time.

An identity disclosure veto ceases to have effect on the first anniversary of the death of the person in whose behalf it was registered.

2017, c. 12, s. 35.

583.10. Unless the parent of origin has registered an identity disclosure veto, the adoptee, including one under 14 years of age who has obtained the approval of his father and mother, of his parents or of his tutor, has the right to obtain, from the authorities responsible under the law for disclosing such information, the names of his brothers or sisters of origin who have reached full age, whether adopted or not, and those of his grandparents of origin and, to the extent that they consent to it, the information making it possible for the adoptee to contact them.

Likewise, once the adoptee has reached full age, his brothers and sisters of origin, whether adopted or not, including the ones under 14 years of age who have obtained the approval of their father and mother, of their

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parents or of their tutor, as well as his grandparents of origin have the right to obtain the name given to the adoptee and information making it possible to contact him, to the extent that the adoptee consents to it.

2017, c. 12, s. 35; 2022, c. 22, s. 101.

583.11. It is the adopter's responsibility to inform the child that he was adopted.

It is also the adopter's responsibility to inform the child of the rules concerning identity disclosure and the rules for establishing contact.

2017, c. 12, s. 35.

583.12. In the case of an adoption of a child domiciled outside Québec, the identity of the parent of origin and the documents to which the adoptee is entitled are communicated to the adoptee, to the extent that the law of the child's State of origin does not provide for different rules. Disclosure of the identity of the adoptee or of another person sought and of information making it possible to contact the adoptee, the parent of origin or another person sought is subject to the consent of that person, unless, as the case may be, the law of the child's State of origin provides otherwise.

2017, c. 12, s. 35; 2022, c. 22, s. 102.

584. Where a physician is of the opinion that the health of the adoptee, of a parent of origin or of any of their close relatives genetically linked to them warrants it, the physician may obtain the necessary medical information from the medical authorities concerned, subject to the consent of the person whose information is requested. In the absence of such consent, court authorization is required to obtain such information.

The anonymity of the persons concerned must be preserved.

1991, c. 64, a. 584; I.N. 2014-05-01; 2017, c. 12, s. 36; 2022, c. 22, s. 103.

584.1. This division applies to children who are eligible for adoption because consent to their adoption has been given, to children who are eligible for adoption because they have been judicially declared eligible for adoption, and to their parents, even if the children have never been adopted.

2017, c. 12, s. 37.

TITLE THREE

OBLIGATION OF SUPPORT

585. Married or civil union spouses, and relatives in the direct line in the first degree, owe each other support.

1991, c. 64, a. 585; 1996, c. 28, s. 1; 2002, c. 6, s. 36.

586. Proceedings for the support of a minor child may be instituted by the holder of parental authority, his tutor, or any person who has custody of him, according to the circumstances.

A parent providing in part for the needs of a child of full age unable to support himself may institute support proceedings on the child's behalf, unless the child objects.

The court may order the support payable to the person who has custody of the child or to the parent of the child of full age who instituted the proceedings on the child's behalf.

1991, c. 64, a. 586; 2004, c. 5, s. 2.

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587. In awarding support, account is taken of the needs and means of the parties, their circumstances and, as the case may be, the time needed by the creditor of support to acquire sufficient autonomy.

1991, c. 64, a. 587.

587.1. As regards the support owed to a child by his parents, the basic parental contribution, as determined pursuant to the rules for the determination of child support payments adopted under the Code of Civil Procedure (chapter C-25.01), is presumed to meet the needs of the child and to be in proportion to the means of the parents.

The basic parental contribution may be increased having regard to certain expenses relating to the child which are specified in the rules, to the extent that such expenses are reasonable considering the needs and means of the parents and child.

1996, c. 68, s. 1; I.N. 2016-01-01 (NCCP).

587.2. The support to be provided by a parent for his child is equal to that parent's share of the basic parental contribution, increased, where applicable, having regard to specified expenses relating to the child.

The court may, however, increase or reduce the level of support where warranted by the value of either parent's assets or the extent of the resources available to the child, or to take account of either parent's obligation to provide support to children not named in the application, if the court considers the obligation entails hardship for that parent.

The court may also increase or reduce the level of support if it is of the opinion that, in the special circumstances of the case, not doing so would entail undue hardship for either parent. Such hardship may be due, among other reasons, to the costs involved in exercising visiting rights in relation to the child, an obligation to provide support to persons other than children or debts reasonably incurred to meet family needs.

1996, c. 68, s. 1; 2004, c. 5, s. 3; I.N. 2014-05-01; 2016, c. 4, s. 84.

587.3. Parents may make a private agreement stipulating a level of child support that departs from the level which would be required to be provided under the rules for the determination of child support payments, subject to the court being satisfied that the needs of the child are adequately provided for.

1996, c. 68, s. 1.

588. The court may award provisional support to the creditor of support for the duration of the proceedings.

It may also award a provision to the creditor of support to cover the costs of the proceedings.

1991, c. 64, a. 588; 2016, c. 4, s. 85.

589. Support is payable as a pension; the court may, by way of exception, replace or complete that support by a lump sum payable all at once or by instalments.

1991, c. 64, a. 589; I.N. 2014-05-01; 2016, c. 4, s. 86.

590. If support is payable as a pension, it is indexed by operation of law on 1 January each year, in accordance with the annual Pension Index determined pursuant to section 119 of the Act respecting the Québec Pension Plan (chapter R-9), in order to maintain the real monetary value of the claim resulting from the judgment awarding support.

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However, where the application of the index brings about a serious imbalance between the needs of the creditor and the means of the debtor, the court may, in exercising its jurisdiction, either fix another basis of indexation or order that the claim not be indexed.

1991, c. 64, a. 590; I.N. 2015-11-01.

591. The court, if it considers it necessary, may order the debtor to furnish sufficient security beyond the legal hypothec for payment of support, or order the constitution of a trust to secure such payment.

1991, c. 64, a. 591.

592. If the debtor offers to take the creditor of support into his home, he may, if circumstances permit, be dispensed from paying all or part of the support.

1991, c. 64, a. 592.

593. The creditor may pursue a remedy against one of the debtors of support or against several of them simultaneously.

The court fixes the amount of support that each of the debtors sued or impleaded shall pay.

1991, c. 64, a. 593.

594. The judgment awarding support, whether or not the support is indexed or recalculated, may be reviewed by the court whenever warranted by circumstances.

However, a judgment awarding payment of a lump sum may be reviewed only if it has not been executed.

1991, c. 64, a. 594; 2012, c. 20, s. 42.

595. Child support may be claimed for needs that existed before the application; however, child support cannot be claimed for needs that existed more than three years before the application, unless the debtor parent behaved in a reprehensible manner towards the other parent or the child.

If the support is not claimed for a child, it may nevertheless be claimed for needs that existed before the application, but not for needs that existed more than one year before the application; in such a case, the creditor must prove that it was in fact impossible to act sooner, unless he put the debtor in default within one year before the application, in which case support is awarded from the date of default.

1991, c. 64, a. 595; 2012, c. 20, s. 43; I.N. 2015-11-01.

596. A debtor from whom arrears are claimed may plead a change, after judgment, in his condition or in that of his creditor and be released from payment of the whole or a part of them.

However, in no case where the arrears claimed have been due for over six months may the debtor be released from payment of them unless he shows that it was impossible for him to exercise his right to obtain a review of the judgment fixing the support.

1991, c. 64, a. 596; 2002, c. 19, s. 15; I.N. 2014-05-01.

596.1. In order to update the amount of support payable to their child, parents must, on the request of one of them and no more than once a year, or as required by the court, keep each other mutually informed of the state of their respective incomes and provide, to that end, the documents determined by the rules for the determination of child support payments adopted under the Code of Civil Procedure (chapter C-25.01).

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Failure by one parent to fulfill that obligation confers on the other parent the right to demand, in addition to the specific performance of the obligation and payment of the legal costs, damages in reparation for the injury suffered, including the professional fees of an advocate and any disbursements incurred.

2012, c. 20, s. 44; I.N. 2014-05-01; 2014, c. 1, s. 787; I.N. 2016-01-01 (NCCP).

TITLE FOUR

PARENTAL AUTHORITY

597. Every child, regardless of age, owes respect to his father and mother or to his parents.

1991, c. 64, a. 597; 2022, c. 22, s. 104.

598. A child remains subject to the authority of his father and mother or of his parents until his majority or emancipation.

1991, c. 64, a. 598; 2022, c. 22, s. 105.

599. The father and mother or the parents have the rights and duties of custody, supervision and education of their children.

They shall maintain their children.

They exercise their authority without any violence.

1991, c. 64, a. 599; 2022, c. 22, s. 106.

600. The father and mother or the parents exercise parental authority together.

If either of them dies, is deprived of parental authority or is unable to express their will, parental authority is exercised by the other.

1991, c. 64, a. 600; 2022, c. 22, s. 107.

601. The person having parental authority may delegate the custody, supervision or education of the child.

1991, c. 64, a. 601.

602. No unemancipated minor may leave his domicile without the consent of the person having parental authority.

1991, c. 64, a. 602.

603. Where the father or the mother or the parent performs alone any act of authority concerning their child, they are, with regard to third persons in good faith, presumed to be acting with the consent of the other.

1991, c. 64, a. 603; 2022, c. 22, s. 108.

603.1. The father or the mother or the parent may, without the other parent's consent, due to a situation of family violence, which includes spousal violence, or of sexual violence, caused by that other parent, request health services or social services, including psychosocial support services, recognized by the Minister of Justice, for their child.

To that end, the father or the mother or the parent must first obtain an attestation from a public servant or public officer designated by the Minister of Justice who, on examining the affidavit of the father, mother or parent attesting that there exists such a situation of violence and other factual elements or documents supporting that affidavit provided by persons in contact with the persons who are victims, considers that the

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request is a measure beneficial to the health and safety of the child. The public servant or public officer must act promptly.

2022, c. 22, s. 109.

Note *See M.O. 2023-4997, 2023-05-17, (2023) 155 G.O. 2, 1016.*

604. In the case of difficulties relating to the exercise of parental authority, the person having parental authority may refer the matter to the court, which will decide in the interest of the child after fostering the conciliation of the parties.

1991, c. 64, a. 604.

605. Whether custody is entrusted to one of the parents or to a third person, for whatever reason, the father and mother or the parents retain the right to supervise the maintenance and education of the children, and are bound to contribute thereto in proportion to their means.

1991, c. 64, a. 605; I.N. 2014-05-01; 2022, c. 22, s. 110.

606. The court may, for a grave reason and in the interest of the child, including the presence of family violence, which includes spousal violence, or sexual violence, on the application of any interested person, declare the father and mother or the parents either of them, or a third person on whom parental authority may have been conferred, to be deprived of such authority.

The deprivation of parental authority is, however, declared with regard to a person where a judgment that has become final finds the person guilty of a criminal offence of a sexual nature involving a child or finds the person liable for injury resulting from an act which could constitute such an offence, unless it is shown that such a measure would be contrary to the interest of that person's child.

Where such a measure is not required by the situation but action is nevertheless necessary, the court may declare, instead, the withdrawal of an attribute of parental authority or of its exercise. A direct application for withdrawal may also be made to the court.

1991, c. 64, a. 606; I.N. 2014-05-01; 2016, c. 4, s. 87; 2022, c. 22, s. 111; 2023, c. 13, s. 27.

607. The court may, in declaring deprivation or withdrawal of an attribute of parental authority or of its exercise, designate the person who is to exercise parental authority or an attribute thereof; it may also, where applicable, obtain the advice of the tutorship council before designating the person or, if required in the interest of the child, appointing a tutor.

1991, c. 64, a. 607; I.N. 2014-05-01.

608. Deprivation extends to all minor children born at the time of the judgment, unless the court decides otherwise.

1991, c. 64, a. 608.

609. Deprivation entails the exemption of the child from the obligation to provide support, unless the court decides otherwise. However, where circumstances warrant it, the exemption may be lifted after the child reaches full age.

1991, c. 64, a. 609.

610. A father or mother or a parent who has been deprived of parental authority or from whom an attribute of parental authority has been withdrawn may have the withdrawn authority restored, provided he or she alleges new circumstances, subject to the provisions governing adoption.

1991, c. 64, a. 610; 2022, c. 22, s. 112.

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611. Personal relations between the child and his grandparents may be maintained or developed to the extent that it is in the child's interest and that, if the child is 10 years of age or over, he consents to it, unless he is unable to express his will. Such relations may, on the same conditions, be maintained with the former spouse of the child's father, mother or parent, provided that person is important to the child. Those relations may be maintained or developed by any means appropriate to the situation and the persons are not required to be in the physical presence of each other. The terms governing such relations may be agreed on in writing between the child's father, mother or parent as tutor, the child's tutor, if applicable, or the child 14 years of age or over, and the child's grandparents or the former spouse of his father, mother or parent, as the case may be.

If a child 10 years of age or over, but under 14 years of age, does not give his consent or if there is a disagreement between the parties, maintenance or development of those relations is determined by the court.

In all cases, the consent of a child 14 years of age or over is required for such relations to be maintained or developed and the child may, from that age, put an end to them without further formality, whether or not an order has been issued by the court.

1991, c. 64, a. 611; 2022, c. 22, s. 113.

612. Decisions concerning the children may be reviewed at any time by the court, if warranted by circumstances.

1991, c. 64, a. 612.

BOOK THREE

SUCCESSIONS

TITLE ONE

OPENING OF SUCCESSIONS AND QUALITIES REQUIRED TO INHERIT

1991, c. 64, Tit. One; I.N. 2014-05-01.

CHAPTER I

OPENING OF SUCCESSIONS

613. The succession of a person opens by his death, at the place of his last domicile.

The succession devolves according to the prescriptions of the law unless the deceased has, by testamentary provisions, provided otherwise for the devolution of his property. Gifts *mortis causa* are, in that respect, testamentary provisions.

1991, c. 64, a. 613; I.N. 2014-05-01; I.N. 2015-11-01.

614. In settling succession to property, the law considers neither the origin nor the nature of the property; all the property constitutes a single patrimony.

1991, c. 64, a. 614; I.N. 2014-05-01.

615. When a person dies leaving property situated outside Québec or claims against persons not residing in Québec, letters of verification may be obtained in the manner provided in the Code of Civil Procedure (chapter C-25.01).

1991, c. 64, a. 615; I.N. 2016-01-01 (NCCP).

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616. Where persons die and it is impossible to determine which survived the other, they are deemed to have died at the same time if at least one of them is called to the succession of the other.

The succession of each then devolves to the persons who would have been called to take it in their place.

1991, c. 64, a. 616; I.N. 2014-05-01.

CHAPTER II

QUALITIES REQUIRED TO INHERIT

1991, c. 64, c. II; I.N. 2014-05-01.

617. Natural persons who exist at the time the succession opens, including absentees presumed to be alive at that time and children conceived but yet unborn, if they are born alive and viable, may inherit.

In the case of a substitution or trust, persons who have the required qualities when the provision produces its effect in their regard may also inherit.

1991, c. 64, a. 617; I.N. 2015-11-01.

618. The State may receive by will. Legal persons may receive by will such property as they may legally hold.

A trustee may receive a legacy intended for the trust or a legacy to be used to accomplish the object of the trust.

1991, c. 64, a. 618.

619. A successor to whom an intestate succession devolves, or who receives a universal legacy or a legacy by general title by will, is an heir from the opening of the succession, provided he accepts it.

1991, c. 64, a. 619; I.N. 2014-05-01.

620. The following persons are unworthy of inheriting by operation of law:

(1) a person convicted of making an attempt on the life of the deceased;

(2) a person deprived of parental authority over his child, with the exemption for the child from the obligation to provide support, with respect to that child's succession.

1991, c. 64, a. 620; I.N. 2014-05-01.

621. The following persons may be declared unworthy of inheriting:

(1) a person who has subjected the deceased to ill treatment or who has otherwise behaved towards him in a seriously reprehensible manner;

(2) a person who has concealed, altered or destroyed in bad faith the will of the deceased;

(3) a person who has hindered the testator in the drawing up, amendment or revocation of his will.

1991, c. 64, a. 621; I.N. 2014-05-01; 2016, c. 4, s. 88.

622. An heir is not unworthy of inheriting nor subject to being declared so if the deceased knew the cause of unworthiness and yet conferred a benefit on him or did not modify the liberality when he could have done so.

1991, c. 64, a. 622.

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623. Any successor may, within one year after the opening of the succession or becoming aware of a cause of unworthiness, apply to the court to have an heir declared unworthy of inheriting if that heir is not unworthy by operation of law.

1991, c. 64, a. 623; I.N. 2014-05-01.

624. The married or civil union spouse in good faith of the deceased inherits if the marriage or civil union is declared null after the death.

1991, c. 64, a. 624; 2002, c. 6, s. 37; I.N. 2014-05-01.

TITLE TWO

TRANSMISSION OF SUCCESSIONS

CHAPTER I

SEISIN

625. The heirs are seized, by the death of the deceased or by the event which gives effect to a legacy, of the patrimony of the deceased, subject to the provisions on the liquidation of successions.

Subject to the exceptions provided in this Book, the heirs are not liable for the obligations of the deceased in excess of the value of the property they take, and they retain their right to demand payment of their claims from the succession.

The heirs are seized of the rights of action of the deceased against the author of any infringement of his personality rights or against the author's representatives.

1991, c. 64, a. 625; I.N. 2014-05-01; I.N. 2015-11-01.

CHAPTER II

PETITION OF INHERITANCE AND ITS EFFECTS ON THE TRANSMISSION OF THE SUCCESSION

626. A successor is entitled to have his heirship recognized at any time within 10 years from the opening of the succession to which he claims to be entitled or from the day his right arises.

1991, c. 64, a. 626.

627. An apparent heir is obliged, by the recognition of the heirship of the successor, to restore everything he has received from the succession without right, in accordance with the rules in the Book on Obligations relating to restitution of prestations.

1991, c. 64, a. 627; I.N. 2015-11-01.

628. Any person who is unworthy of inheriting and who has received property from the succession is deemed to be an apparent heir in bad faith.

1991, c. 64, a. 628; I.N. 2014-05-01.

629. Obligations of the deceased discharged by the apparent heirs otherwise than out of property from the succession are reimbursed by the true heirs.

1991, c. 64, a. 629.

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CHAPTER III

THE RIGHT OF OPTION

DIVISION I

DELIBERATION AND OPTION

630. Every successor has the right to accept or to renounce the succession.

The option is indivisible. However, a successor called to the succession in several ways has a separate option for each.

1991, c. 64, a. 630.

631. No one may exercise his option with respect to a succession not yet opened or make any stipulation with respect to such a succession, even with the consent of the person whose succession it is.

1991, c. 64, a. 631; I.N. 2014-05-01.

632. A successor has six months from the day his right arises to deliberate and exercise his option. The period is extended, by operation of law, by as many days as necessary to afford him 60 days from closure of the inventory.

During the period for deliberation, no judgment may be rendered against the successor as an heir unless he has already accepted the succession.

1991, c. 64, a. 632; I.N. 2014-05-01.

633. If a successor aware of his heirship does not renounce within the period for deliberation, he is presumed to have accepted unless the period has been extended by the court. If a successor is unaware of his heirship, he may be compelled to exercise his option within the time determined by the court.

If a successor does not exercise his option within the time determined by the court, he is presumed to have renounced.

1991, c. 64, a. 633; I.N. 2014-05-01.

634. If a successor renounces within the period for deliberation fixed in article 632, the lawful expenses incurred to that time are borne by the succession.

1991, c. 64, a. 634.

635. If a successor dies before exercising his option, his heirs deliberate and exercise the option within the period allotted to them to deliberate and exercise their option regarding the succession of their predecessor in title.

Each of the heirs of the successor exercises his option separately; the share of an heir who renounces accrues to the coheirs.

1991, c. 64, a. 635; I.N. 2014-05-01; I.N. 2015-11-01.

636. A person may cause an option he has exercised to be annulled on the grounds and within the time prescribed for invoking nullity of contracts.

1991, c. 64, a. 636.

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DIVISION II

ACCEPTANCE

637. Acceptance is express or tacit. It may also result from the law.

Acceptance is express where the successor formally assumes the title or quality of heir; it is tacit where the successor performs an act that necessarily implies his intention of accepting.

1991, c. 64, a. 637.

638. A succession devolving to a minor, to a person of full age under tutorship or under a protection mandate or to an absentee is deemed to be accepted, except where it is renounced within the time for deliberation and exercise of the option,

(1) in the case of an unemancipated minor, a person of full age under tutorship or an absentee, by the representative of the successor with the authorization of the tutorship council;

(2) in the case of an emancipated minor, by the successor himself, assisted by his tutor;

(3) in the case of a person of full age under a protection mandate, by the mandatary.

In no case is the minor, the person of full age under tutorship or under a protection mandate or the absentee liable for the payment of debts of the succession in excess of the value of the property he takes.

1991, c. 64, a. 638; I.N. 2014-05-01; 2020, c. 11, s. 64.

639. The fact that the successor exempts the liquidator from making an inventory, or mingles property of the succession with his personal property after the death, entails acceptance of the succession.

1991, c. 64, a. 639; I.N. 2014-05-01.

640. The succession is presumed to be accepted where the successor, knowing that the liquidator refuses or neglects to make the inventory, himself neglects to make the inventory or to apply to the court to have the liquidator replaced or for an order to have him make the inventory within 60 days after expiry of the six months for deliberation.

1991, c. 64, a. 640; I.N. 2014-05-01.

641. The transfer by a person of his rights in a succession by gratuitous or onerous title entails acceptance.

The same rule applies to renunciation in favour of one or more coheirs, even by gratuitous title, and to renunciation by onerous title, even though it be in favour of all the coheirs without distinction.

1991, c. 64, a. 641.

642. Mere conservatory acts and acts of supervision and provisional administration do not, by themselves, entail acceptance of the succession.

The same rule applies to an act rendered necessary by exceptional circumstances which the successor performs in the interest of the succession.

1991, c. 64, a. 642.

643. The distribution of the clothing, personal papers, medals and diplomas of the deceased and family souvenirs does not by itself entail acceptance of the succession if it is done with the agreement of all the successors.

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Acceptance by a successor of the transmission in his favour of a site intended for a body or ashes does not entail acceptance of the succession.

1991, c. 64, a. 643; I.N. 2015-11-01.

643.1. Remittance of a share of the balance of a demand deposit account to the surviving co-holder under section 3 of the Act respecting remittance of deposits of money to account co-holders who are spouses or former spouses (chapter R-20.2) that exceeds the share to which the co-holder is entitled does not by itself entail acceptance of the succession.

2022, c. 22, s. 114.

644. If a succession includes perishable property, the successor may, before the designation of a liquidator, sell it by agreement or, if he cannot find a buyer in due time, give it to charitable institutions or distribute it among the successors, without implying acceptance on his part.

He may also alienate property which, although not perishable, is expensive to preserve or is likely to depreciate rapidly. In this case, he acts as an administrator of the property of others.

1991, c. 64, a. 644; I.N. 2014-05-01; 2016, c. 4, s. 89.

645. Acceptance confirms the transmission which took place by operation of law at the time of death.

1991, c. 64, a. 645.

DIVISION III

RENUNCIATION

646. Renunciation is express. It may also result from the law.

Express renunciation is made by notarial act *en minute* or by a judicial declaration which is recorded.

1991, c. 64, a. 646.

647. A person who renounces is deemed never to have been a successor.

1991, c. 64, a. 647.

648. A successor may renounce the succession provided that he has not performed any act entailing acceptance and that no judgment having become final has been rendered against him as an heir.

1991, c. 64, a. 648; 2016, c. 4, s. 90.

649. A successor who has renounced the succession retains his right to accept it for 10 years from the day that right arose, provided the succession has not been accepted by another.

Acceptance is made by notarial act *en minute* or by a judicial declaration which is recorded.

The heir takes the succession in its actual condition at that time and subject to the rights acquired by third persons in the property of the succession.

1991, c. 64, a. 649; I.N. 2014-05-01; I.N. 2015-11-01.

650. A successor who has been unaware of his heirship or has not made it known for 10 years from the day his right arose is deemed to have renounced the succession.

1991, c. 64, a. 650.

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651. A successor who, in bad faith, has abstracted or concealed property of the succession or failed to include property in the inventory is deemed to have renounced the succession notwithstanding any prior acceptance.

1991, c. 64, a. 651.

652. The creditors of a successor who renounces may, if the renunciation is prejudicial to their rights, apply within one year to the court for a declaration that the renunciation may not be set up against them, and accept the succession in the place and stead of their debtor.

The acceptance has effect only in their favour, and only up to the amount of their claim. It has no effect in favour of the successor who renounced.

1991, c. 64, a. 652; I.N. 2014-05-01; I.N. 2015-11-01.

TITLE THREE

LEGAL DEVOLUTION OF SUCCESSIONS

CHAPTER I

HEIRSHIP

653. Unless otherwise provided by testamentary provisions, a succession devolves to the surviving married, civil union or parental union spouse and relatives of the deceased, in the order and according to the rules provided in this Title. Where there is no heir, it falls to the State.

1991, c. 64, a. 653; 2002, c. 6, s. 38; I.N. 2014-05-01; I.N. 2015-11-01; 2024, c. 22, s. 6.

654. The surviving spouse's heirship is not dependent on the renunciation of his or her rights and benefits arising from marriage, civil union or parental union.

1991, c. 64, a. 654; 2002, c. 6, s. 39; 2024, c. 22, s. 7.

CHAPTER II

RELATIONSHIP

655. Relationship is based on bonds of filiation by birth or of filiation by adoption.

1991, c. 64, a. 655; 2023, c. 13, s. 28.

656. The degree of relationship is determined by the number of generations, each forming one degree. The series of degrees forms the direct line or the collateral line.

1991, c. 64, a. 656; I.N. 2015-11-01.

657. The direct line is the series of degrees between persons descended one from another. The number of degrees in the direct line is equal to the number of generations between the successor and the deceased.

1991, c. 64, a. 657.

658. The direct line of descent connects a person with his descendants; the direct line of ascent connects him with his ancestors.

1991, c. 64, a. 658.

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658.1. A child born as a result of sexual assault is considered as the descendant in the first degree of the person who committed the assault, despite the absence of a bond of filiation with regard to that person, for the purposes of the devolution of that person's succession and of the succession of that person's relatives.

Sexual assault may be proved, among other means, by the production of a judgment recognizing its existence.

2023, c. 13, s. 29.

658.2. For the purposes of article 658.1, where the sexual assault is proved, the court may order the analysis of a sample of a bodily substance so that the genetic profile of the person who committed the sexual assault may be established.

The court determines conditions for the sample-taking and analysis that are as respectful as possible of the physical integrity of the person concerned or of the body of the deceased. These conditions include the nature and the date and place of the sample-taking, the identity of the expert charged with taking and analyzing the sample, the use of any sample taken and the confidentiality of the analysis results.

The court may draw a negative presumption from an unjustified refusal to submit to the analysis ordered by the court.

2023, c. 13, s. 29.

659. The collateral line is the series of degrees between persons descended not one from another but from a common ancestor.

In the collateral line, the number of degrees is equal to the number of generations between the successor and the common ancestor and between the common ancestor and the deceased.

1991, c. 64, a. 659.

CHAPTER III

REPRESENTATION

660. Representation is a favour granted by law by which a relative is called to a succession which his ascendant, who is a closer relative of the deceased, would have taken but is unable to take himself, having died previously or at the same time, or being unworthy.

1991, c. 64, a. 660; I.N. 2014-05-01.

661. There is no limit to representation in the direct line of descent.

Representation is allowed whether the children of the deceased compete with the descendants of a represented child, or whether, all the children of the deceased being themselves deceased or unworthy, their descendants are in equal or unequal degrees of relationship to each other.

1991, c. 64, a. 661.

662. Representation does not take place in favour of ascendants, the nearer ascendant in each line excluding the more distant.

1991, c. 64, a. 662.

663. In the collateral line, representation takes place, between privileged collaterals, in favour of the descendants in the first degree of the brothers and sisters of the deceased, whether or not they compete with

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them and, between ordinary collaterals, in favour of the other descendants of the brothers and sisters of the deceased in other degrees, whether they are in equal or unequal degrees of relationship to each other.

1991, c. 64, a. 663.

664. No person who has renounced a succession may be represented, but a person whose succession has been renounced may be represented.

1991, c. 64, a. 664.

665. In all cases where representation is permitted, partition is effected by roots.

If one root has several branches, the subdivision is also made by roots in each branch, and the members of the same branch share among themselves by heads.

1991, c. 64, a. 665.

CHAPTER IV

ORDER OF DEVOLUTION OF SUCCESSIONS

DIVISION I

DEVOLUTION TO THE SURVIVING SPOUSE AND TO DESCENDANTS

666. If the deceased leaves a spouse and descendants, the succession devolves to them.

The spouse takes one-third of the succession and the descendants, the other two-thirds.

1991, c. 64, a. 666.

667. Where there is no spouse, the entire succession devolves to the descendants.

1991, c. 64, a. 667.

668. If the descendants who inherit are all in the same degree and called in their own right, they share in equal portions and by heads.

If there is representation, they share by roots.

1991, c. 64, a. 668.

669. Unless there is representation, the descendant in the closest degree takes the share of the descendants, to the exclusion of all the others.

1991, c. 64, a. 669.

DIVISION II

DEVOLUTION TO THE SURVIVING SPOUSE AND TO PRIVILEGED ASCENDANTS OR COLLATERALS

670. The father and mother or the parents of the deceased are privileged ascendants.

The brothers and sisters of the deceased and their descendants in the first degree are privileged collaterals.

1991, c. 64, a. 670; 2022, c. 22, s. 115.

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671. Where there are neither descendants, privileged ascendants nor privileged collaterals, the entire succession devolves to the surviving spouse.

1991, c. 64, a. 671.

672. Where there are no descendants, two-thirds of the succession devolves to the surviving spouse and one-third to the privileged ascendants.

1991, c. 64, a. 672.

673. Where there are no descendants and no privileged ascendants, two-thirds of the succession devolves to the surviving spouse and one-third to the privileged collaterals.

1991, c. 64, a. 673.

674. Where there are no descendants and no surviving spouse, the succession is partitioned equally between the privileged ascendants and the privileged collaterals.

Where there are no privileged ascendants, the privileged collaterals inherit the entire succession, and *vice versa*.

1991, c. 64, a. 674.

675. Where the privileged ascendants inherit, they share equally; where only one of the privileged ascendants inherits, he takes the share that would have devolved to the other.

1991, c. 64, a. 675.

676. Where the privileged collaterals who inherit are fully related by blood to the deceased, they share equally or by roots, as the case may be.

Where this is not the case, the share which devolves to them is divided equally between the paternal line and the maternal line of the deceased or the lines related to each of his parents; persons fully related by blood partake in both lines and those half related by blood partake each in his own line.

If the privileged collaterals are in one line only, they inherit the entire succession to the exclusion of all other ascendants and ordinary collaterals in the other line.

1991, c. 64, a. 676; 2022, c. 22, s. 116.

DIVISION III

DEVOLUTION TO ORDINARY ASCENDANTS AND COLLATERALS

677. The ordinary ascendants and collaterals are not called to the succession unless the deceased left no spouse, no descendants and no privileged ascendants or collaterals.

1991, c. 64, a. 677.

678. If the ordinary collaterals include descendants of the privileged collaterals, these descendants take one-half of the succession and the other half devolves to the ascendants and the other collaterals.

Where there are no descendants of privileged collaterals, the entire succession devolves to the ascendants and the other collaterals, and *vice versa*.

1991, c. 64, a. 678.

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679. The succession devolving to the ordinary ascendants and the other ordinary collaterals of the deceased is divided equally between the paternal and maternal lines or the lines related to each of the parents.

In each line, the persons who inherit share by heads.

1991, c. 64, a. 679; 2016, c. 4, s. 91; 2022, c. 22, s. 117.

680. In each line, the ascendant in the second degree takes the share allotted to his line, to the exclusion of the other ordinary ascendants or collaterals.

Where in one line there is no ascendant in the second degree, the share allotted to that line devolves to the closest ordinary collaterals descended from that ascendant.

1991, c. 64, a. 680.

681. Where in one line there are no ordinary collaterals descended from the ascendants in the second degree, the share allotted to that line devolves to the ascendants in the third degree or, if there are none, to the closest ordinary collaterals descended from them, and so on until no relatives within the degrees of succession remain.

1991, c. 64, a. 681.

682. If there are no relatives within the degrees of succession in one line, the relatives in the other line inherit the entire succession.

1991, c. 64, a. 682.

683. Relatives beyond the eighth degree do not inherit.

1991, c. 64, a. 683.

CHAPTER V

THE SURVIVAL OF THE OBLIGATION TO PROVIDE SUPPORT

684. Every creditor of support may within six months after the death claim a financial contribution from the succession as support.

The right exists even where the creditor is an heir or a legatee by particular title or where the right to support was not exercised before the date of the death, but does not exist in favour of a person unworthy of inheriting from the deceased.

1991, c. 64, a. 684.

685. The contribution is made in the form of a lump sum payable all at once or by instalments.

The contribution made to the creditors of support, with the exception of that made to the former spouse of the deceased who was in fact receiving support at the time of the death, is fixed with the concurrence of the liquidator of the succession acting with the consent of the heirs and legatees by particular title or, failing agreement, by the court.

1991, c. 64, a. 685; 2016, c. 4, s. 92.

686. In fixing the contribution, the needs and means of the creditor of support, his circumstances and the time he needs to acquire sufficient autonomy or, if he was in fact receiving support from the deceased at the time of the death, the amount of the instalments that had been fixed by the court for the payment of the support or of the lump sum awarded as support are taken into account.

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Account is also taken of the assets of the succession, the benefits derived from the succession by the creditor of support, the needs and means of the heirs and legatees by particular title and, where that is the case, the right to support which may be claimed by other persons.

1991, c. 64, a. 686; I.N. 2014-05-01.

687. Where the contribution is claimed by the spouse or a descendant, the value of the liberalities made by the deceased by act *inter vivos* during the three years preceding the death and those having the death as a term are considered to be part of the succession for the fixing of the contribution.

1991, c. 64, a. 687; 2016, c. 4, s. 93.

688. The contribution granted to the spouse or to a descendant may not exceed the difference between one-half of the share he could have claimed had the entire succession, including the value of the liberalities, devolved according to law, and what he receives from the succession.

The contribution granted to the former spouse is equal to the value of 12 months' support, and that granted to other creditors of support is equal to the value of six months' support; however, in neither case may such a contribution, even where the creditor was in fact receiving support from the deceased at the time the succession opened, exceed the lesser of the value of 12 or six months' support and 10% of the value of the succession including, where that is the case, the value of the liberalities.

1991, c. 64, a. 688; I.N. 2014-05-01.

689. Where the assets of the succession are insufficient to make full payment of the contributions due to the spouse or to a descendant, as a result of liberalities made by acts *inter vivos* during the three years preceding the death or having the death as a term, the court may order the liberalities reduced.

Liberalities to which the spouse or descendant consented may not be reduced, however, and those he has received shall be imputed to his claim.

1991, c. 64, a. 689; I.N. 2014-05-01; 2016, c. 4, s. 94.

690. Any alienation, security or charge granted by the deceased for a prestation clearly of smaller value than that of the property at the time it was made is presumed to be a liberality.

1991, c. 64, a. 690.

691. Benefits under a retirement plan contemplated in article 415 or under a contract of insurance of persons, where these benefits would have been part of the succession or would have been paid to the creditor had it not been for the designation of a subrogated holder or a beneficiary, by the deceased, during the three years preceding the death, are considered to be liberalities. Notwithstanding any provision to the contrary, rights conferred by benefits under any such plan or contract may be transferred or seized for the payment of support due under this chapter.

1991, c. 64, a. 691; I.N. 2014-05-01.

692. The cost of education or maintenance and customary presents are not considered to be liberalities unless, considering the means of the deceased, they are manifestly exaggerated.

1991, c. 64, a. 692.

693. Reduction of the liberalities takes place against one of the beneficiaries or several of them simultaneously.

If need be, the court fixes the share payable by each beneficiary sued or impleaded.

1991, c. 64, a. 693; I.N. 2014-05-01.

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694. Payment of the reduction is made, failing agreement between the parties, on the conditions determined by the court and on the terms and conditions of guarantee and payment it fixes.

Payment in kind may not be ordered, but the debtor may be discharged at any time by handing over the property.

1991, c. 64, a. 694; I.N. 2014-05-01.

695. Property is valued according to its condition at the time of the liberality and its value at the opening of the succession; if property has been alienated, its value at the time of alienation or, in the case of reinvestment, the value of the replacement property on the day the succession opened is the value considered.

Liberalities by way of a usufruct, right of use, annuity or income from a trust are taken into account at their capital value on the day the succession opened.

1991, c. 64, a. 695; I.N. 2014-05-01.

CHAPTER VI

RIGHTS OF THE STATE

696. Where the deceased leaves no spouse or relatives within the degrees of succession, or where all the successors have renounced the succession, or where no successor is known or claims the succession, the State takes, by operation of law, the property of the succession situated in Québec.

Any testamentary provision which would defeat this right without otherwise providing for the devolution of the property is without effect.

1991, c. 64, a. 696; I.N. 2014-05-01.

697. The State is not an heir, but is nonetheless seized of the property bequeathed, as is an heir, once all known successors have renounced the succession, or, where no successor is known or claims the succession, six months after the death.

It is not liable for obligations of the deceased in excess of the value of the property it takes.

1991, c. 64, a. 697; I.N. 2014-05-01; I.N. 2015-11-01.

698. Seisin of a succession which falls to the State is exercised by the Minister of Revenue.

No property of a succession may be mingled with the property of the State so long as it remains under the administration of the Minister of Revenue.

1991, c. 64, a. 698; 1997, c. 80, s. 46; 2005, c. 44, s. 54; I.N. 2014-05-01.

699. Subject to the Unclaimed Property Act (chapter B-5.1) and without any other formality, the Minister of Revenue acts as liquidator of the succession. He is bound to make an inventory and give notice of the seisin of the State in the *Gazette officielle du Québec*; he shall also cause the notice to be published in a newspaper circulated in the locality where the deceased was domiciled.

1991, c. 64, a. 699; 2005, c. 44, s. 54; 2011, c. 10, s. 63.

700. At the end of the liquidation, the Minister of Revenue renders an account to the Minister of Finance.

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The Minister of Revenue gives and publishes a notice of the end of the liquidation in the same manner as for a notice of seisin of the State. He indicates in the notice the residue of the succession and the time granted to successors to assert their rights of heirship.

1991, c. 64, a. 700; 2005, c. 44, s. 54.

701. The Minister of Revenue, upon rendering account, transfers to the Minister of Finance the amounts constituting the residue of the succession, which then become the property of the State.

Heirs who establish their quality may, however, within 10 years from the opening of the succession or from the day their right arises, recover those amounts from the Minister of Revenue with interest capitalized daily and calculated from the time the amounts were transferred to the Minister of Finance, at the rate set under the second paragraph of section 28 of the Tax Administration Act (chapter A-6.002).

1991, c. 64, a. 701; 1997, c. 80, s. 47; 2005, c. 44, s. 54; 2011, c. 10, s. 64.

702. An heir who claims the succession before the end of the liquidation takes it in its actual condition, subject to his right to claim damages if the legal formalities have not been observed.

1991, c. 64, a. 702; 1997, c. 80, s. 48; I.N. 2015-11-01.

TITLE FOUR

WILLS

CHAPTER I

THE NATURE OF WILLS

703. Every person having the required capacity may, by will, provide otherwise than as by law for the devolution upon his death of the whole or part of his property.

1991, c. 64, a. 703.

704. A will is a unilateral and revocable juridical act drawn up in one of the forms provided for by law, by which the testator disposes by liberality of all or part of his property, to take effect only after his death.

In no case may a will be made jointly by two or more persons.

1991, c. 64, a. 704.

705. The act is a will even if it contains only provisions regarding the liquidation of the succession, the revocation of previous testamentary provisions or the exclusion of an heir.

1991, c. 64, a. 705; I.N. 2015-11-01.

706. No person may, even in a marriage or civil union contract, except within the limits provided in article 1841, renounce his or her right to make a will, to dispose of his or her property in contemplation of death or to revoke the testamentary provisions he or she has made.

1991, c. 64, a. 706; 2002, c. 6, s. 40; I.N. 2015-11-01.

CHAPTER II

THE CAPACITY REQUIRED TO MAKE A WILL

707. The capacity of the testator is considered relatively to the time he made his will.

1991, c. 64, a. 707.

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708. A minor may not dispose of any part of his property by will, except property of little value.

1991, c. 64, a. 708; 2016, c. 4, s. 95.

709. A will made by a person of full age after he has been placed under tutorship or after a protection mandate has been homologated for him may be confirmed by the court if the nature of its provisions and the circumstances in which it was drawn up allow it.

1991, c. 64, a. 709; I.N. 2015-11-01; 2020, c. 11, s. 65.

710. *(Repealed).*

1991, c. 64, a. 710; 2020, c. 11, s. 66.

711. A tutor or mandatary may not make a will on behalf of the person whom he represents, either alone or jointly with that person.

1991, c. 64, a. 711; 2020, c. 11, s. 67.

CHAPTER III

FORMS OF WILLS

DIVISION I

GENERAL PROVISIONS

712. The only forms of will that may be made are the notarial will, the holograph will and the will made in the presence of witnesses.

1991, c. 64, a. 712.

713. The formalities governing the various kinds of wills shall be observed, on pain of nullity.

However, if a will made in one form does not meet the requirements of that form of will, it is valid as a will made in another form if it meets the requirements for validity of that other form.

1991, c. 64, a. 713; I.N. 2014-05-01; I.N. 2015-11-01.

714. A holograph will or a will made in the presence of witnesses that does not fully meet the requirements of that form is valid nevertheless if it meets the essential requirements thereof and if it unquestionably and unequivocally contains the last wishes of the deceased.

1991, c. 64, a. 714; I.N. 2014-05-01.

715. No one may cause the validity of his will to be subject to any formality not required by law.

1991, c. 64, a. 715; I.N. 2015-11-01.

DIVISION II

NOTARIAL WILLS

716. A notarial will is executed by a notary, *en minute*, in the presence of a witness or, in certain cases, two witnesses.

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The date and place of the making of the will shall be noted on the will.

1991, c. 64, a. 716; I.N. 2014-05-01.

717. A notarial will is read by the notary to the testator alone or, if the testator chooses, in the presence of a witness. Once the reading is done, the testator shall declare in the presence of the witness that the act read contains the expression of his last wishes.

The will is then signed by the testator, the witness or witnesses and the notary, in each other's presence.

1991, c. 64, a. 717; 1992, c. 57, s. 716; I.N. 2014-05-01.

718. The formalities governing notarial wills are presumed to have been observed even when this is not expressly stated, subject to the laws governing the notarial profession.

However, if formalities particular to certain wills apply, the act must mention the reason for their observance.

1991, c. 64, a. 718; I.N. 2014-05-01; I.N. 2015-11-01.

719. The notarial will of a testator who cannot sign contains a declaration by him to that effect. This declaration also is read by the notary to the testator in the presence of two witnesses, and it compensates for the absence of the signature of the testator.

1991, c. 64, a. 719.

720. The notarial will of a blind person is read by the notary to the testator in the presence of two witnesses.

In the will, the notary declares that he has read the will in the presence of the witnesses, and this declaration also is read.

1991, c. 64, a. 720.

721. The notarial will of a deaf person is read by the testator himself in the presence of the notary alone or, if he chooses, of the notary and a witness. If the testator is able to do so, he reads the will aloud.

In the will, the testator declares that he has read it in the presence of the notary and, where such is the case, the witness. If the testator is unable to speak, the declaration is read to him by the notary in the presence of the witness; if he is able to speak, it is read aloud by the testator himself, in the presence of the notary and the witness.

1991, c. 64, a. 721; 2013, c. 27, s. 24.

722. A person unable to express himself aloud who wishes to make a notarial will conveys his wishes to the notary in writing.

1991, c. 64, a. 722.

722.1. A deaf person who, being unable to speak, read or write, cannot avail himself of the other provisions of this section may make a notarial will, provided he conveys his wishes to the notary through a sign-language interpreter.

The testator, in the presence of the notary and a witness, declares, through the same means, that the document translated to him by the interpreter is his will.

The interpreter is chosen by the testator from among interpreters qualified to exercise their functions before the courts and may in no case be the spouse of the testator or related to the testator in either the direct

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or the collateral line up to and including the third degree, or be connected to that extent by marriage or a civil union to the testator.

The interpreter must first swear in writing, before the notary, the testator and the witness, to carry out his functions with impartiality and accuracy and not to disclose any information related to his mandate. The original of the oath is attached to the will.

2013, c. 27, s. 25; 2016, c. 4, s. 96.

723. In no case may a notarial will be executed by a notary who is the spouse of the testator, is related to the testator in either the direct or the collateral line up to and including the third degree, or is connected to that extent by marriage or a civil union to the testator.

1991, c. 64, a. 723; 2002, c. 6, s. 235; I.N. 2014-05-01; 2016, c. 4, s. 97.

724. The notary before whom a will is executed may be designated in the will as the liquidator, provided he fulfils that office gratuitously.

1991, c. 64, a. 724; I.N. 2014-05-01; I.N. 2015-11-01.

725. A witness called upon to be present at the making of a notarial will shall be named and described in the will.

Any person of full age may witness a notarial will, except an employee of the officiating notary who is not himself a notary.

1991, c. 64, a. 725; I.N. 2014-05-01.

DIVISION III

HOLOGRAPH WILLS

726. A holograph will shall be written entirely by the testator and signed by him, without the use of technical means.

It is subject to no other formal requirement.

1991, c. 64, a. 726; 1992, c. 57, s. 716; I.N. 2014-05-01; 2016, c. 4, s. 98.

DIVISION IV

WILLS MADE IN THE PRESENCE OF WITNESSES

727. A will made in the presence of witnesses is written by the testator or by a third person.

The testator then declares in the presence of two witnesses of full age that the document he is presenting is his will. He need not divulge its contents. He signs it at the end or, if he has already signed it, acknowledges his signature; he may also cause a third person to sign it for him in his presence and according to his instructions.

The witnesses sign the will forthwith in the presence of the testator.

1991, c. 64, a. 727; I.N. 2014-05-01.

728. Where the will is written by a third person or by technical means, the testator and the witnesses initial or sign each page of the act which does not bear their signature.

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The absence of initials or a signature on each page does not prevent a will made before a notary that is not valid as a notarial will from being valid as a will made in the presence of witnesses, if the other formalities are observed.

1991, c. 64, a. 728; I.N. 2014-05-01; I.N. 2015-11-01; 2016, c. 4, s. 99.

729. A person who is unable to read may make a will in the presence of witnesses, provided the will is read to the testator by one of the witnesses in the presence of the other.

The testator, in the presence of the same witnesses, declares that the document read is his will and signs it at the end or causes a third person to sign it for him in his presence and according to his instructions.

The witnesses sign the will forthwith in the presence of the testator.

1991, c. 64, a. 729; 2013, c. 27, s. 26; I.N. 2014-05-01.

730. A person who is unable to speak but able to write may make a will in the presence of witnesses, provided he indicates in writing, otherwise than by technical means, in the presence of the witnesses, that the document he is presenting is his will.

1991, c. 64, a. 730; I.N. 2014-05-01; 2016, c. 4, s. 100.

730.1. A deaf person who, being unable to speak, read or write, cannot avail himself of the other provisions of this section may make a will in the presence of witnesses, provided he conveys his wishes to the drafter through a sign-language interpreter.

The testator, in the presence of the witnesses, declares, through the same means, that the document translated to him by the interpreter is his will. Where possible, the testator affixes his signature or a personal mark at the end of the will. Otherwise, the testator has a third person sign for him, in his presence and in accordance with his instructions. The witnesses then sign the will immediately in the presence of the testator.

The interpreter is chosen by the testator from among interpreters qualified to exercise their functions before the courts and may in no case be the spouse of the testator or be related to the testator in either the direct or the collateral line up to and including the third degree, or be connected to that extent by marriage or a civil union to the testator.

The interpreter must first swear in writing, before the drafter, the testator and the witnesses, to carry out his functions with impartiality and accuracy and not to disclose any information related to his mandate. The original of the oath is attached to the will.

2013, c. 27, s. 27; I.N. 2015-11-01; 2016, c. 4, s. 101.

CHAPTER IV

TESTAMENTARY PROVISIONS AND LEGATEES

I.N. 2015-11-01.

DIVISION I

VARIOUS KINDS OF LEGACIES

731. Legacies are of three kinds: universal, by general title and by particular title.

1991, c. 64, a. 731.

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732. A universal legacy entitles one or several persons to take the entire succession.

1991, c. 64, a. 732.

733. A legacy by general title entitles one or several persons to take

(1) the ownership of an aliquot share of the succession;

(2) a dismemberment of the right of ownership of the whole or of an aliquot share of the succession;

(3) the ownership or a dismemberment of the right of ownership of the whole or of an aliquot share of all the immovable or movable property, private property, community property or acquests, or corporeal or incorporeal property.

1991, c. 64, a. 733; I.N. 2014-05-01.

734. Any legacy which is neither a universal legacy nor a legacy by general title is a legacy by particular title.

1991, c. 64, a. 734.

735. The exception of particular items of property, whatever their number or value, does not affect the character of a universal legacy or of a legacy by general title.

1991, c. 64, a. 735; I.N. 2014-05-01.

736. Property left by the testator for which he made no provision or for which the provisions are without effect remains in his intestate succession and devolves according to the rules governing legal devolution of successions.

1991, c. 64, a. 736; I.N. 2014-05-01; I.N. 2015-11-01.

737. Testamentary provisions made in the form of an appointment of heir, a gift or a legacy, or in other terms indicating the intentions of the testator, take effect according to the rules provided in this Book with regard to universal legacies, legacies by general title or legacies by particular title.

Sufficient expression by the testator of a different intention takes precedence over the rules referred to in the first paragraph and the meaning ascribed to certain terms.

1991, c. 64, a. 737; I.N. 2014-05-01; I.N. 2015-11-01.

DIVISION II

LEGATEES

738. A universal legatee or legatee by general title is an heir upon the opening of the succession, provided he accepts the legacy.

1991, c. 64, a. 738; I.N. 2014-05-01.

739. A legatee by particular title who accepts the legacy is not an heir, but is nonetheless seized of the property bequeathed, as is an heir, by the death of the deceased or by the event which gives effect to the legacy.

He is not liable for the debts of the deceased on the property of the legacy unless the other property of the succession is insufficient to pay the debts, in which case he is liable only up to the value of the property he takes.

1991, c. 64, a. 739; I.N. 2014-05-01; I.N. 2015-11-01.

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740. In order to receive his legacy, a legatee by particular title is required to have the same qualities as are required to inherit.

He may be unworthy to receive the legacy just as a person may be unworthy to inherit; like a successor, he may apply to the court to have an heir or a colegatee by particular title declared unworthy.

1991, c. 64, a. 740; I.N. 2014-05-01; I.N. 2015-11-01.

741. Like a successor, a legatee by particular title has the right to deliberate and exercise his option with respect to the legacy made to him, with the same effects and according to the same rules.

1991, c. 64, a. 741; I.N. 2014-05-01.

742. The provisions concerning the petition of inheritance and its effects on the transmission of the succession are also applicable, adapted as required, to a legatee by particular title.

In all other respects, the legatee by particular title is subject to the provisions of this Book concerning legatees.

1991, c. 64, a. 742; I.N. 2014-05-01.

742.1. A child born as a result of sexual assault is considered a descendant in the first degree of the person who committed the assault, despite the absence of a bond of filiation with regard to that person, for the execution of the person's testamentary provisions or those of the person's relatives, subject to the sufficient expression by the testator of a different intention.

Sexual assault may be proved, among other means, by the production of a judgment recognizing its existence.

2023, c. 13, s. 30.

742.2. For the purposes of article 742.1, if the sexual assault is proved, the court may order the analysis of a sample of a bodily substance so that the genetic profile of the person who committed the sexual assault may be established.

The court determines conditions for the sample-taking and analysis that are as respectful as possible of the physical integrity of the person concerned or of the body of the deceased. These conditions include the nature and the date and place of the sample-taking, the identity of the expert charged with taking and analyzing the sample, the use of any sample taken and the confidentiality of the analysis results.

The court may draw a negative presumption from an unjustified refusal to submit to the analysis ordered by the court.

2023, c. 13, s. 30.

DIVISION III

THE EFFECT OF LEGACIES

743. Fruits and revenues from the property bequeathed accrue to the legatee from the opening of the succession or the time when the provision takes effect in his favour.

1991, c. 64, a. 743; I.N. 2015-11-01.

744. Bequeathed property is delivered, with its accessories, in the condition in which it was when the testator died.

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This rule also applies to the rights attached to bequeathed securities, if they have not yet been exercised.

1991, c. 64, a. 744; I.N. 2014-05-01; 2016, c. 4, s. 102.

745. Where immovable property is bequeathed, any accessory or annexed immovable property acquired by the testator after signing the will is presumed to be included in the legacy, provided the property forms a whole with the immovable bequeathed.

1991, c. 64, a. 745; I.N. 2014-05-01; 2016, c. 4, s. 103.

746. The legacy of an enterprise is presumed to include the operations acquired or created after the signing of the will which, at the time of death, form an economic unit with the bequeathed enterprise.

1991, c. 64, a. 746; I.N. 2014-05-01.

747. Where the payment of a legacy is subject to a term, the legatee nevertheless has an acquired right from the death of the testator which is transmissible to his own heirs or legatees by particular title.

The right of the legatee to a legacy made under a condition is also transmissible unless the condition is of a purely personal nature.

1991, c. 64, a. 747.

748. A legacy to a creditor is not presumed to have been made as compensation for his claim.

1991, c. 64, a. 748.

749. Where, in testate successions, the legacy is made to all the descendants or collaterals of the testator who would have been called to his succession had he died intestate, representation takes place in the same manner and in favour of the same persons as in intestate successions, unless it is excluded by the testator, expressly or by the effect of the provisions of the will.

There is no representation in the matter of legacies by particular title, however, unless the testator has so provided.

1991, c. 64, a. 749; I.N. 2014-05-01.

DIVISION IV

LAPSE AND NULLITY OF LEGACIES

750. A legacy lapses when the legatee does not survive the testator, except where there may be representation.

A legacy also lapses where the legatee refuses it, is unworthy to receive it or dies before the fulfilment of the suspensive condition attached to it, if the condition is of a purely personal nature.

1991, c. 64, a. 750; I.N. 2014-05-01.

751. A legacy also lapses if the bequeathed property perished totally during the lifetime of the testator or before the opening of a legacy made under a suspensive condition.

If the loss of the property occurs at the death of the testator, at the opening of the legacy or subsequently, the insurance indemnity is substituted for the property that perished.

1991, c. 64, a. 751; I.N. 2014-05-01.

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752. Where a legacy charged with another legacy lapses from a cause depending on the legatee, the legacy imposed as a charge also lapses, unless the heir or legatee called to take what was the object of the lapsed legacy is able to execute the charge.

1991, c. 64, a. 752.

753. A legacy made to the liquidator as remuneration lapses if he does not accept the office.

This is also the case where a legacy is made to remunerate the person appointed by the testator as tutor to a minor child or designated by him to act as the administrator of the property of others.

1991, c. 64, a. 753.

754. A remunerative legacy is resolved where the liquidator, tutor or another administrator of the property of others designated by the testator ceases to hold that office; he has in this case a right to remuneration proportionate to the value of the legacy and the time for which he held the office.

1991, c. 64, a. 754; I.N. 2014-05-01; 2016, c. 4, s. 104.

755. Accretion takes place in favour of the legatees by particular title where property is bequeathed to them jointly and a lapse occurs with regard to one of them.

1991, c. 64, a. 755.

756. A legacy by particular title is presumed to be made jointly if it is made by one and the same provision and if the testator has not allotted the share of each colegatee in the bequeathed property or has allotted the colegatees equal aliquot shares.

It is also presumed to be made jointly when the entire property is bequeathed by the same act to several persons separately.

1991, c. 64, a. 756; I.N. 2015-11-01.

757. A condition that is impossible or that is contrary to public order is deemed unwritten.

Thus, a clause limiting the rights of a surviving spouse if the latter forms a new union with another person is deemed unwritten.

1991, c. 64, a. 757; 1992, c. 57, s. 716; 2002, c. 6, s. 41; 2024, c. 22, s. 8.

758. A penal clause intended to prevent an heir or a legatee by particular title from contesting the validity of the will or any part of it is deemed unwritten.

A disinheritance taking the form of a penal clause intended for the same purpose is also deemed unwritten.

1991, c. 64, a. 758; I.N. 2014-05-01.

759. A legacy made to the notary who executes a will or to the spouse of the notary or to a relative in the first degree of the notary is without effect; this does not affect the other provisions of the will.

1991, c. 64, a. 759; 2002, c. 19, s. 15; I.N. 2014-05-01; I.N. 2015-11-01.

760. A legacy made to a witness, even a supernumerary, is without effect, but this does not affect the other provisions of the will.

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The same is true for that part of the legacy made to the liquidator or to another administrator of property of others designated in the will which exceeds his remuneration, if he acts as a witness.

1991, c. 64, a. 760; 2002, c. 19, s. 15; I.N. 2014-05-01; I.N. 2015-11-01.

761. A legacy made to the owner, a director, an operator, a person responsible or an employee of an institution, of another lodging facility or of a residence within the meaning of the laws relating to health and social services, or to a person who carries on remunerated or non-remunerated activities there, is without effect if it was made while the testator was receiving care or services there, unless the legatee is also the spouse or a close relative of the testator.

A legacy made to a member of a foster family while the testator was residing with that family is also without effect.

1991, c. 64, a. 761; 2002, c. 19, s. 15; I.N. 2014-05-01; 2023, c. 34, s. 833.

762. A legacy of property of another is without effect, unless it appears that the intention of the testator was to oblige the heir to obtain the bequeathed property for the legatee by particular title.

1991, c. 64, a. 762; 2002, c. 19, s. 15.

CHAPTER V

REVOCATION OF WILLS AND LEGACIES

763. Revocation of a will or of a legacy is express or tacit.

1991, c. 64, a. 763.

764. A legacy made to the spouse before a divorce or the dissolution of a civil union is revoked unless the testator manifested, by means of testamentary provisions, the intention of benefitting the spouse despite that possibility.

Revocation of the legacy entails revocation of the designation of the spouse as liquidator of the succession.

The same rules apply if the marriage or civil union is declared null during the lifetime of the spouses.

1991, c. 64, a. 764; 2002, c. 6, s. 42; I.N. 2014-05-01.

765. Express revocation is made by a subsequent will explicitly declaring the change of intention.

A revocation that does not specifically refer to the revoked act is nonetheless express.

1991, c. 64, a. 765.

766. A will that revokes another will may be made in a different form from that of the revoked will.

1991, c. 64, a. 766.

767. The destruction, tearing or erasure of a holograph will or of a will made in the presence of witnesses entails revocation if it is established that this was done deliberately by the testator or on his instructions. Similarly, the erasure of any provision of a will entails revocation of the legacy made by that provision.

Revocation is entailed also where the testator was aware of the destruction or loss of the will and could have replaced it.

1991, c. 64, a. 767; I.N. 2014-05-01.

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768. A subsequent testamentary provision similarly entails tacit revocation of a previous provision to the extent that they are inconsistent.

The revocation retains its full effect even if the subsequent provision lapses.

1991, c. 64, a. 768; I.N. 2014-05-01.

769. Alienation of bequeathed property, even when forced or made under a resolutive condition or by exchange, also entails revocation with regard to everything that has been alienated, unless the testator provided otherwise.

Revocation subsists even if the alienated property has returned into the patrimony of the testator, unless a contrary intention is proved.

If the forced alienation of the bequeathed property is annulled, it does not entail revocation.

1991, c. 64, a. 769.

770. Revocation of a previous express or tacit revocation does not revive the original provision, unless the testator manifested a contrary intention or unless such intention is apparent from the circumstances.

1991, c. 64, a. 770; I.N. 2014-05-01.

771. If, owing to circumstances unforeseeable at the time of the acceptance of the legacy, the execution of a charge becomes impossible or too burdensome for the heir or the legatee by particular title, the court, after hearing the interested persons, may revoke it or change it, taking account of the value of the legacy, the intention of the testator and the circumstances.

1991, c. 64, a. 771.

CHAPTER VI

PROOF AND PROBATE OF WILLS

772. A holograph will or a will made in the presence of witnesses is probated, on the application of any interested person, in the manner prescribed in the Code of Civil Procedure (chapter C-25.01).

The known heirs and successors shall be summoned to the probate of the will unless an exemption is granted by the court.

1991, c. 64, a. 772; I.N. 2014-05-01; I.N. 2016-01-01 (NCCP).

773. No person having acknowledged a will may thereafter contest its validity, although he may apply to have the will probated.

In the case of contestation of a will which has been probated, the burden is on the person availing himself of the will to prove its origin and regularity.

1991, c. 64, a. 773; I.N. 2014-05-01.

774. A will that is not produced may not be probated; it must be reconstituted upon an action in which the heirs, the other successors and the legatees by particular title have been summoned, and the proof of its contents, origin and regularity must be conclusive and unequivocal.

1991, c. 64, a. 774; I.N. 2014-05-01; I.N. 2015-11-01.

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775. Proof by testimony of a will that cannot be produced is admissible if the will has been lost or destroyed, or is in the possession of a third person, without the collusion of the person who wishes to avail himself of the will.

1991, c. 64, a. 775.

TITLE FIVE

LIQUIDATION OF SUCCESSIONS

CHAPTER I

OBJECT OF LIQUIDATION AND SEPARATION OF PATRIMONIES

776. The liquidation of an intestate or testate succession consists in identifying and calling in the successors, determining the content of the succession, recovering the claims, paying the debts of the succession, whether these be debts of the deceased, charges on the succession or debts of support, paying the legacies by particular title, rendering an account and delivering the property.

1991, c. 64, a. 776.

777. The liquidator exercises, from the opening of the succession and for the time necessary for liquidation, the seisin of the heirs and the legatees by particular title.

The liquidator may even claim the property against the heirs and the legatees by particular title.

The designation or replacement of the liquidator of the succession is published in the register of personal and movable real rights and, where applicable, in the land register. Registration of the act of designation or replacement is obtained by presenting a notice which refers to the act of designation or replacement, identifies the deceased and the liquidator and contains the description of the immovables concerned, if any.

1991, c. 64, a. 777; 1998, c. 51, s. 26; 1999, c. 49, s. 1; 2016, c. 4, s. 105.

778. The testator may modify the seisin, powers and obligations of the liquidator and provide in any other manner for the liquidation of his succession or the execution of his will. However, a clause that would in effect restrict the powers or obligations of the liquidator in such a manner as to prevent an act necessary for liquidation or to exempt him from making an inventory is deemed unwritten.

1991, c. 64, a. 778; 2002, c. 19, s. 15.

779. Where the succession is manifestly solvent, the heirs may, by mutual agreement, liquidate it without following the prescribed rules for liquidation. As a result of this decision, they are liable for payment of the debts of the succession from their own patrimony, even where the debts exceed the value of the property they take.

1991, c. 64, a. 779; I.N. 2014-05-01.

780. The patrimony of the deceased is separate from that of the heir by operation of law until the succession has been liquidated.

The separation has effect with regard to both the creditors of the succession and the creditors of the heir or of the legatee by particular title.

1991, c. 64, a. 780; I.N. 2014-05-01.

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781. The property of the succession is used to pay the creditors of the succession and to pay the legatees by particular title, in preference to any creditor of the heir.

1991, c. 64, a. 781.

782. The property of the heir is used to pay the debts of the succession only in the case where the heir is liable for debts of greater value than the property he takes and the property of the succession is insufficient.

In that case, payment of the creditor of the succession is made only after payment of the creditor of each heir whose claim arose before the opening of the succession. However, a creditor of the heir whose claim arose after the opening of the succession is paid concurrently with the unpaid creditors of the succession.

1991, c. 64, a. 782; I.N. 2014-05-01.

CHAPTER II

LIQUIDATOR OF THE SUCCESSION

DIVISION I

DESIGNATION AND RESPONSIBILITIES OF THE LIQUIDATOR

783. Any person fully capable of exercising his civil rights may hold the office of liquidator.

A legal person authorized by law to administer the property of others may hold the office of liquidator.

1991, c. 64, a. 783.

784. No one is bound to accept the office of liquidator of a succession unless he is the sole heir.

1991, c. 64, a. 784; I.N. 2015-11-01.

785. The office of liquidator devolves by operation of law to the heirs unless otherwise provided by a testamentary provision; the majority of the heirs may designate the liquidator and provide the mode of his replacement.

1991, c. 64, a. 785; I.N. 2014-05-01; 2016, c. 4, s. 106.

785.1. If the sole heir is a minor or a person of full age under tutorship or under a protection mandate, unless otherwise provided by a testamentary provision, his representative designates a liquidator other than himself and may provide the mode of the liquidator's replacement.

The same rule applies if such an heir and his representative are the two sole heirs.

2020, c. 11, s. 68.

786. A testator may designate one or several liquidators; he may also provide the mode of their replacement.

A person designated by a testator to liquidate the succession or execute his will has the quality of liquidator whether he was designated as administrator of the succession, testamentary executor or otherwise.

1991, c. 64, a. 786.

787. Persons holding the office of liquidator together shall act in concert, unless exempted therefrom by the will or, in the absence of a testamentary provision, by the heirs.

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If one of the liquidators is prevented from acting, the others may perform alone acts of a conservatory nature and acts requiring dispatch.

1991, c. 64, a. 787; I.N. 2014-05-01.

788. The court may, on the application of an interested person, designate or replace a liquidator failing agreement among the heirs or if it is impossible to appoint or replace the liquidator.

1991, c. 64, a. 788.

789. The liquidator is entitled to the reimbursement of the expenses incurred in fulfilling his office.

He is entitled to remuneration if he is not an heir; if he is an heir, he may be remunerated if the will so provides or the heirs so agree.

If the remuneration was not fixed by the testator, it is fixed by the heirs or, in case of disagreement among the interested persons, by the court.

1991, c. 64, a. 789.

790. The liquidator is not bound to take out insurance or to furnish other security guaranteeing the performance of his obligations, unless the testator or the majority of the heirs require it or the court orders it on the application of any interested person who establishes the need for such a measure.

If a liquidator required to furnish security fails or refuses to do so, he forfeits his office, unless the court relieves him of his default.

1991, c. 64, a. 790; I.N. 2014-05-01; 2016, c. 4, s. 107.

791. Any interested person may apply to the court for the replacement of a liquidator who is unable to assume the responsibilities of his office, who neglects his duties or who does not fulfil his obligations.

During the proceedings, the liquidator continues to hold office unless the court decides to designate a provisional liquidator.

1991, c. 64, a. 791; I.N. 2014-05-01.

792. Where the liquidator is not designated, delays to accept or decline the office or is to be replaced, any interested person may apply to the court to have seals affixed, an inventory made, a provisional liquidator appointed or any other order rendered which is necessary to preserve his rights. These measures benefit all the interested persons but create no preference among them.

The costs of inventory and seals are charged to the succession.

1991, c. 64, a. 792; I.N. 2014-05-01.

793. Acts performed by a person who, in good faith, believed he was liquidator of the succession are valid and may be set up against anyone.

1991, c. 64, a. 793; I.N. 2014-05-01.

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DIVISION II

INVENTORY OF THE PROPERTY

794. The liquidator is bound to make an inventory, in the manner prescribed in the Title on Administration of the Property of Others.

1991, c. 64, a. 794.

795. Closure of the inventory is published in the register of personal and movable real rights by registration of a notice identifying the deceased and indicating the place where the inventory may be consulted by interested persons.

The notice is also published in a newspaper circulated in the locality where the deceased had his last known address.

1991, c. 64, a. 795.

796. The liquidator informs the heirs, the successors who have not yet exercised their option, the legatees by particular title and the known creditors of the registration of the notice of closure and of the place where the inventory may be consulted, and transmits a copy of the inventory to them if that can easily be done.

1991, c. 64, a. 796.

797. The creditors of the succession, the heirs, the successors and the legatees by particular title may contest the inventory or any item in it; they may also agree to a revision of the inventory or request a new inventory.

1991, c. 64, a. 797; I.N. 2014-05-01.

798. Where an inventory has already been made by an heir or another interested person, the liquidator shall verify it. He shall also ascertain that the notice of closure has been registered and that everyone who should have been informed has been informed.

1991, c. 64, a. 798; I.N. 2014-05-01.

799. The liquidator may be exempted from making an inventory, but only with the consent of all the heirs and successors.

If they give their consent, the heirs, and the successors having by that fact become heirs, are liable for the debts of the succession that exceed the value of the property they take.

1991, c. 64, a. 799; I.N. 2014-05-01.

800. Where the heirs, knowing that the liquidator refuses or neglects to make the inventory, themselves neglect, within 60 days following the expiry of the six-month period for deliberation, to proceed with the inventory or to apply to the court to have the liquidator replaced or for an order to have him proceed with the inventory, they are liable for the debts of the succession that exceed the value of the property they take.

1991, c. 64, a. 800; I.N. 2014-05-01.

801. Heirs who, before the inventory, mingle the property of the succession with their personal property, unless the property was already mingled before the death, such as in the case of cohabitation, are likewise liable for the debts of the succession that exceed the value of the property they take.

If the mingling is done after the inventory but before the end of the liquidation, they are personally liable for the debts up to the value of the mingled property.

1991, c. 64, a. 801; I.N. 2014-05-01.

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DIVISION III

FUNCTIONS OF THE LIQUIDATOR

802. The liquidator acts with respect to the property of the succession as an administrator of the property of others charged with simple administration.

1991, c. 64, a. 802; I.N. 2014-05-01.

803. The liquidator shall make a search to ascertain whether the deceased made a will.

If the deceased made a will, the liquidator causes the will to be probated and takes all the necessary steps for its execution.

1991, c. 64, a. 803.

804. The liquidator administers the succession. He realizes the property of the succession to the extent necessary to pay the debts and the legacies by particular title.

To do this, he may alienate, alone, movable property that is perishable, likely to depreciate rapidly or expensive to preserve. He may also alienate the other property of the succession with the consent of the heirs or, failing that, the authorization of the court.

1991, c. 64, a. 804; I.N. 2014-05-01.

805. A liquidator who has an action to bring against the succession gives notice thereof to the Minister of Revenue. The latter acts by virtue of his office as liquidator ad hoc, unless the heirs or the court designate another person.

1991, c. 64, a. 805; 2005, c. 44, s. 54.

806. If the liquidation takes longer than one year, the liquidator shall, at the end of the first year, and at least once a year thereafter, render an annual account of management to the heirs, creditors and legatees by particular title who have not been paid.

1991, c. 64, a. 806.

807. Where the succession is manifestly solvent, the liquidator, after ascertaining that all the creditors and legatees by particular title can be paid, may pay advances to the creditors of support and to the heirs and legatees by particular title of sums of money. The advances are imputed to the shares of those who receive them.

1991, c. 64, a. 807; I.N. 2014-05-01.

CHAPTER III

PAYMENT OF DEBTS AND OF LEGACIES BY PARTICULAR TITLE

DIVISION I

PAYMENTS BY THE LIQUIDATOR

808. If the property of the succession is sufficient to pay all the creditors and all the legatees by particular title and if provision is made to pay the claims that are the subject of proceedings, the liquidator pays the known creditors and known legatees by particular title as and when they present themselves.

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The liquidator pays the ordinary public utility bills and pays the outstanding debts as and when they become due or according to the agreed terms and conditions.

1991, c. 64, a. 808.

809. The liquidator pays, in the same manner as any other debt of the succession, the compensatory allowance to the surviving spouse and any other claim resulting from the liquidation of the patrimonial rights of the married, civil union or parental union spouses, as agreed between the heirs, the legatees by particular title and the spouse or, failing such agreement, as determined by the court.

1991, c. 64, a. 809; 2002, c. 6, s. 43; I.N. 2014-05-01; 2024, c. 22, s. 9.

810. Where the succession is not manifestly solvent, the liquidator may not pay the debts of the succession or the legacies by particular title until the expiry of 60 days from registration of the notice of closure of inventory or from the exemption from making an inventory.

The liquidator may pay the ordinary public utility bills and the debts in urgent need of payment before the expiry of that time, however, if circumstances require it.

1991, c. 64, a. 810.

811. If the property of the succession is insufficient, the liquidator may not pay any debt or legacy by particular title before drawing up a full statement thereof, giving notice to the interested persons and obtaining homologation by the court of a payment proposal which contains a provision for a reserve, if appropriate, for the payment of any potential judgment.

1991, c. 64, a. 811; I.N. 2014-05-01; 2016, c. 4, s. 108.

812. Where the property of the succession is insufficient, the liquidator, in accordance with his payment proposal, first pays the prior or hypothecary creditors, according to their rank; next, he pays the other creditors, except with regard to their claims for support, and, if he is unable to repay them fully, he pays them in proportion to their claims.

If property remains after the creditors have been paid, the liquidator pays the creditors of support, in proportion to their claims if he is unable to pay them fully, and he then pays the legatees by particular title.

1991, c. 64, a. 812; I.N. 2014-05-01.

813. The liquidator may alienate property bequeathed as legacies by particular title or reduce the legacies by particular title if the other property of the succession is insufficient to pay all the debts.

The alienation or reduction is effected in the order and in the proportions agreed by the legatees. Failing agreement, the liquidator first reduces the legacies not having preference under the will nor involving certain and determinate property, in proportion to their value. Where the property is still insufficient, he alienates the subjects of legacies of certain and determinate property, then the subjects of legacies having preference, or reduces such legacies in proportion to their value.

The legatees may always agree to another mode of settlement or be relieved by giving back their legacies or equivalent value.

1991, c. 64, a. 813; I.N. 2014-05-01; I.N. 2015-11-01; 2016, c. 4, s. 109.

814. If the property of the succession is insufficient to pay all the legatees by particular title, the liquidator, in accordance with his payment proposal, first pays those having preference under the will and then the legatees of certain and determinate property. The other legatees then have their legacies reduced proportionately, and the remainder is partitioned among them in proportion to the value of each legacy.

1991, c. 64, a. 814; I.N. 2014-05-01; 2016, c. 4, s. 110.

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DIVISION II

ACTION OF CREDITORS AND LEGATEES BY PARTICULAR TITLE

815. Known creditors and legatees by particular title who have been omitted in the payments made by the liquidator have, in addition to their action in liability against the liquidator, an action against the heirs who have received advances and against the legatees by particular title paid to their detriment.

Subsidiarily, the creditors also have an action against the other creditors in proportion to their claims, taking into account the causes of preference.

1991, c. 64, a. 815; I.N. 2014-05-01.

816. Creditors and legatees by particular title who, remaining unknown, do not present themselves until after the payments have been regularly made have no action against the heirs who have received advances and against the legatees by particular title paid to their detriment unless they prove that they had a serious reason for not presenting themselves in due time.

In no case do they have an action if they present themselves after the expiry of three years from the discharge of the liquidator, or any preference over the personal creditors of the heirs or legatees.

1991, c. 64, a. 816.

817. Where the reserve provided for in a payment proposal is insufficient, the creditor has, for the payment of his share of the outstanding claim, an action against the heirs who have received advances and legatees by particular title up to the amount they received and, subsidiarily, an action against the other creditors, in proportion to their claims, taking into account the causes of preference.

1991, c. 64, a. 817; I.N. 2014-05-01.

818. A hypothecary creditor who has an outstanding claim retains, in addition to his personal action, his hypothecary rights against the person who received the hypothecated property.

1991, c. 64, a. 818; I.N. 2014-05-01.

CHAPTER IV

END OF LIQUIDATION

DIVISION I

ACCOUNT OF THE LIQUIDATOR

819. Liquidation is complete when the known creditors and the known legatees by particular title have been paid or when payment of their claims and legacies is otherwise settled or assumed by heirs or legatees by particular title. It is also complete when the assets are exhausted.

It ends by the discharge of the liquidator.

1991, c. 64, a. 819; I.N. 2014-05-01.

820. The object of the final account of the liquidator is to determine the net assets or the deficit of the succession.

The final account indicates the debts and legacies left unpaid, those guaranteed by security or assumed by heirs or legatees by particular title and those whose payment is settled otherwise, specifying the mode of payment for each. Where applicable, it establishes the reserves needed for the satisfaction of potential judgments.

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The liquidator shall append a proposal for partition to his account if that is required by the will or the majority of the heirs.

1991, c. 64, a. 820; I.N. 2014-05-01.

821. The liquidator, at any time and with the concurrence of all the heirs, may render an amicable account. The cost of rendering the account is borne by the succession.

If an amicable account cannot be rendered, the account is rendered in court.

1991, c. 64, a. 821; 2016, c. 4, s. 111.

822. After acceptance of the final account, the liquidator is discharged of his administration and delivers the property to the heirs.

Closure of the account is published in the register of personal and movable real rights by registration of a notice identifying the deceased and indicating the place where the account may be consulted.

1991, c. 64, a. 822; I.N. 2014-05-01; 2016, c. 4, s. 112.

DIVISION II

OBLIGATIONS OF HEIRS AND LEGATEES BY PARTICULAR TITLE AFTER LIQUIDATION

823. The sole heir to a succession is liable, up to the value of the property he takes, for all the debts not paid by the liquidator. However, the creditors and legatees by particular title who do not present themselves until after the payments have been regularly made have no preference over the personal creditors of the heir.

Where a succession devolves to several heirs, each of them is liable for the debts only in proportion to the share he receives as an heir, subject to the rules governing indivisible debts.

1991, c. 64, a. 823.

824. The legatee by general title of a usufruct is solely liable to the creditors for the debts left unpaid by the liquidator, even for the capital, proportionately to what he receives, and also for hypothecs charged on any property he has received.

The relative contributions of the legatee by general title of the usufruct and of the bare owner to the debts are determined according to the rules prescribed in the Book on Property.

1991, c. 64, a. 824; I.N. 2015-11-01.

825. The legatee by general title of a usufruct of the entire succession is, without recourse against the bare owner, liable for payment of any annuities or support established by the testator.

1991, c. 64, a. 825.

826. The heirs are liable, as in the case of payment of the debts, for payment of the legacies by particular title left unpaid by the liquidator, but never for more than the value of the property they take.

If a legacy is imposed on a specific heir, however, the action of the legatee by particular title does not lie against the others.

1991, c. 64, a. 826.

827. The legatees by particular title are liable for payment of the debts and legacies left unpaid by the liquidator only where the property devolving to the heirs is insufficient.

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Where a legacy by particular title is made jointly to several legatees, each of them is liable for the debts and legacies only in proportion to his share in the bequeathed property, subject to the rules on indivisible debts.

1991, c. 64, a. 827; I.N. 2014-05-01.

828. When a legacy by particular title includes a universality of assets and liabilities, the legatee is solely liable for payment of the debts connected with the universality, subject to the subsidiary action of the creditors against the heirs and the other legatees by particular title where the property of the universality is insufficient.

1991, c. 64, a. 828.

829. An heir or a legatee by particular title who has paid part of the debts and legacies in excess of his share has an action against his coheirs or colegatees for the reimbursement of the excess over his share. His action lies, however, only for the share that each of them ought to have paid individually, even if he is subrogated to the rights of the person who was paid.

1991, c. 64, a. 829.

830. If one of the coheirs or colegatees is insolvent, his share in the payment of the debts or in the reduction of the legacies is divided among his coheirs or colegatees in proportion to their respective shares, unless one of the coheirs or colegatees agrees to bear the entire amount.

1991, c. 64, a. 830.

831. A usufruct established on bequeathed property is borne without recourse by the legatee of the bare ownership.

Similarly, a servitude is borne without recourse by the legatee of the property charged with it.

1991, c. 64, a. 831.

832. Where the rights of action of the unpaid creditors or legatees by particular title are exercised before partition, account shall be taken, in the composition of the shares, of the actions of the heirs or legatees against their coheirs or colegatees for the amounts they paid in excess of their shares.

Where the rights of action of the unpaid creditors or legatees are exercised after partition, those of the heirs or legatees who paid more than their share are exercised, where such is the case, according to the rules applicable to the warranty of co-partitioners, unless the act of partition stipulates otherwise.

1991, c. 64, a. 832.

833. The testator may change the manner and proportion in which the law holds his heirs and legatees by particular title liable for payment of the debts and imposes reduction of the legacies on them.

The changes may not be set up against the creditors; they have effect only between the heirs and the legatees by particular title.

1991, c. 64, a. 833; I.N. 2014-05-01.

834. An heir having assumed payment of the debts of the succession beyond the value of the property he takes or being liable for them may be held liable on his personal property for his share of the debts left unpaid.

1991, c. 64, a. 834.

835. An heir having assumed payment of the debts of the succession or being liable for them under the rules of this Title may, if he was in good faith, apply to the court to have his obligation reduced or his liability

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limited to the value of the property he has taken if new circumstances substantially change the extent of his obligation, including, but not limited to, his discovery of new facts, or the coming forward of a creditor of whose existence he could not have been aware when he assumed the obligation.

1991, c. 64, a. 835; I.N. 2014-05-01.

TITLE SIX

PARTITION OF SUCCESSIONS

CHAPTER I

RIGHT TO PARTITION

836. Partition may not take place or be applied for before the liquidation is terminated.

1991, c. 64, a. 836.

837. The testator, for a serious and legitimate reason, may order partition wholly or partly deferred for a limited time. He may also order it deferred if, to carry out his intentions fully, it is necessary that the powers and obligations of the liquidator continue to be held under another title.

1991, c. 64, a. 837.

838. If all the heirs agree, partition is made in accordance with the proposal appended to the final account of the liquidator or is made as they see best.

If the heirs disagree, partition may not take place except under the conditions set out in Chapter II and in the forms required by the Code of Civil Procedure (chapter C-25.01).

1991, c. 64, a. 838; I.N. 2014-05-01; I.N. 2016-01-01 (NCCP); 2016, c. 4, s. 113.

839. Notwithstanding an application for partition, indivision may be maintained in respect of a family enterprise that had been operated by the deceased, or of the shares or other securities connected with the enterprise where the deceased was the principal partner or shareholder.

1991, c. 64, a. 839; I.N. 2014-05-01.

840. Indivision may also be maintained in respect of the family residence or of movable property serving for the use of the household, even where a right of ownership, usufruct or use is granted to the surviving spouse who was connected to the deceased by marriage, civil union or parental union.

1991, c. 64, a. 840; 2002, c. 6, s. 44; I.N. 2014-05-01; 2024, c. 22, s. 10.

841. An heir who before the death actively participated in the operation of the enterprise or lived in the family residence may apply to the court for the maintenance of the indivision.

1991, c. 64, a. 841; I.N. 2014-05-01.

842. When deciding an application for the maintenance of indivision, the court takes into account the testamentary provisions, as well as the interests involved and the means of livelihood which the family and the heirs derive from the undivided property; in all cases, the agreements among the partners or shareholders to which the deceased was a party are respected.

1991, c. 64, a. 842; I.N. 2014-05-01; 2016, c. 4, s. 114.

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843. On the application of an heir, the court may, to avoid a loss, stay the immediate partition of the whole or part of the property and maintain indivision in respect of it.

1991, c. 64, a. 843; I.N. 2014-05-01.

844. Maintenance of indivision takes place upon the conditions fixed by the court but may not be granted for a duration of more than five years except with the agreement of all the interested persons.

It may be renewed until the death of the married, civil union or parental union spouse or until the majority of the youngest child of the deceased.

1991, c. 64, a. 844; 2002, c. 6, s. 45; I.N. 2014-05-01; 2024, c. 22, s. 11.

845. The court may order partition where the causes that justified the maintenance of indivision have ceased or where indivision has become intolerable or presents great risks for the heirs.

1991, c. 64, a. 845; I.N. 2014-05-01; 2016, c. 4, s. 115.

846. If an application for the maintenance of indivision contemplates a particular item of property or a group of properties, nothing prevents proceeding with the partition of the residue of the property of the succession. Furthermore, the heirs may always satisfy an heir who objects to the maintenance of indivision by paying his share themselves or granting him, after evaluation, other property of the succession.

1991, c. 64, a. 846; I.N. 2014-05-01.

847. A person entitled only to enjoyment of a share of the undivided property may only participate in a provisional partition.

1991, c. 64, a. 847; I.N. 2014-05-01; 2016, c. 4, s. 116.

848. Every heir may exclude from the partition a person who is not an heir but to whom another heir transferred his right in the succession, by paying him the value of the right as at the time of the withdrawal and his disbursements for costs related to the transfer.

1991, c. 64, a. 848; I.N. 2014-05-01.

CHAPTER II

MODES OF PARTITION

DIVISION I

COMPOSITION OF SHARES

849. Partition may include all or only part of the undivided property.

Partition of an immovable is deemed to have been carried out even if parts remain which are common and indivisible or which are intended to remain undivided.

1991, c. 64, a. 849.

850. If the undivided shares are equal, as many shares are composed as there are heirs or partitioning roots.

If the undivided shares are unequal, as many shares are composed as necessary to allow a drawing of lots.

1991, c. 64, a. 850.

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851. In composing the shares, account shall be taken of the testamentary provisions, particularly those charging certain heirs with payment of debts or legacies, as well as the rights of action the heirs have against each other for the amounts they paid in excess of their shares; account shall also be taken of the rights of the surviving spouse who was connected to the deceased by marriage, civil union or parental union, the applications for allotment by preference, the objections and, where such is the case, the reserve funds for satisfying potential judgments.

Consideration may also be given to, among other things, the fiscal consequences of the allotments, the intention shown by certain heirs to assume certain debts or the convenience of the mode of allotment.

1991, c. 64, a. 851; 2002, c. 6, s. 46; I.N. 2014-05-01; 2024, c. 22, s. 12.

852. In composing the shares, immovables should not be parcelled and enterprises should not be divided up.

Insofar as the dividing up of immovables and enterprises can be avoided, each share shall, as far as possible, be composed of movable or immovable property and rights or claims of equivalent value.

Any inequality in the value of the shares is compensated by the payment of an equalizing sum.

1991, c. 64, a. 852; I.N. 2014-05-01; I.N. 2015-11-01.

853. Heirs in indivision who make an amicable partition compose the shares as they see fit and decide, by mutual agreement, on their allotment or on a drawing of lots for them.

If they consider it necessary to sell all or some of the property to be partitioned, they also set, by mutual agreement, the terms and conditions of sale.

1991, c. 64, a. 853; I.N. 2014-05-01.

854. If the heirs in indivision fail to agree as to the composition of the shares, the shares are composed by an expert designated by the court; if the failure to agree concerns the allotment of the shares, the allotment is made by a drawing of lots.

Before the drawing, each heir in indivision may contest the composition of the shares.

1991, c. 64, a. 854; I.N. 2014-05-01.

DIVISION II

PREFERENTIAL ALLOTMENTS AND CONTESTATION

855. Each heir receives his share of the property of the succession in kind, and may apply for the allotment, by preference, of particular property or a share.

1991, c. 64, a. 855; I.N. 2014-05-01.

856. The surviving spouse who was connected to the deceased by marriage, civil union or parental union may, in preference to any other heir, require that the family residence or the rights conferring use of it, together with the movable property serving for the use of the household, be placed in his or her share.

If the value of the property exceeds the share due to the spouse, he or she keeps the property, subject to the payment of an equalizing sum.

1991, c. 64, a. 856; 2002, c. 6, s. 47; I.N. 2014-05-01; 2024, c. 22, s. 13.

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857. Subject to the rights of the surviving spouse who was connected to the deceased by marriage, civil union or parental union, if several heirs apply for the allotment by preference of the immovable that served as the residence of the deceased, preference goes to the person who was residing there.

1991, c. 64, a. 857; 2002, c. 6, s. 48; I.N. 2014-05-01; 2024, c. 22, s. 14.

858. Notwithstanding any objection or application for an allotment by preference presented by another co-partitioner, the enterprise, or the shares or other securities connected with the enterprise, are allotted by preference to the heir who was actively participating in the operation of the enterprise at the time of the death.

1991, c. 64, a. 858; I.N. 2014-05-01.

859. If several heirs assert the same right of preference or if an application for an allotment is contested, the contestation is settled by a drawing of lots or, if it concerns the allotment of the residence, the enterprise or the securities connected with the enterprise, by the court. In this case, account is taken of, among other things, the interests involved, the reasons for the preference of each party or the degree of his participation in the enterprise or in the maintenance of the residence.

1991, c. 64, a. 859; I.N. 2014-05-01; I.N. 2015-11-01; 2016, c. 4, s. 117.

860. Where the contestation among the co-partitioners is over the determination or payment of an equalizing sum, the court determines it and may, if necessary, fix the appropriate terms and conditions of guarantee and payment in the circumstances.

1991, c. 64, a. 860; I.N. 2014-05-01.

861. The property is appraised according to its condition and value at the time of partition.

1991, c. 64, a. 861.

862. If certain property cannot be conveniently partitioned or allotted, the interested persons may decide to sell it.

1991, c. 64, a. 862.

863. If the interested persons cannot agree, the court may, where applicable, designate experts to evaluate the property, order the sale of the property that cannot conveniently be partitioned or allotted and fix the terms and conditions of sale; or it may order a stay of partition for the time it indicates.

1991, c. 64, a. 863.

864. In order that the partition not be made in fraud of their rights, the creditors of the succession and those of an heir may be present at the partition and intervene at their own expense.

1991, c. 64, a. 864; I.N. 2014-05-01.

DIVISION III

DELIVERY OF TITLES

865. After partition, the titles common to all or part of the inheritance are delivered to the person chosen by the heirs to act as depositary, on the condition that he allow the co-partitioners to make use of them at their request. Failing agreement on the choice, it is made by a drawing of lots.

1991, c. 64, a. 865; I.N. 2014-05-01; 2016, c. 4, s. 118.

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866. At partition, any heir who so requests may obtain, at common expense, a copy of the titles to property in which he retains rights.

1991, c. 64, a. 866; I.N. 2014-05-01.

CHAPTER III

RETURN

DIVISION I

RETURN OF GIFTS AND LEGACIES

867. With a view to partition, each coheir is bound to return to the mass only what he has received from the deceased by gift or by will under an express obligation to return it.

A successor who renounces the succession is under no obligation to make any return.

1991, c. 64, a. 867.

868. A person who represents another in the succession is bound to return what the person represented would have had to return, in addition to what he is bound to return in his own right.

A return is due even if the person who represents the other has renounced the succession of the person represented.

1991, c. 64, a. 868.

869. A return is made only to the succession of the donor or of the testator.

It is due only from one coheir to another and is not due to the legatees by particular title or to the creditors of the succession.

1991, c. 64, a. 869.

870. A return is made by taking less.

Any provision requiring the heir to make a return in kind is without effect. However, the heir may elect to make the return in kind if he still owns the property, unless he has charged it with a usufruct, servitude, hypothec or other real right.

1991, c. 64, a. 870; 2002, c. 19, s. 15.

871. Each coheir to whom a return by taking less is due pre-takes from the mass of the succession property equal in value to the amount of the return.

As far as possible, pre-takings are made in property of the same kind and quality as the property due to be returned.

If it is impossible to pre-take in the manner described, the heir returning may either pay the cash value of the property received or allow each coheir to pre-take other property of equivalent value from the mass.

1991, c. 64, a. 871; 2016, c. 4, s. 119.

872. A return by taking less may also be made by imputing the cash value of the property received to the share of the heir.

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873. Unless otherwise provided in the gift or will, property returned by taking less is valued at the time of partition if it is still in the hands of the heir, or on the date of alienation if it was alienated before partition.

Bequeathed property, and that which remains in the succession, is valued according to its condition and value at the time of partition.

1991, c. 64, a. 873.

874. The value of property returned by taking less, or returned in kind, shall be reduced by the increase in value of the property resulting from the disbursements or personal initiative of the heir returning it.

It is also reduced by the amount of the necessary disbursements.

Conversely, the value is increased by the decrease in value resulting from the acts or omissions of the heir making the return.

1991, c. 64, a. 874; I.N. 2014-05-01; 2016, c. 4, s. 120.

875. The heir is entitled to retain the property due to be returned in kind until he has been reimbursed the amounts he is owed.

1991, c. 64, a. 875.

876. An heir is bound to make a return in regard to property whose loss results from his acts or omissions; he is not bound to do so if the loss results from superior force.

In either case, he shall return any indemnity paid to him for the loss of the property.

1991, c. 64, a. 876; I.N. 2014-05-01.

877. The co-partitioners may agree that property charged with a hypothec or other real right be returned in kind; the return is then made without prejudice to the holder of the right. The obligation resulting therefrom is, in the partition of the succession, borne by the heir who makes the return.

1991, c. 64, a. 877; I.N. 2014-05-01.

878. The fruits and revenues of the property given or bequeathed, if the property is returned in kind, or the interest on the amount returnable, are also returnable from the opening of the succession.

1991, c. 64, a. 878.

DIVISION II

RETURN OF DEBTS

879. An heir coming to a partition shall return to the mass the debts he owes to the deceased; he shall also return the amounts he owes to his co-partitioners by reason of the indivision.

These debts are subject to return even if they are not due when partition takes place; they are not subject to return if the testator provided for release therefrom to take effect at the opening of the succession.

1991, c. 64, a. 879.

880. If the amount in capital and interest of the debt to be returned exceeds the value of the hereditary share of the heir who is bound to make the return, the heir remains indebted for the excess and shall pay it according to the terms and conditions attached to the debt.

1991, c. 64, a. 880.

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881. If an heir bound to make a return has a claim of his own to make, even though it is not exigible at the time of partition, compensation is effected and he is bound to return only the balance of his debt.

Compensation is also effected if the claim exceeds the debt and the heir remains creditor for the excess.

1991, c. 64, a. 881; I.N. 2014-05-01.

882. A return is made by taking less.

The pre-taking effected by the coheirs or the imputation of the amount to the share of the heir may be set up against the personal creditors of the heir who is bound to make the return.

1991, c. 64, a. 882; I.N. 2014-05-01.

883. A return shall be made of the value of the debt in capital and interest at the time of partition.

A returnable debt bears interest from the death if it precedes the death and from the date when it arose if it arose after the death.

1991, c. 64, a. 883.

CHAPTER IV

EFFECTS OF PARTITION

DIVISION I

THE DECLARATORY EFFECT OF PARTITION

884. Partition is declaratory of ownership.

Each co-partitioner is deemed to have inherited, alone and directly, all the property included in his share or which devolves to him through any partial or complete partition. He is deemed to have owned the property from the death, and never to have owned the other property of the succession.

1991, c. 64, a. 884.

885. Any act the object of which is to terminate indivision between co-partitioners is equivalent to a partition, even though the act is described as a sale, an exchange, a transaction or otherwise.

1991, c. 64, a. 885.

886. Subject to the provisions concerning the administration of undivided property and the juridical relationships between an heir and his successors, acts performed by an heir in indivision and real rights granted by him in property which has not been allotted to him may not be set up against any other heirs in indivision who have not consented to them.

1991, c. 64, a. 886; I.N. 2014-05-01.

887. Acts validly made during indivision resulting from death retain their effect, regardless of which heir receives the property at partition.

Each heir is then deemed to have made the acts concerning the property which devolves to him.

1991, c. 64, a. 887.

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888. The declaratory effect also applies to claims against third persons, to any assignment of these claims made during indivision by one of the coheirs and to any seizure in the hands of a third person of the claims by the creditors of one of the coheirs.

The setting up of the allotment of claims against debtors is subject to the rules of the Book on Obligations relating to assignment of claims.

1991, c. 64, a. 888; I.N. 2014-05-01; I.N. 2016-01-01 (NCCP); 2016, c. 4, .s 121.

DIVISION II

WARRANTY OF CO-PARTITIONERS

889. Co-partitioners are warrantors towards each other only for the disturbances and evictions arising from a cause prior to the partition.

Nevertheless, each co-partitioner remains a warrantor for any eviction caused by his personal acts or omissions.

1991, c. 64, a. 889; I.N. 2014-05-01.

890. The insolvency of the debtor of a claim devolving to one of the co-partitioners gives rise to a warranty in the same manner as an eviction, if the insolvency occurred prior to partition.

1991, c. 64, a. 890; I.N. 2014-05-01.

891. The warranty does not arise if the eviction has been excepted by a stipulation in the act of partition; it terminates if the co-partitioner is evicted through his own fault.

1991, c. 64, a. 891.

892. Each co-partitioner is personally bound in proportion to his share to indemnify his co-partitioner for the loss which the eviction has caused him.

The loss is valued as on the day of the partition.

1991, c. 64, a. 892.

893. If one of the co-partitioners is insolvent, the indemnity for which he is bound shall be divided proportionately between the warrantee and all the solvent co-partitioners.

1991, c. 64, a. 893; I.N. 2014-05-01.

894. The action in warranty is prescribed by three years from eviction or discovery of the disturbance, or from partition if it is caused by the insolvency of a debtor of the succession.

1991, c. 64, a. 894; I.N. 2014-05-01.

CHAPTER V

NULLITY OF PARTITION

895. Partition, even partial, may be annulled for the same causes as contracts.

However, instead of an annulment, a supplementary or corrective partition may be effected in any case where it is to the advantage of the co-partitioners.

1991, c. 64, a. 895; I.N. 2014-05-01.

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896. Mere omission of undivided property does not give rise to an action in nullity, but only to a supplementary partition.

1991, c. 64, a. 896.

897. In deciding whether lesion has occurred, the value of the property is considered as at the time of partition.

1991, c. 64, a. 897.

898. The defendant in an action in nullity of partition may, in all cases, terminate the action and prevent a new partition by offering and delivering to the plaintiff the supplement from the defendant's share of the succession, in money or in kind.

1991, c. 64, a. 898; I.N. 2014-05-01.

BOOK FOUR

PROPERTY

GENERAL PROVISION

2015, c. 35, s. 1.

898.1. Animals are not things. They are sentient beings and have biological needs.

In addition to the provisions of special Acts which protect animals, the provisions of this Code and of any other Act concerning property nonetheless apply to animals.

2015, c. 35, s. 1.

TITLE ONE

KINDS OF PROPERTY AND ITS APPROPRIATION

CHAPTER I

KINDS OF PROPERTY

899. Property, whether corporeal or incorporeal, is divided into immovables and movables.

1991, c. 64, a. 899.

900. Land, and any constructions and works of a permanent nature located thereon and anything forming an integral part thereof, are immovables.

Plants and minerals, as long as they are not separated or extracted from the land, are also immovables. Fruits and other products of the soil may be considered to be movables, however, when they are the object of an act of disposition.

1991, c. 64, a. 900; 2002, c. 19, s. 15; 2016, c. 4, s. 122.

901. Movables incorporated with an immovable that lose their individuality and ensure the utility of the immovable form an integral part of the immovable.

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902. Integral parts of an immovable that are temporarily detached therefrom retain their immovable character if they are destined to be put back.

1991, c. 64, a. 902.

903. Movables which are permanently physically attached or joined to an immovable without losing their individuality and without being incorporated with the immovable are immovables for as long as they remain there and ensure the utility of the immovable.

However, movables which, in the immovable, are used to operate an enterprise or to carry on activities remain movables.

1991, c. 64, a. 903; 2013, c. 27, s. 28.

904. Real rights in immovables, as well as actions to assert such rights or to obtain possession of immovables, are immovables.

1991, c. 64, a. 904.

905. Things which can be moved are movables.

1991, c. 64, a. 905; 2015, c. 35, s. 2.

906. Waves or energy harnessed and put to use by man, whether their source is movable or immovable, are deemed corporeal movables.

1991, c. 64, a. 906.

907. All other property, if not qualified by law, is movable.

1991, c. 64, a. 907.

CHAPTER II

PROPERTY IN RELATION TO THAT WHICH IT PRODUCES

1991, c. 64, c. II; I.N. 2014-05-01.

908. Property, according to its relation to other property, may be divided into capital, and fruits and revenues.

1991, c. 64, a. 908; I.N. 2014-05-01.

909. Property that produces fruits and revenues, property appropriated for the service or operation of an enterprise, shares of a legal person or partnership, the reinvestment of the fruits and revenues, the price for any disposal of capital or its reinvestment, and expropriation or insurance indemnities in replacement of capital, are capital.

Capital also includes rights of intellectual or industrial property except sums derived therefrom without alienation of the rights, bonds and other loan certificates payable in cash and rights the exercise of which tends to increase the capital, such as the right to subscribe to securities of a legal person, limited partnership or trust.

1991, c. 64, a. 909; 2016, c. 4, s. 123.

910. Fruits and revenues are that which is produced by property without any alteration to its substance or that which is derived from the use of capital. They also include rights the exercise of which tends to increase the fruits and revenues of the property.

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Fruits comprise things spontaneously produced by property or produced by the cultivation or working of land. Fruits also comprise the increase of animals and that which they produce.

Revenues comprise sums of money yielded by property, such as rents, interest and dividends, except those representing the distribution of capital of a legal person; they also comprise sums received by reason of the resiliation or renewal of a lease or of prepayment, or sums allotted or collected in similar circumstances.

1991, c. 64, a. 910; 2015, c. 35, s. 3.

CHAPTER III

PROPERTY IN RELATION TO PERSONS HAVING RIGHTS IN IT OR POSSESSION OF IT

911. A person, alone or with others, may hold a right of ownership or other real right in property, or have possession of the property.

A person also may hold or administer the property of others or be trustee of property appropriated to a particular purpose.

1991, c. 64, a. 911; I.N. 2014-05-01.

912. The holder of a right of ownership or other real right has the right to take part in judicial proceedings to have his right acknowledged.

1991, c. 64, a. 912; I.N. 2014-05-01; 2016, c. 4, s. 124.

913. Certain things may not be appropriated; their use, common to all, is governed by general laws and, in certain respects, by this Code.

However, water and air not intended for public utility may be appropriated if collected and placed in receptacles.

1991, c. 64, a. 913.

914. Certain other things, being without an owner, are not the subject of any right, but may nevertheless be appropriated by occupation if the person taking them does so with the intention of becoming their owner.

1991, c. 64, a. 914; I.N. 2015-11-01.

915. Property belongs to persons or to the State or, in certain cases, is appropriated to a purpose.

1991, c. 64, a. 915.

916. Property is acquired by contract, succession, occupation, prescription, accession or any other mode provided by law.

No one may appropriate property of the State for himself by occupation, prescription or accession except property the State has acquired by succession, vacancy or confiscation, so long as it has not been mingled with its other property. Nor may anyone acquire for himself property of legal persons established in the public interest that is appropriated to public utility.

1991, c. 64, a. 916.

917. Property confiscated under the law is, upon being confiscated, property of the State or, in certain cases, of the legal person established in the public interest authorized by law to confiscate it.

1991, c. 64, a. 917.

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918. Parts of the territory not owned by natural persons or legal persons nor transferred to a trust patrimony belong to the State and form part of its domain. The State is presumed to have the original titles to such property.

1991, c. 64, a. 918.

919. The beds of navigable and floatable lakes and watercourses are property of the State up to the high-water line.

The beds of non-navigable and non-floatable lakes and watercourses bordering lands alienated by the State after 9 February 1918 also are property of the State up to the high-water line; before that date, ownership of the riparian land carried with it, upon alienation, ownership of the beds of non-navigable and non-floatable watercourses.

In all cases, the law or the act of concession may provide otherwise.

1991, c. 64, a. 919.

920. Any person may travel on watercourses and lakes provided he gains legal access to them, does not encroach on the rights of the riparian owners, does not set foot on the banks and complies with the conditions of use of the water.

1991, c. 64, a. 920; I.N. 2014-05-01.

CHAPTER IV

CERTAIN *DE FACTO* RELATIONSHIPS CONCERNING PROPERTY

DIVISION I

POSSESSION

§ 1. — *The nature of possession*

921. Possession is the exercise in fact, by a person himself or by another person having detention of the property, of a real right, with the intention of acting as the holder of that right.

The intention is presumed. Where it is lacking, there is merely detention.

1991, c. 64, a. 921.

922. Only peaceful, continuous, public and unequivocal possession produces effects in law.

1991, c. 64, a. 922.

923. A person having begun to detain property on behalf of another or with acknowledgement of superior domain is presumed to continue to detain it in that quality unless interversion of title is proved on the basis of unequivocal facts.

1991, c. 64, a. 923; I.N. 2014-05-01.

924. Merely facultative acts or acts of sufferance do not found possession.

1991, c. 64, a. 924.

925. The present possessor is presumed to have been in continuous possession from the time he came into possession; he may join his possession to that of his predecessors in title.

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Possession is continuous even if its exercise is temporarily prevented or interrupted.

1991, c. 64, a. 925; I.N. 2014-05-01.

926. Defective possession begins to produce effects only from the time the defect ceases.

Successors by whatever title do not suffer from defects in the possession of their predecessor.

1991, c. 64, a. 926.

927. No thief, receiver of stolen goods or defrauder may invoke the effects of possession, but his successors by whatever title may do so if they were unaware of the defect.

1991, c. 64, a. 927.

§ 2. — *Effects of possession*

928. A possessor is presumed to hold the real right he is exercising. A person contesting that presumption has the burden of proving his own right and, as the case may be, that the possessor has no title, a defective title, or defective possession.

1991, c. 64, a. 928.

929. A possessor in continuous possession for more than a year has a right of action against any person who disturbs his possession or dispossesses him, in order to put an end to the disturbance or be put back into possession.

1991, c. 64, a. 929; I.N. 2014-05-01.

930. Possession vests the possessor with the real right he is exercising if he complies with the rules on prescription.

1991, c. 64, a. 930.

931. A possessor in good faith need not render account of the fruits and revenues of the property, and he bears the costs he incurred to produce them.

A possessor in bad faith shall, after compensating for the costs, remit the fruits and revenues from the day he began to be in bad faith.

1991, c. 64, a. 931; I.N. 2014-05-01.

932. A possessor is in good faith if, when his possession begins, he is justified in believing he holds the real right he is exercising. His good faith ceases from the time his lack of title or the defects of his possession or title are notified to him by a civil proceeding.

1991, c. 64, a. 932.

933. A possessor may be reimbursed or indemnified, in accordance with the rules in the chapter on accession, for the constructions, plantations and works he has made.

1991, c. 64, a. 933; I.N. 2014-05-01.

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DIVISION II

ACQUISITION OF VACANT PROPERTY

§ 1. — *Things without an owner*

934. Things without an owner are things that belong to no one or that have been abandoned.

Movables of slight value or in a very deteriorated condition that are left in a public place, including a public road or a vehicle used for public transportation, are deemed abandoned things.

1991, c. 64, a. 934; 2002, c. 19, s. 15; I.N. 2014-05-01; 2015, c. 35, s. 4.

935. A movable without an owner belongs to the person who appropriates it for himself by occupation.

An abandoned movable, if no one appropriates it for himself, belongs to the municipality that collects it in its territory, or to the State.

1991, c. 64, a. 935.

936. An immovable without an owner belongs to the State. Any person may nevertheless acquire it by natural accession or prescription unless the State has possession of it or is declared the owner of it by a notice of the Minister of Revenue registered in the land register.

1991, c. 64, a. 936; 2005, c. 44, s. 54; I.N. 2015-11-01.

937. Things without an owner which the State appropriates for itself are administered by the Minister of Revenue, who disposes of them according to law.

1991, c. 64, a. 937; 2005, c. 44, s. 54.

938. Treasure belongs to the finder if he finds it on his own land; if it is found on the land of another, one-half belongs to the owner of the land and one-half to the finder, unless the finder was acting for the owner.

1991, c. 64, a. 938.

§ 2. — *Lost or forgotten movables*

939. A movable that is lost or that is forgotten in the hands of a third person or in a public place continues to belong to its owner.

The movable may not be acquired by occupation, but may be prescribed by the person who detains it, as may the price subrogated thereto.

1991, c. 64, a. 939.

940. The finder of a thing shall attempt to find its owner; if he finds him, he shall return it to him.

1991, c. 64, a. 940.

941. The finder of a lost thing, in order to acquire, by prescription, ownership of it or of the price subrogated to it, shall declare the fact that he has found it to a peace officer, to the municipality in whose territory it was found or to the person in charge of the place where it was found.

He may then, at his option, keep the thing, dispose of it in the manner of a person having detention or hand it over for detention to the person to whom he made the declaration.

1991, c. 64, a. 941.

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942. The holder of a found thing, including the State or a municipality, may sell it if it is not claimed within 60 days.

The sale of the thing is held by auction and on the expiry of not less than 10 days after publication of a notice of sale in a newspaper circulated in the locality where the thing was found, stating the nature of the thing and indicating the place, day and hour of the sale.

The holder may dispose of the thing immediately, however, if it is perishable. Also, if there is no bidder at the auction, he may sell the thing by agreement, give it to a charitable institution or, if it is impossible to dispose of it in this way, destroy it.

1991, c. 64, a. 942.

943. The State or a municipality may, in the manner of the holder of a found thing, sell movable property in its hands by auction, without further delay than that required for publication, in the following cases:

(1) the owner of the property claims it but neglects or refuses to reimburse the holder for the cost of administration of the property within 60 days of claiming it;

(2) several persons claim the property as owner, but none of them establishes a clear title or institutes judicial proceedings to establish it within the 60 days or more allotted to him;

(3) a movable deposited in the office of a court is not claimed by its owner within 60 days from notice given him to fetch it or, if it has not been possible to give him any notice, within six months from the final judgment or from the discontinuance of the proceedings.

1991, c. 64, a. 943; 2016, c. 4, s. 125.

944. Where a thing that has been entrusted for safekeeping, work or processing is not claimed within 90 days from completion of the work or the agreed time, it is considered to be forgotten and the holder, after having given notice of the same length of time to the person who entrusted him with the thing, may dispose of it.

1991, c. 64, a. 944.

945. The holder of a thing entrusted but forgotten disposes of it by auction sale as in the case of a found thing, or by agreement. He may also give a thing that cannot be sold to a charitable institution or, if that is not possible, dispose of it as he sees fit.

1991, c. 64, a. 945.

946. The owner of a lost or forgotten thing may revendicate it, so long as his right of ownership has not been prescribed, by offering to pay the cost of its administration and, where applicable, the value of the work done. The holder of the thing may retain it until payment.

If the thing has been alienated, the owner’s right is exercised, notwithstanding article 1714, only against what is left of the price of sale, after deducting the cost of its administration and alienation and the value of the work done.

1991, c. 64, a. 946.

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TITLE TWO

OWNERSHIP

CHAPTER I

NATURE AND EXTENT OF THE RIGHT OF OWNERSHIP

947. Ownership is the right to use, enjoy and dispose of property fully and freely, subject to the limits and conditions for doing so determined by law.

Ownership may be in various modalities and dismemberments.

1991, c. 64, a. 947; I.N. 2015-11-01.

948. Ownership of property gives a right to what it produces and to what is united to it, naturally or artificially, from the time of union. This right is called a right of accession.

1991, c. 64, a. 948; 1992, c. 57, s. 716.

949. The fruits and revenues of property belong to the owner, who bears the costs he incurred to produce them.

1991, c. 64, a. 949.

950. The owner of the property assumes the risks of loss.

1991, c. 64, a. 950.

951. Ownership of the soil carries with it ownership of what is above and what is below the surface.

The owner may make such constructions, works or plantations above or below the surface as he sees fit; he is bound to respect, among other things, the public rights in mines, petroleum, sheets of water and underground streams.

1991, c. 64, a. 951; 2016, c. 4, s. 126; 2016, c. 35, s. 23.

952. No owner may be compelled to transfer his ownership except by expropriation according to law for public utility and in return for a just and prior indemnity.

1991, c. 64, a. 952; I.N. 2014-05-01.

953. The owner of property has a right to revendicate it against the possessor or the person detaining it without right, and may object to any encroachment or to any use not authorized by him or by law.

1991, c. 64, a. 953.

CHAPTER II

ACCESSION

DIVISION I

IMMOVABLE ACCESSION

954. Accession of movable or immovable property to an immovable may be voluntary or involuntary. Accession is artificial in the first case, natural in the second.

1991, c. 64, a. 954.

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§ 1. — *Artificial accession*

955. Constructions, works or plantations on an immovable are presumed to have been made by the owner of the immovable at his own expense and to belong to him.

1991, c. 64, a. 955.

956. The owner of an immovable becomes the owner by accession of the constructions, works or plantations he has made with materials which do not belong to him, but he is bound to pay the value, at the time they were incorporated, of the materials used.

The previous owner of the materials has no right to remove them nor any obligation to take them back.

1991, c. 64, a. 956.

957. The owner of an immovable acquires by accession ownership of the constructions, works or plantations made on his immovable by a possessor, whether the disbursements were necessary, useful or for amenities.

1991, c. 64, a. 957.

958. The owner shall reimburse the possessor for the necessary disbursements, even if the constructions, works or plantations no longer exist.

If the possessor is in bad faith, however, compensation may be claimed for the fruits and revenues collected, after deducting the costs incurred to produce them.

1991, c. 64, a. 958.

959. The owner shall reimburse the useful disbursements made by a possessor in good faith, if the constructions, works or plantations still exist; he may also, if he chooses, pay him an indemnity equal to the increase in value.

The owner may, on the same conditions, reimburse the useful disbursements made by the possessor in bad faith; he may in that case effect compensation for the fruits and revenues owed to him by the possessor.

The owner may also compel the possessor in bad faith to remove the constructions, works or plantations and to restore the place to its former condition; if such restoration is impossible, the owner may keep them without indemnity or compel the possessor to remove them.

1991, c. 64, a. 959; I.N. 2014-05-01.

960. The owner may compel the possessor to acquire the immovable and to pay him its value if the useful disbursements made are costly and represent a considerable proportion of that value.

1991, c. 64, a. 960.

961. A possessor in good faith who has made disbursements for amenities for himself may, at the owner's option, either remove, without causing damage to the place, the constructions, works or plantations he has made, if that can be done advantageously, or abandon them.

If he abandons them, the owner is bound to reimburse him for either their cost or the increase in value of the immovable, whichever is less.

1991, c. 64, a. 961; I.N. 2014-05-01.

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962. The owner may compel the possessor in bad faith to remove the constructions, works or plantations he has made as amenities for himself and to restore the place to its former condition; if such restoration is impossible, he may keep them without indemnity or compel the possessor to remove them.

1991, c. 64, a. 962; I.N. 2014-05-01.

963. A possessor in good faith has a right to retain the immovable until he has been reimbursed for necessary or useful disbursements.

A possessor in bad faith has that right only as regards the necessary disbursements he has made.

1991, c. 64, a. 963; I.N. 2014-05-01.

964. Disbursements made by a person detaining property are dealt with according to the rules prescribed for disbursements made by a possessor in bad faith.

The person detaining the property is under no obligation to acquire it, however.

1991, c. 64, a. 964.

§ 2. — *Natural accession*

965. Alluvion becomes the property of the riparian owner.

Alluvion is the deposits of earth and augmentations which are gradually and imperceptibly formed on riparian lands of a watercourse.

1991, c. 64, a. 965.

966. Accretions left by the imperceptible recession of running water from one bank while it encroaches upon the opposite bank become the property of the riparian owner on the bank gradually added to, and the riparian owner on the opposite bank has no claim for the lost land.

That right does not exist as regards accretions from the sea, which form part of the domain of the State.

1991, c. 64, a. 966; I.N. 2014-05-01.

967. If, by sudden force, a watercourse carries away a large and recognizable part of a riparian land to a lower land or to the opposite bank, the owner of the part carried away may reclaim it.

The owner is bound, on pain of forfeiture, to reclaim the part carried away within one year after the owner of the land it has attached to takes possession of it.

1991, c. 64, a. 967.

968. An island formed in the bed of a watercourse belongs to the owner of the bed.

1991, c. 64, a. 968.

969. If, in forming a new branch, a watercourse cuts a riparian land and thereby forms an island, the owner of the riparian land retains the ownership of the island so formed.

1991, c. 64, a. 969.

970. If a watercourse abandons its bed and forms a new bed, the former bed belongs to the owners of the newly occupied land, each in proportion to the land he has lost.

1991, c. 64, a. 970.

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DIVISION II

MOVABLE ACCESSION

971. Where movables belonging to several owners have been intermingled or united in such a way as to be no longer separable without deterioration or without excessive labour and cost, the new thing belongs to the owner having contributed most to its creation by the value of the original thing or by his work.

1991, c. 64, a. 971.

972. A person having worked on or processed material which did not belong to him acquires ownership of the new thing if the work or processing is worth more than the material used.

1991, c. 64, a. 972.

973. The owner of the new thing shall pay the value of the material or labour to the person having supplied it.

If it is impossible to determine who contributed most to the creation of the new thing, the interested persons are its co-owners in indivision.

1991, c. 64, a. 973; I.N. 2014-05-01.

974. The person bound to return the new thing may retain it until its owner pays him the indemnity he owes him.

1991, c. 64, a. 974; I.N. 2014-05-01.

975. In circumstances not provided for, the right of accession with respect to movable property is entirely subordinate to the principles of equity.

1991, c. 64, a. 975; I.N. 2014-05-01.

CHAPTER III

SPECIAL RULES ON THE OWNERSHIP OF IMMOVABLES

DIVISION I

GENERAL PROVISION

976. Neighbours shall suffer the normal neighbourhood annoyances that are not beyond the limit of tolerance they owe each other, according to the nature or location of their land or local usage.

1991, c. 64, a. 976; 2016, c. 4, s. 127.

DIVISION II

LIMITS AND BOUNDARIES OF LAND

977. The limits of land are determined by the titles, the cadastral plan and the boundary lines of the land, and by any other useful indication or document, if need be.

1991, c. 64, a. 977.

978. Every owner may compel his neighbour to have the boundaries between their contiguous lands determined in order to fix the boundary markers, set displaced or missing boundary markers back in place, verify ancient boundary markers or rectify the dividing line between their properties.

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Failing agreement between them, the owner shall first make a demand to his neighbour requiring to consent to having the boundaries determined and to agree upon the choice of a land surveyor to carry out the necessary operations, in accordance with the rules in the Code of Civil Procedure (chapter C-25.01).

The minutes of the boundary-marking operations must be registered in the land register; the boundary determination report may be attached to the minutes.

1991, c. 64, a. 978; I.N. 2014-05-01; I.N. 2015-11-01; 2014, c. 1, s. 788; I.N. 2016-01-01 (NCCP).

DIVISION III

WATERS

979. Lower land is subject to receiving water flowing onto it naturally from higher land.

The owner of lower land has no right to erect works to prevent the natural flow. The owner of higher land has no right to aggravate the condition of lower land, and is not presumed to do so if he carries out work to facilitate the natural run-off or, where his land is devoted to agriculture, he carries out drainage work.

1991, c. 64, a. 979.

980. An owner who has a spring on his land may use it and dispose of it.

He may, for his needs, use water from the lakes and ponds that are entirely on his land, taking care to preserve their quality.

1991, c. 64, a. 980.

981. A riparian owner may, for his needs, make use of a lake, the headwaters of a watercourse or any other watercourse bordering or crossing his land. As the water leaves his land, he shall direct it, not substantially changed in quality or quantity, into its regular course.

No riparian owner may by his use of the water prevent other riparian owners from exercising the same right.

1991, c. 64, a. 981.

982. Unless it is contrary to the general interest, a person having a right to use a spring, lake, sheet of water, underground stream or any running water may, to prevent the water from being polluted or depleted, require the destruction or modification of any works by which the water is being polluted or depleted.

1991, c. 64, a. 982; I.N. 2014-05-01.

983. Roofs are required to be built in such a manner that water, snow and ice fall on the owner's land.

1991, c. 64, a. 983.

DIVISION IV

TREES

984. Fruit that falls from a tree onto neighbouring land belongs to the owner of the tree.

1991, c. 64, a. 984.

985. If branches or roots extend over or upon an owner's land from the neighbouring land and seriously obstruct its use, the owner may request his neighbour to cut them and, if he refuses, compel him to do so.

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If a tree on the neighbouring land is in danger of falling on the owner's land, he may compel his neighbour to fell the tree, or to right it.

1991, c. 64, a. 985.

986. The owner of land used for agricultural purposes may compel his neighbour to fell the trees along and not more than five metres from the dividing line, if they are seriously damaging to his operations, except trees in an orchard or sugar bush and trees preserved to embellish the property.

1991, c. 64, a. 986; I.N. 2014-05-01.

DIVISION V

ACCESS TO AND PROTECTION OF THE LAND OF ANOTHER

987. Every owner of land, after having been notified verbally or in writing, shall allow his neighbour access to it if that is necessary to make or maintain a construction, works or plantation on the neighbouring land.

1991, c. 64, a. 987.

988. An owner bound to give access to his land is entitled to reparation for injury he suffers as a result of that sole fact and to the restoration of his land to its former condition.

1991, c. 64, a. 988; I.N. 2014-05-01.

989. Where a thing ends up on the land of another by the effect of a natural or superior force, the owner of that land shall allow the thing to be searched for and removed, unless he immediately searches for it himself and returns it.

The thing does not cease to belong to its owner unless he abandons the search, in which case it is acquired by the owner of the land unless he compels the owner of the thing to remove it and to restore his land to its former condition.

1991, c. 64, a. 989; 2015, c. 35, s. 5.

990. The owner of land shall do any repair or demolition work needed to prevent the collapse of a construction or works situated on his land that is in danger of falling onto the neighbouring land, including a public road.

1991, c. 64, a. 990.

991. Where the owner of land erects a construction or works or makes a plantation on his land, he may not disturb the neighbouring land or undermine the constructions, works or plantations situated on it.

1991, c. 64, a. 991.

992. Where an owner has, in good faith, built beyond the limits of his land on a parcel of land belonging to another, he shall, as the owner of the land he has encroached upon elects, acquire the parcel by paying him its value, or pay him an indemnity for the temporary loss of use of the parcel.

If the encroachment is a considerable one, causes serious injury or is made in bad faith, the owner of the land encroached upon may compel the builder to acquire his immovable and to pay him its value, or to remove the constructions and to restore the place to its former condition.

1991, c. 64, a. 992; I.N. 2014-05-01.

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DIVISION VI

VIEWS

993. No person may have upon neighbouring land direct views less than 150 cm from the dividing line.

This rule does not apply in the case of views on the public thoroughfare or on a public park or in the case of panelled doors or doors with translucid glass.

1991, c. 64, a. 993; 1992, c. 57, s. 716; I.N. 2014-05-01.

994. The distance of 150 centimetres is measured from the exterior facing of the wall where the opening is made and perpendicularly therefrom to the dividing line. In the case of a projecting window, the distance is measured from the exterior line.

1991, c. 64, a. 994.

995. Fixed translucid lights may be made in a wall that is not a common wall, even if it is less than 150 cm from the dividing line.

1991, c. 64, a. 995; I.N. 2014-05-01.

996. A co-owner of a common wall has no right to make any opening in it without the agreement of the other co-owner.

1991, c. 64, a. 996.

DIVISION VII

RIGHT OF WAY

997. The owner of land enclosed by that of others in such a way that there is no access or only an inadequate, difficult or impassable access to it from the public road may, if all his neighbours refuse to grant him a servitude or another mode of access, require one of them to provide him with the necessary right of way to use and exploit his land.

Where an owner claims his right under this article, he pays an indemnity proportionate to any injury he might cause.

1991, c. 64, a. 997; I.N. 2014-05-01.

998. Right of way is claimed from the owner whose land affords the most natural way out, taking into consideration the condition of the place, the benefit to the enclosed land and the inconvenience caused by the right of way to the land on which it is exercised.

1991, c. 64, a. 998.

999. If land is enclosed as a result of the division of land pursuant to a partition, will or contract, right of way may be claimed only from a co-partitioner, heir or contracting party, not from the owner whose land affords the most natural way out, and in this case the right of way is provided without indemnity.

1991, c. 64, a. 999; I.N. 2014-05-01.

1000. The beneficiary of a right of way shall build and maintain all the works necessary to ensure that his right is exercised under conditions that cause the least possible damage to the land on which it is exercised.

1991, c. 64, a. 1000.

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1001. Right of way is extinguished when it ceases to be necessary for the use and exploitation of the land. The indemnity is not reimbursed, but if it was payable as an annual rent or by instalments, future payments of these are no longer due.

1991, c. 64, a. 1001; I.N. 2014-05-01.

DIVISION VIII

COMMON FENCES AND WORKS

1002. Any owner of land may fence it, at his own expense, with walls, ditches, hedges or any other kind of fence.

He may also require his neighbour to make, in equal portions or at common expense, on the dividing line between their lands, a fence suited to the situation and use made of the place.

1991, c. 64, a. 1002; I.N. 2014-05-01; I.N. 2015-11-01.

1003. A fence on the dividing line is presumed to be common. Similarly, a wall supporting buildings on either side is presumed to be common up to the point of disjunction.

1991, c. 64, a. 1003.

1004. An owner may acquire common ownership of a private wall directly adjacent to the dividing line by reimbursing the owner of the wall for one half of the cost of the section rendered common and, where applicable, one half of the value of the ground used. The cost of the wall is assessed on the date on which it was rendered common, and account is taken of its condition.

1991, c. 64, a. 1004; I.N. 2014-05-01; I.N. 2015-11-01.

1005. Each owner may build against a common wall and set beams and joists against it. He shall obtain the concurrence of the other owner on how to proceed.

In case of disagreement, the owner may apply to the court to determine the means necessary to ensure that the new works infringe the rights of the other owner as little as possible.

1991, c. 64, a. 1005.

1006. The maintenance, repair and rebuilding of a common wall are at the expense of each owner in proportion to his right.

An owner who does not use the common wall may renounce his right and thereby be relieved of his obligation to share the expenses by producing a notice to that effect at the Land Registry Office and transmitting a copy of the notice to the other owners without delay. The notice entails renunciation of the right to make use of the wall.

1991, c. 64, a. 1006; 2020, c. 17, s. 27.

1007. A co-owner of a common wall has a right to heighten it at his own expense after ascertaining by means of an expert appraisal that it can withstand it, and shall pay one sixth of the cost of the heightening to the other as an indemnity.

If the wall cannot withstand heightening, the co-owner shall rebuild the entire wall at his own expense, any additional thickness going on his own side.

1991, c. 64, a. 1007; I.N. 2014-05-01; I.N. 2015-11-01.

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1008. The heightened part of the wall belongs to the person who made it, and the cost of its maintenance, repair and rebuilding is his responsibility.

The neighbour who did not contribute to the heightening may nevertheless acquire common ownership of it by paying one-half of the cost of the heightening or rebuilding and, where applicable, one-half of the value of the ground provided for additional thickness. He shall also repay any indemnity he has received.

1991, c. 64, a. 1008; I.N. 2014-05-01.

TITLE THREE

MODALITIES OF OWNERSHIP

I.N. 2015-11-01.

CHAPTER I

GENERAL PROVISIONS

1009. The principal modalities of ownership are co-ownership and superficies.

1991, c. 64, a. 1009; I.N. 2015-11-01.

1010. Co-ownership is ownership of the same property, jointly and concurrently, by several persons each of whom is privately vested with a share of the right of ownership.

Co-ownership is called undivided where the right of ownership is not accompanied by a physical division of the property.

It is called divided where the right of ownership is apportioned among the co-owners in fractions, each comprising a physically divided private portion and a share of the common portions.

1991, c. 64, a. 1010; I.N. 2014-05-01.

1011. Superficies is ownership of the constructions, works or plantations situated on an immovable belonging to another person, the owner of the subsoil.

1991, c. 64, a. 1011.

CHAPTER II

UNDIVIDED CO-OWNERSHIP

DIVISION I

ESTABLISHMENT OF INDIVISION

1012. Indivision arises from a contract, a succession or a judgment or by operation of law.

1991, c. 64, a. 1012; I.N. 2014-05-01.

1013. Co-owners may agree in writing to postpone the partition of property on expiry of the term provided for the indivision.

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Such an agreement may not exceed 30 years, but is renewable. An agreement exceeding 30 years is reduced to that term.

1991, c. 64, a. 1013; I.N. 2014-05-01.

1014. Indivision by agreement with respect to an immovable shall be published if it is to be set up against third persons. In particular, the term provided for the indivision, the identification of the shares of the co-owners and, where applicable, the pre-emptive rights granted, or the granting of a right of use or exclusive enjoyment of a portion of the undivided property, shall be mentioned.

1991, c. 64, a. 1014; I.N. 2014-05-01; 2016,c. 4, s. 128.

DIVISION II

RIGHTS AND OBLIGATIONS OF CO-OWNERS

1991, c. 64, Div. II; I.N. 2014-05-01.

1015. The shares of co-owners are presumed equal.

Each co-owner has the rights and obligations of an exclusive owner as regards his share. Thus, each may alienate or hypothecate his share and his creditors may seize it.

1991, c. 64, a. 1015; I.N. 2014-05-01.

1016. Each co-owner may make use of the undivided property provided he does not affect its destination or the rights of the other co-owners.

If one of the co-owners has the use and exclusive enjoyment of the property, he is liable for an indemnity.

1991, c. 64, a. 1016; I.N. 2014-05-01.

1017. The right of accession operates to the benefit of all the co-owners proportionately to their share in the indivision. Nevertheless, where a co-owner holds a right of use or exclusive enjoyment of a portion of the undivided property, he also has the use or exclusive enjoyment of anything joined or incorporated with that portion.

1991, c. 64, a. 1017; I.N. 2014-05-01; 2016, c. 4, s. 129.

1018. The fruits and revenues of the undivided property accrue to the indivision, where there is no provisional partition or any other agreement with respect to their periodic distribution. They also accrue to the indivision if they are not claimed within three years from their due date.

1991, c. 64, a. 1018; I.N. 2014-05-01.

1019. Co-owners are liable proportionately to their shares for the costs of administration and the other common charges related to the undivided property.

1991, c. 64, a. 1019; I.N. 2014-05-01.

1020. Each co-owner is entitled to be reimbursed for necessary disbursements he has made to preserve the undivided property. For other authorized disbursements, he is entitled, at partition, to an indemnity equal to the increase in value given to the property.

Conversely, each co-owner is liable for losses resulting from his act or omission that decrease the value of the undivided property.

1991, c. 64, a. 1020; I.N. 2014-05-01; 2016, c. 4, s. 130.

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1021. Partition which takes place before the time fixed by the indivision agreement may not be set up against a creditor holding a hypothec on an undivided share of the property unless he has consented to the partition or unless his debtor retains a right of ownership over some portion of the property.

1991, c. 64, a. 1021; I.N. 2014-05-01.

1022. Any co-owner, within 60 days of learning that a third person has, by onerous title, acquired the share of a co-owner, may exclude him from the indivision by reimbursing him for the transfer price and the expenses he has paid. This right may be exercised only within one year from the acquisition of the share.

The right of withdrawal may not be exercised where the co-owners have stipulated pre-emptive rights in the indivision agreement and where such rights, if they are rights in an immovable, have been published.

1991, c. 64, a. 1022; I.N. 2014-05-01.

1023. A co-owner having caused his address to be registered at the registry office may, within 60 days of being notified of the intention of a creditor to cause the share of a co-owner to be sold or to take it in payment of an obligation, be subrogated to the rights of the creditor by paying him the debt of that co-owner, with costs.

A co-owner not having caused his address to be registered may not set up his right of withdrawal against a creditor or a creditor's successors.

1991, c. 64, a. 1023; I.N. 2014-05-01; I.N. 2015-11-01; 2016, c. 4, s. 131.

1024. If several co-owners exercise their rights of withdrawal or subrogation against the share of a co-owner, it is partitioned among them proportionately to their rights in the undivided property.

1991, c. 64, a. 1024; I.N. 2014-05-01.

DIVISION III

ADMINISTRATION OF UNDIVIDED PROPERTY

1025. The co-owners administer the property jointly.

1991, c. 64, a. 1025; I.N. 2014-05-01.

1026. Decisions relating to the administration of the property are taken by a majority in number and shares of the co-owners.

Decisions in view of alienating or partitioning the undivided property, charging it with a real right, changing its destination or making substantial alterations to it require unanimous approval.

1991, c. 64, a. 1026; I.N. 2014-05-01.

1027. The co-owners may appoint one of their number or another person as manager and entrust him with the administration of the undivided property.

Upon application by a co-owner, the court may designate the manager and determine the terms and conditions of his office, where a majority in number and shares of the co-owners cannot agree on whom to appoint, or where it is impossible to appoint or replace the manager.

1991, c. 64, a. 1027; I.N. 2014-05-01.

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1028. A co-owner who administers the undivided property with the knowledge of the other co-owners and without objection on their part is presumed to have been appointed manager.

1991, c. 64, a. 1028; I.N. 2014-05-01.

1029. The manager acts alone with respect to the undivided property as administrator of the property of others charged with simple administration.

1991, c. 64, a. 1029.

DIVISION IV

END OF INDIVISION AND PARTITION

1030. No one is bound to remain in indivision. Partition may be demanded at any time unless it has been postponed by an agreement, a testamentary provision or a judgment, or by operation of law, or unless it has become impossible because the property has been appropriated to a lasting purpose.

1991, c. 64, a. 1030; I.N. 2014-05-01; I.N. 2015-11-01.

1031. Notwithstanding any agreement to the contrary, three-quarters of the co-owners representing 90% of the shares may terminate the undivided co-ownership of a mainly residential immovable in order to establish divided co-ownership of it.

The co-owners may satisfy those who object to the establishment of divided co-ownership and who refuse to sign the declaration of co-ownership by apportioning their share to them in money; the share of each co-owner is then increased in proportion to his payment.

1991, c. 64, a. 1031; I.N. 2014-05-01.

1032. Upon application by a co-owner, the court, to avoid a loss, may postpone the immediate partition of all or part of the property and maintain the indivision for at most two years.

The decision may be revised if the causes justifying the maintenance of the indivision have ceased to exist or if the indivision has become intolerable or presents great risks for the co-owners.

1991, c. 64, a. 1032; I.N. 2014-05-01; 2016, c. 4, s. 132.

1033. If a co-owner objects to the maintenance of the indivision, the other co-owners may satisfy him at any time by apportioning his share to him in kind, provided it is easily detachable from the rest of the undivided property, or in money, as he chooses.

If the share is apportioned in kind, the co-owners may make the allotment least prejudicial to the exercise of their rights.

If the share is apportioned in money, the share of each co-owner is increased in proportion to his payment.

1991, c. 64, a. 1033; I.N. 2014-05-01.

1034. If the co-owners fail to agree on the share in kind or in money to be apportioned to one of them, an appraisal or a valuation is made by a person designated by all the co-owners or, if they cannot agree among themselves, by the court.

1991, c. 64, a. 1034; I.N. 2014-05-01.

1035. Creditors whose claims arise from the administration are paid out of the assets before partition.

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No creditor, not even a hypothecary creditor, of a co-owner may demand partition, except by an oblique action where the co-owner could demand it himself.

1991, c. 64, a. 1035; I.N. 2014-05-01.

1036. Indivision may be terminated by the decision of a majority in number of shares of the co-owners where a substantial part of the undivided property is lost or expropriated.

1991, c. 64, a. 1036; I.N. 2014-05-01.

1037. Indivision ends by the partition or alienation of the property.

In the case of partition, the provisions relating to the partition of successions apply, adapted as required.

However, the act of partition which terminates indivision, other than indivision by succession, is an act of attribution of the right of ownership.

1991, c. 64, a. 1037.

CHAPTER III

DIVIDED CO-OWNERSHIP OF IMMOVABLES

DIVISION I

ESTABLISHMENT OF DIVIDED CO-OWNERSHIP

1038. Divided co-ownership of an immovable is established by publication of a declaration under which ownership of the immovable is divided into fractions belonging to one or several persons.

1991, c. 64, a. 1038.

1039. Upon the publication of the declaration of co-ownership, the co-owners as a body constitute a legal person, the objects of which are the preservation of the immovable, the maintenance and administration of the common portions, the protection of the rights appurtenant to the immovable or the co-ownership, as well as all business in the common interest. The legal person must, in particular, see to it that the work necessary for the preservation and maintenance of the immovable is carried out.

The legal person is called a syndicate.

1991, c. 64, a. 1039; I.N. 2014-05-01; 2019, c. 28, s. 29.

1040. Divided co-ownership of an immovable that is built by an emphyteuta or that is subject to superficies may be established if the unexpired term of the right, at the time of publication of the declaration, is more than 50 years.

In cases arising under the first paragraph, each co-owner, dividedly and proportionately to the relative value of his fraction, is liable for the divisible obligations of the emphyteuta or superficiary, as the case may be, towards the owner of the immovable subject to emphyteusis or superficies. The syndicate assumes the indivisible obligations.

1991, c. 64, a. 1040; I.N. 2014-05-01.

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DIVISION II

FRACTIONS OF CO-OWNERSHIP

1041. The relative value of each of the fractions of the divided co-ownership is established with reference to the value of all the fractions together, taking into account the nature, destination, dimensions and location of the private portion of each fraction, but not its use.

The relative value is determined in the declaration.

1991, c. 64, a. 1041; I.N. 2014-05-01.

1042. Those portions of the buildings and land that are owned by a specific co-owner and are for his exclusive use are called the private portions.

1991, c. 64, a. 1042; I.N. 2014-05-01.

1043. Those portions of the buildings and land that are owned by all the co-owners and serve for their common use are called the common portions.

However, some of the portions may serve for the use of certain, or only one, of the co-owners. The rules regarding the common portions apply to the common portions that have restricted use.

1991, c. 64, a. 1043; I.N. 2014-05-01.

1044. The following are presumed to be common portions: the ground, yards, verandas or balconies, parks and gardens, access ways, stairways and elevators, passageways and halls, common service areas, parking and storage areas, basements, foundations and main walls of buildings, and common equipment and apparatus, such as the central heating and air-conditioning systems and the piping and wiring, including that which runs through private portions.

1991, c. 64, a. 1044; I.N. 2014-05-01.

1045. Partitions or walls that are not part of the foundations and main walls of a building but which separate a private portion from a common portion or from another private portion are presumed common.

1991, c. 64, a. 1045.

1046. Each co-owner has an undivided right of ownership in the common portions. His share of the common portions is equal to the relative value of his fraction.

1991, c. 64, a. 1046; 2016, c. 4, s. 133.

1047. Each fraction constitutes a distinct entity and may be alienated in whole or in part; the alienation includes, in each case, the share of the common portions appurtenant to the fraction, as well as the right to use the common portions for restricted use, where applicable.

1991, c. 64, a. 1047.

1048. The share of the common portions appurtenant to a fraction may not, separately from the private portion of the fraction, be the subject of alienation or an action in partition.

1991, c. 64, a. 1048; 2002, c. 19, s. 15; I.N. 2014-05-01.

1049. Alienation of a divided part of a private portion is without effect unless the declaration of co-ownership and the cadastral plan have been altered prior to the alienation so as to create a new fraction,

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describe it, give it a separate cadastral number and determine its relative value, or to record the alterations made to the boundaries between contiguous private portions.

1991, c. 64, a. 1049; 2000, c. 42, s. 3; 2002, c. 19, s. 15.

1050. Each fraction forms a distinct entity for the purposes of property assessment and taxation.

The syndicate shall be impleaded in the case of any judicial contestation of the assessment of a fraction by a co-owner.

1991, c. 64, a. 1050; 2016, c. 4, s. 134.

1051. Notwithstanding articles 2650 and 2662, a hypothec, any additional security accessory thereto or any prior claims existing at the time of registration of the declaration of co-ownership on the whole of an immovable held in co-ownership are divided among the fractions according to the relative value of each or according to any other established proportion.

1991, c. 64, a. 1051; 2016, c. 4, s. 135.

DIVISION III

DECLARATION OF CO-OWNERSHIP

§ 1. — *Content of the declaration*

1052. A declaration of co-ownership comprises the act constituting the co-ownership, the by-laws of the immovable and a description of the fractions.

1991, c. 64, a. 1052.

1053. An act constituting the co-ownership defines the destination of the immovable, of the private portions and of the common portions.

The act also specifies the relative value of each fraction, indicating how that value was determined, the share of the common expenses and the number of votes attached to each fraction.

The act also specifies the respective powers and duties of the board of directors of the syndicate and of the general meeting of the co-owners and provides any other agreement regarding the immovable or its private or common portions, including any penal clause applicable for contravening the declaration of co-ownership.

1991, c. 64, a. 1053; I.N. 2014-05-01; 2019, c. 28, s. 30.

1054. The by-laws of an immovable contain the rules on the enjoyment, use and maintenance of the private and common portions, and those on the operation and administration of the co-ownership.

The by-laws also deal with the procedure of assessment and collection of contributions to the common expenses.

1991, c. 64, a. 1054; I.N. 2015-11-01.

1055. A description of the fractions contains the cadastral description of the private portions and common portions of the immovable.

Such a description also contains a description of the real rights charging the immovable or existing in its favour, other than hypothecs and additional security accessory thereto.

1991, c. 64, a. 1055; I.N. 2014-05-01; I.N. 2015-11-01.

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1056. No declaration of co-ownership may impose any restriction on the rights of the co-owners except restrictions justified by the destination, characteristics or location of the immovable.

1991, c. 64, a. 1056.

1057. The by-laws of the immovable may be set up against the lessee or occupant of a private portion upon his being given a copy of the by-laws or the amendments to them by the co-owner or, if not by him, by the syndicate.

1991, c. 64, a. 1057.

1058. Unless express provision is made therefor in the act constituting the co-ownership, no fraction may be held by several persons each having a periodic and successive right of enjoyment in the fraction, nor may a fraction be alienated for that purpose.

Where the act makes provision for a periodic and successive right of enjoyment, it shall indicate the number of fractions that may be held in this way, the occupancy periods, the maximum number of persons who may hold these fractions, and the rights and obligations of the occupants.

1991, c. 64, a. 1058; I.N. 2014-05-01.

§ 2. — *Registration of the declaration*

1059. A declaration of co-ownership, and any amendments to the act constituting the co-ownership or the description of the fractions, shall be in the form of notarial act *en minute*.

The declaration shall be signed by all the owners of the immovable, by the emphyteuta or the superficiary, if any, and by all the creditors holding hypothecs on the immovable; amendments are signed by the syndicate.

1991, c. 64, a. 1059; I.N. 2014-05-01.

1060. The declaration and any amendments to the act constituting the co-ownership or the description of the fractions are filed exclusively in French at the Land Registry Office. The declaration is registered in the land register under the registration numbers of the common portions and the private portions. The amendments are registered under the registration number of the common portions only, unless they directly affect a private portion. However, amendments to the by-laws of the immovable must be made expressly, in minutes or in a resolution in writing of the co-owners, and it is sufficient for such amendments to be filed in the register held by the syndicate in accordance with article 1070. The amendments must be made exclusively in French.

The emphyteuta or superficiary, if any, shall give notice of the registration to the owner of the immovable under emphyteusis or on which superficies has been established.

1991, c. 64, a. 1060; I.N. 2014-05-01; I.N. 2015-11-01; 2019, c. 28, s. 31; 2020, c. 17, s. 27; 2022, c. 14, s. 127.

1061. The registration of an act concerning a private portion is valid with regard to the share of the common portions appurtenant to it, without any requirement to make an entry under the registration number of the common portions.

1991, c. 64, a. 1061; I.N. 2014-05-01.

1062. The declaration of co-ownership binds the co-owners, their successors and the persons who signed it, and produces its effects towards them from the time of its registration.

1991, c. 64, a. 1062.

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DIVISION IV

RIGHTS AND OBLIGATIONS OF CO-OWNERS

1063. Each co-owner has the disposal of his fraction; he has free use and enjoyment of his private portion and of the common portions, provided he complies with the by-laws of the immovable and does not impair the rights of the other co-owners or the destination of the immovable.

1991, c. 64, a. 1063; I.N. 2014-05-01.

1064. Each co-owner contributes to the common expenses in proportion to the relative value of his fraction. However, only co-owners who have the use of common portions for restricted use contribute to the expenses related to the maintenance and the ordinary repairs of those portions.

The declaration of co-ownership may determine a different apportionment of the co-owners' contribution to the expenses for major repairs to common portions for restricted use and for the replacement of those portions.

1991, c. 64, a. 1064; 2019, c. 28, s. 32.

1064.1. Each co-owner shall take out third person liability insurance the minimum compulsory amount of which is determined by government regulation.

2018, c. 23, ss. 637 and 652.

1065. A person who acquires a fraction, by whatever means, including the exercise of a hypothecary right, shall notify the syndicate within 15 days.

A co-owner who leases his private portion shall, within the same time, notify the syndicate. The co-owner shall give the name of the lessee, the term of the lease and the date on which he gave the lessee a copy of the by-laws of the immovable. The same applies, with the necessary modifications, where the private portion is otherwise occupied.

1991, c. 64, a. 1065; I.N. 2014-05-01; 2019, c. 28, s. 33.

1066. No co-owner may interfere with the carrying out, even inside his private portion, of work required for the preservation of the immovable decided upon by the syndicate or of urgent work.

Where a private portion is leased, the syndicate gives the lessee, where applicable, the notices prescribed by articles 1922 and 1931 regarding improvements and work. Where a private portion is occupied otherwise than by being leased, the syndicate gives the occupant a written notice indicating the nature of the improvements and of the non-urgent work, the date on which work is to begin and an estimate of its duration and, where required, the necessary period of vacancy.

1991, c. 64, a. 1066; I.N. 2014-05-01; 2019, c. 28, s. 34.

1067. A co-owner who, as a result of work carried out, suffers injury in the form of a permanent diminution in the value of his fraction, a grave disturbance to enjoyment, even if temporary, or through deterioration, is entitled to obtain an indemnity from the syndicate if the syndicate ordered the work or, if it did not, from the co-owners who did the work.

1991, c. 64, a. 1067; I.N. 2014-05-01.

1068. Every co-owner may, within five years from the day of registration of the declaration of co-ownership, apply to the court for a revision, for the future, of the relative value of the fractions and of the apportionment of the common expenses.

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The right to apply for a revision may be exercised only if there exists, between the relative value assigned to a fraction or the share of common expenses allocated thereto and the value or share that should have been established, according to the criteria provided in the declaration of co-ownership, a difference in excess of one-tenth in favour of another co-owner or to the prejudice of the applicant co-owner.

1991, c. 64, a. 1068; I.N. 2014-05-01.

1068.1. A person who sells a fraction shall, in due time, give the promisor a certificate of the syndicate attesting to the condition of the immovable held in co-ownership, whose form and content are determined by government regulation.

For that purpose, the syndicate gives the certificate to a co-owner who so requests, within 15 days.

Those obligations exist from the appointment of a new board of directors, after the developer loses control of the syndicate.

2019, c. 28, s. 35.

1068.2. A person who promises to buy a fraction may request the syndicate to provide him with the documents or information concerning the immovable and the syndicate that will enable him to give enlightened consent. The syndicate is bound, subject to the provisions relating to the protection of privacy, to provide them with diligence to the promisor, at the latter's expense.

The syndicate shall send the owner of the fraction or his successors the documents or information it has provided to the promisor.

2019, c. 28, s. 35.

1069. A person who acquires a fraction of an immovable under divided co-ownership, by whatever means, including the exercise of a hypothecary right, is bound to pay all common expenses due with respect to that fraction, with interest, at the time of the acquisition.

A person contemplating the acquisition of such a fraction may request from the syndicate of co-owners a statement of the common expenses due with respect to the fraction and the syndicate is thereupon authorized to provide the statement to him, subject to the syndicate giving prior notice to the owner of the fraction or his successors; in such a case, the prospective acquirer is bound to pay the common expenses only if the statement is provided to him by the syndicate within 15 days of the request.

The statement provided is adjusted to the last annual budget of the co-owners.

1991, c. 64, a. 1069; 2002, c. 19, s. 6; I.N. 2014-05-01; 2019, c. 28, s. 36.

DIVISION V

RIGHTS AND OBLIGATIONS OF THE SYNDICATE

1070. Among the registers of the co-ownership, the syndicate keeps at the disposal of the co-owners a register containing the name and mailing address of each co-owner; the register may also contain other personal information concerning a co-owner or another occupant of the immovable if he expressly consents to it. In addition, the register contains the minutes of the meetings of the co-owners and of the board of directors, the resolutions in writing, the by-laws of the immovable and any amendments to them, and the financial statements.

The register also contains the declaration of co-ownership, the copies of contracts to which the syndicate is a party, a copy of the cadastral plan, the plans and specifications of and location certificates for the building if they are available, the maintenance log, the contingency fund study and all other documents and information relating to the immovable and the syndicate or prescribed by government regulation.

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In addition, the register contains a description of the private portions that is sufficiently precise to allow any improvements made by co-owners to be identified. The same description may be valid for two or more portions having the same characteristics.

1991, c. 64, a. 1070; I.N. 2014-05-01; 2016, c. 4, s. 136; 2018, c. 23, s. 638; 2019, c. 28, s. 37.

1070.1. It must be possible to consult the register and documents kept at the disposal of the co-owners in the presence of a director or a person designated for that purpose by the board of directors, at reasonable hours and according to the rules provided in the by-laws of the immovable. Every co-owner is entitled to obtain a copy of the content of the register and of any such documents for a reasonable cost.

A government regulation may prescribe other conditions, rules or restrictions relating to consultation of the register, of the documents to be kept at the disposal of the co-owners, and of the information they contain.

2019, c. 28, s. 38.

1070.1.1. The register and documents kept at the disposal of the co-owners, as well as any document drawn up by the syndicate for a co-owner, must be drawn up in French.

The Office québécois de la langue française sees to the application of the first paragraph as if it were a provision of the Charter of the French language (chapter C-11).

2022, c. 14, s. 128.

1070.2. The board of directors causes a maintenance log to be established for the immovable which describes, in particular, maintenance done and maintenance required. The board of directors keeps the log up to date and has it reviewed periodically.

The form and content of the maintenance log and the manner in which it is kept and reviewed, as well as the persons who may establish and review it, are determined by government regulation. The standards provided in the regulation may vary according to the characteristics of an immovable.

2019, c. 28, s. 38; 2024, c. 2, s. 1.

1071. The syndicate establishes, according to the estimated cost of major repairs and the cost of replacement of common portions, a contingency fund to be used exclusively for such repairs and replacement. The fund must be partly liquid and be available at short notice, and its capital must be guaranteed. The syndicate is the owner of the fund, and the fund's use is determined by the board of directors.

The board of directors obtains a contingency fund study establishing the sums necessary for the fund to be sufficient to cover the estimated cost of major repairs and of replacement of common portions. The study is conducted in accordance with the standards established by a government regulation, which designates among other things the professional orders whose members are authorized to conduct such studies and determines the intervals at which a new study must be obtained by the board of directors. The standards may vary according to the characteristics of an immovable.

The sums to be paid into the contingency fund are fixed on the basis of the recommendations made in the contingency fund study and taking into account ongoing developments in the co-ownership, in particular the amounts available in the contingency fund.

Until the developer obtains the contingency fund study, the sums to be paid into the fund must correspond to 0.5% of the reconstruction cost of the immovable.

1991, c. 64, a. 1071; I.N. 2014-05-01; 2019, c. 28, ss. 39 and 155; 2024, c. 2, s. 2.

1071.1. The syndicate establishes a self-insurance fund which is liquid and available on short notice. The syndicate is the owner of the fund.

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The self-insurance fund is to be used to pay the deductibles provided for by the insurance taken out by the syndicate.

It is also to be used to make reparation for injury caused to property in which the syndicate has an insurable interest, where the contingency fund or an insurance indemnity cannot provide for such reparation.

The self-insurance fund is established on the basis of those deductibles and a reasonable additional amount to provide for the other payments for which the fund is to be used.

2018, c. 23, s. 639.

1072. Each year, the board of directors, after consultation with the general meeting of the co-owners, fixes their contribution for common expenses, which include the sums required to meet the expenses arising from the co-ownership and the operation of the immovable, and the amounts to be paid into the contingency fund and the self-insurance fund.

The Government determines, by regulation, the terms according to which the co-owners' minimum contribution to the self-insurance fund is determined.

The syndicate, without delay, notifies each co-owner of the amount of his contribution and the date when it is payable.

1991, c. 64, a. 1072; 2018, c. 23, s. 640; 2019, c. 28, s. 71; 2019, c. 28, s. 40; 2024, c. 2, s. 80.

1072.1. The board of directors shall consult the general meeting of the co-owners before deciding on any special contribution to the common expenses.

2019, c. 28, s. 41.

1073. The syndicate has an insurable interest in the whole immovable, including the private portions. It shall take out insurance against ordinary risks providing for a reasonable deductible and covering the whole of the immovable, except improvements made by a co-owner to his portion, where they can be identified in relation to the description of that portion. The amount insured must cover the reconstruction of the immovable in accordance with the standards, usage and good practice applicable at that time; the amount must be evaluated at least every five years by a member of a professional order designated by government regulation.

The syndicate shall also take out third person liability insurance for itself and for the members of its board of directors and the manager as well as for the president and the secretary of the general meeting of the co-owners and the other persons responsible for seeing to its proper conduct.

The Government may, by regulation, determine cases in which a deductible is considered unreasonable. In addition, an insurance contract entered into by a syndicate covers, by operation of law, at least the risks prescribed by government regulation, unless the policy or a rider sets out, expressly and in clearly legible characters, which of those risks are excluded. The regulations may establish categories of buildings, in particular on the basis of their size, value or geographic location.

1991, c. 64, a. 1073; I.N. 2014-05-01; 2018, c. 23, s. 641; 2020, c. 5, s. 196.

1074. A co-owner's non-compliance with a condition of the insurance contract may not be set up against the syndicate.

1991, c. 64, a. 1074; I.N. 2014-05-01.

1074.1. When a loss occurs which falls under the coverage provided for by a property insurance contract entered into by the syndicate and the syndicate decides not to avail itself of the insurance, it shall with dispatch see that the damage caused to the insured property is repaired.

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A syndicate that does not avail itself of insurance may not sue the following persons for the damages for which it would otherwise have been indemnified by the insurance:

(1) a co-owner;

(2) a person who is a member of a co-owner's household; or

(3) a person in respect of whom the syndicate is required to enter into an insurance contract to cover the person's liability.

2018, c. 23, s. 642.

1074.2. The sums incurred by the syndicate to pay the deductibles and make reparation for the injury caused to property in which the syndicate has an insurable interest may not be recovered from the co-owners otherwise than by their contribution for common expenses, subject to damages it can obtain from the co-owner bound to make reparation for the injury caused by the co-owner's fault and, in the cases provided for in this Code, for the injury caused by the act, omission or fault of another person or by the act of things in the co-owner's custody.

Any stipulation which is inconsistent with the provisions of the first paragraph is deemed unwritten.

2018, c. 23, s. 642; 2020, c. 5, s. 197.

1074.3. Where insurance against the same risks and covering the same property has been taken out separately by the syndicate and a co-owner, the insurance taken out by the syndicate constitutes primary insurance.

2018, c. 23, s. 642.

1075. The indemnity owing to the syndicate following a substantial loss is, notwithstanding article 2494, paid to the trustee appointed in the act constituting the co-ownership or, where none has been appointed, to a trustee who must be designated without delay by the syndicate.

The indemnity shall be used to repair or rebuild the immovable, unless the syndicate decides to terminate the co-ownership, in which case the trustee, after determining each co-owner's share of the indemnity according to the relative value of his fraction, pays the prior and hypothecary creditors out of that share according to the rules in article 2497. For each of the co-owners, he remits the balance of the indemnity to the liquidator of the syndicate with his report.

A government regulation may determine the criteria for characterizing a loss as substantial.

1991, c. 64, a. 1075; I.N. 2014-05-01; 2018, c. 23, s. 643; 2019, c. 28, s. 149.

1075.1. An insurer may not, despite article 2474, be subrogated to the rights of any of the following persons against another such person:

(1) the syndicate;

(2) a co-owner;

(3) a person who is a member of a co-owner's household; or

(4) a person in respect of whom the syndicate is required to enter into an insurance contract to cover the person's liability.

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An exception to this rule applies in the case of bodily or moral injury or if the injury is due to an intentional or gross fault.

2018, c. 23, s. 644.

1076. The syndicate may, if authorized to do so, acquire or alienate fractions, common portions or other real rights.

A private portion does not cease to be private by the fact that the fraction is acquired by the syndicate, but the syndicate has no vote for that portion at the general meeting and the total number of votes that may be cast is reduced accordingly.

1991, c. 64, a. 1076; I.N. 2014-05-01.

1076.1. The syndicate may grant a movable hypothec only after obtaining the authorization of the general meeting of the co-owners.

2019, c. 28, s. 42.

1077. The syndicate is liable for damage caused to the co-owners or third persons by faulty design, construction defects or lack of maintenance of the common portions, without prejudice to any recursory action.

1991, c. 64, a. 1077; 2002, c. 19, s. 15; 2016, c. 4, s. 137.

1078. A judgment condemning the syndicate to pay a sum of money is executory against the syndicate and against each of the persons who were co-owners at the time the cause of action arose, proportionately to the relative value of his fraction.

The judgment may not be executed against the contingency fund, except for a debt arising from the repair of the immovable or the replacement of common portions, or against the self-insurance fund, unless the judgment is in respect of the recovery of an amount for the payment of which the fund is to be used.

1991, c. 64, a. 1078; 2018, c. 23, s. 645.

1079. The syndicate may demand the resiliation of the lease of a private portion, after notifying the lessor and the lessee, where the non-performance of an obligation by the lessee causes serious injury to a co-owner or to another occupant of the immovable.

The syndicate may, for the same reasons, after notifying the co-owner and the borrower, demand the termination of a loan for use of a private portion.

1991, c. 64, a. 1079; I.N. 2014-05-01; 2019, c. 28, s. 43.

1080. Where the refusal of a co-owner to comply with the declaration of co-ownership causes serious and irreparable injury to the syndicate or to one of the co-owners, either of them may apply to the court for an injunction ordering the owner to comply with the declaration.

If the co-owner violates the injunction or refuses to obey it, the court may, in addition to the other penalties it may impose, order the sale of the co-owner's fraction, in accordance with the provisions of the Code of Civil Procedure (chapter C-25.01) regarding the sale of the property of others.

1991, c. 64, a. 1080; I.N. 2014-05-01; I.N. 2016-01-01 (NCCP).

1081. The syndicate may institute any action on the grounds of latent defects, faulty design or construction defects of the immovable or defects in the ground. In a case where the faults or defects affect the private

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portions, the syndicate may not proceed until it has obtained the authorization of the co-owners of those portions.

Where the defendant sets up the failure to act with diligence against an action based on a latent defect, such diligence is appraised in respect of the syndicate or a co-owner from the day of the election of a new board of directors, after the developer loses control of the syndicate.

1991, c. 64, a. 1081; 2002, c. 19, s. 15; I.N. 2014-05-01.

1082. The syndicate, within six months of being notified by the owner of an immovable under emphyteusis or superficies that he intends to transfer by onerous title his rights in the immovable, may acquire such rights in preference to any other potential acquirer during that period. If it is not notified of the planned transfer, it may, within six months from the time it learns that a third person has acquired the owner's rights, acquire such rights from that person by reimbursing him for the transfer price and the costs he has paid.

1991, c. 64, a. 1082; I.N. 2014-05-01.

1083. The syndicate may join an association of co-ownership syndicates formed for the creation, administration and maintenance of common services for several immovables held in co-ownership, or for the pursuit of common interests.

1991, c. 64, a. 1083; I.N. 2015-11-01.

1083.1. The syndicate may, at its own expense, obtain the plans and specifications of the immovable that are in the possession of an architect or engineer, who is bound to provide them to the syndicate on request.

2019, c. 28, s. 44.

DIVISION VI

BOARD OF DIRECTORS OF THE SYNDICATE

1084. The composition of the board of directors of the syndicate, the mode of appointment, replacement and remuneration of the directors as well as the other terms and conditions of their office are fixed in the by-laws of the immovable.

The court, upon application by a co-owner, may appoint or replace a director and fix the terms and conditions of his office if there is no provision therefor in the by-laws or if it is impossible to proceed in the manner prescribed therein.

1991, c. 64, a. 1084; I.N. 2014-05-01; I.N. 2015-11-01.

1084.1. The directors may participate in a meeting of the board of directors by the use of a means which allows all those participating to communicate directly with each other.

Directors who participate in such a meeting may vote by any means enabling votes to be cast in a way that allows them to be verified afterwards and protects the secrecy of the vote when such a ballot has been requested.

2021, c. 35, s. 1.

1085. The day-to-day administration of the syndicate may be entrusted to a manager who may, but need not be, chosen from among the co-owners.

The manager acts as an administrator of the property of others charged with simple administration.

1991, c. 64, a. 1085; I.N. 2014-05-01.

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1086. Any co-owner who has not paid his share of the common expenses for more than three months is disqualified for the office of director. Such disqualification ceases as soon as he has paid all the common expenses due; he may then once again be elected as a director.

The syndicate may replace a director or manager who, being a co-owner, neglects to pay his contribution to the common expenses.

1991, c. 64, a. 1086; I.N. 2014-05-01; 2019, c. 28, s. 45.

1086.1. The board of directors shall send to the co-owners the minutes of every decision made at a meeting or every resolution in writing passed by the board within 30 days of the meeting or of the passage of the resolution.

2019, c. 28, s. 46.

1086.2. Any co-owner or director may apply to the court to annul or, exceptionally, to amend a decision of the board of directors if the decision is biased or was made with intent to injure the co-owners or in contempt of their rights. The action is forfeited unless instituted within 90 days after the decision of the board of directors.

2019, c. 28, s. 46.

1086.3. In addition to the rules in article 341, where the directors are prevented from acting as a majority or in the specified proportion owing to an impediment or the systematic opposition of some of them, the court may, on the application of a director or co-owner, make any order it sees fit in the circumstances.

2019, c. 28, s. 46.

1086.4. If circumstances warrant it, the court may replace the board of directors by a provisional administrator and determine the terms and conditions governing his administration.

2019, c. 28, s. 46.

DIVISION VII

GENERAL MEETING OF THE CO-OWNERS

1087. The notice calling the annual general meeting of the co-owners shall be accompanied, in addition to the balance sheet, by the income statement for the preceding financial period, the statement of debts and claims, the budget forecast, any draft amendment to the declaration of co-ownership and a note on the essential terms and conditions of any proposed contract or planned work.

1991, c. 64, a. 1087; I.N. 2014-05-01; 2016, c. 4, s. 138.

1088. Within five days of receiving notice of a general meeting of the co-owners, any co-owner may cause a question to be placed on the agenda.

Before the meeting is held, the board of directors gives written notice to the co-owners of the questions newly placed on the agenda.

1991, c. 64, a. 1088; I.N. 2014-05-01.

1088.1. A meeting may be held by the use of a means which allows all those participating to communicate directly with each other.

2021, c. 35, s. 2.

1089. Co-owners holding a majority of the votes constitute a quorum at general meetings.

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If a quorum is not reached, the meeting is adjourned to a later date, notice of which is given to all the co-owners; three-quarters of the members present or represented at the new meeting constitute a quorum. However, decisions on the matters listed in article 1097 may be made at the new meeting only if those members hold at least the majority of the votes of all the co-owners.

A meeting at which there is no longer a quorum shall be adjourned if a co-owner requests it.

1991, c. 64, a. 1089; I.N. 2014-05-01; 2016, c. 4, s. 139; 2019, c. 28, s. 47.

1089.1. Co-owners who participate in a meeting by the use of a means which allows all those participating to communicate directly with each other may vote by any means enabling votes to be cast in a way that allows them to be verified afterwards and protects the secrecy of the vote when such a ballot has been requested.

2021, c. 35, s. 3.

1090. Each co-owner is entitled to a number of votes at a general meeting proportionate to the relative value of his fraction. Co-owners of a fraction held in indivision vote in proportion to their undivided shares.

The co-owner of a fraction held in indivision who is absent from a general meeting is presumed to have mandated the other co-owners of that fraction to represent him, unless the absentee has, in writing, mandated a third person for that purpose or has indicated his refusal to be represented. The absentee's voting rights are partitioned proportionately to the rights of the other co-owners in the indivision.

1991, c. 64, a. 1090; I.N. 2014-05-01; 2019, c. 28, s. 48.

1091. Where, in a co-ownership comprising fewer than five fractions, a co-owner is entitled to more than one-half of all the votes available to the co-owners, the number of votes to which he is entitled at a meeting is reduced to the total number of votes to which the other co-owners present or represented at the meeting are entitled.

1991, c. 64, a. 1091.

1092. At the end of the second and third years after the date of registration of the declaration of co-ownership, a developer of a co-ownership comprising five or more fractions is not entitled to more than 60% of all the votes of the co-owners, in addition to the votes attached to the fraction he occupies.

The limit is thereafter reduced to 25%.

1991, c. 64, a. 1092; I.N. 2014-05-01; 2019, c. 28, s. 49.

1093. Any person who, at the time of registration of a declaration of co-ownership, owns at least one-half of all the fractions, or his successors, other than a person who in good faith acquires a fraction for a price equal to its market value with the intention of occupying it, is considered to be a developer.

1991, c. 64, a. 1093; I.N. 2014-05-01; 2019, c. 28, s. 50.

1094. Any co-owner who has not paid his share of the common expenses for more than three months is deprived of his right to vote. He may once again exercise that right as soon as he has paid all the common expenses he owes.

1991, c. 64, a. 1094; 2016, c. 4, s. 140; 2019, c. 28, s. 51.

1095. Only assignments of the voting rights of a co-owner which have been declared to the syndicate may be set up against it.

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1096. Decisions of the syndicate, including a decision to amend the by-laws of the immovable or to correct a clerical error in the declaration of co-ownership, are taken by a majority vote of the co-owners present or represented at the meeting.

1991, c. 64, a. 1096; 2016, c. 4, s. 141; 2019, c. 28, s. 52.

1097. Decisions concerning the following matters are made by co-owners representing three-quarters of the votes of the co-owners present or represented:

(1) acts of acquisition or alienation of immovables by the syndicate;

(2) work for the alteration, enlargement or improvement of the common portions, the apportionment of the cost of the work and the granting of a movable hypothec to finance it;

(3) the construction of buildings to create new fractions;

(4) the amendment of the act constituting the co-ownership or of the description of the fractions;

(5) the amendment of the description of the private portions referred to in section 1070.

1991, c. 64, a. 1097; I.N. 2014-05-01; 2016, c. 4, s. 142; 2019, c. 28, s. 53; 2020, c. 5, s. 198.

1098. Decisions on the following matters require a majority of three-quarters of the co-owners representing 90% of the votes of all the co-owners:

(1) to change the destination of the immovable;

(2) to authorize the alienation of common portions the retention of which is necessary to maintain the destination of the immovable;

(3) to amend the declaration of co-ownership in order to permit the holding of a fraction by several persons having a periodic and successive right of enjoyment.

1991, c. 64, a. 1098; I.N. 2014-05-01; 2016, c. 4, s. 143.

1099. Where the number of votes to which a co-owner or a developer is entitled is reduced, or where a co-owner or a developer is deprived of his right to vote, the total number of votes available to all the co-owners is reduced by the same number.

1991, c. 64, a. 1099; I.N. 2014-05-01; 2019, c. 28, s. 54.

1100. The co-owners of contiguous private portions may alter the boundaries between their private portions without obtaining the approval of the general meeting provided they obtain the consent of their hypothecary creditors and of the syndicate. No alteration may increase or decrease the relative value of the group of private portions altered or the total of the voting rights attached to them.

The syndicate amends the declaration of co-ownership and the cadastral plan at the expense of the co-owners contemplated in the first paragraph; the act of amendment shall be accompanied by the consents of the creditors, the co-owners and the syndicate.

1991, c. 64, a. 1100; I.N. 2014-05-01.

1101. Any stipulation in the declaration of co-ownership that changes the number of votes required to make a decision under this chapter is deemed unwritten.

1991, c. 64, a. 1101; 1992, c. 57, s. 716; I.N. 2014-05-01.

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1102. Any decision of the syndicate which, contrary to the declaration of co-ownership, imposes on a co-owner a change in the relative value of his fraction or a change of destination of his private portion is without effect.

1991, c. 64, a. 1102; 2002, c. 19, s. 15; 2019, c. 28, s. 55.

1102.1. The board of directors shall send to the co-owners the minutes of every general meeting or every resolution in writing passed by a general meeting within 30 days of the general meeting or of the passage of the resolution.

2019, c. 28, s. 56.

1103. Any co-owner may apply to the court to annul or, exceptionally, to amend a decision of the general meeting if the decision is biased, if it was taken with intent to injure the co-owners or in contempt of their rights, or if an error was made in counting the votes.

The action is forfeited unless instituted within 90 days after the meeting.

If the action is futile or vexatious, the court may condemn the plaintiff to pay damages.

1991, c. 64, a. 1103; 2019, c. 28, s. 57.

1103.1. Where the co-owners are prevented from acting as a majority or in the specified proportion owing to an impediment or the systematic opposition of some of them, the court may, on the application of a co-owner, make any order it sees fit in the circumstances.

2019, c. 28, s. 58.

DIVISION VIII

LOSS OF CONTROL OF THE SYNDICATE BY THE DEVELOPER

1991, c. 64, Div. VIII; I.N. 2014-05-01.

1104. Within 90 days from the day on which the developer of a co-ownership ceases to hold a majority of votes in the general meeting of the co-owners, the board of directors shall call a special meeting of the co-owners to appoint a new board of directors.

If the meeting is not called within 90 days, any co-owner may call it.

1991, c. 64, a. 1104; I.N. 2014-05-01; 2019, c. 28, s. 59.

1105. The board of directors renders account of its administration at the special meeting.

It produces the financial statements, which shall be accompanied with the comments of an accountant on the financial situation of the syndicate. The accountant shall, in his report to the co-owners, indicate any irregularity that has come to his attention.

The financial statements shall be audited on the application of co-owners representing 40% of the votes of all the co-owners. The application may be made at any time, even before the meeting.

1991, c. 64, a. 1105; I.N. 2014-05-01.

1106. The accountant has a right of access at all times to the books, accounts and vouchers concerning the co-ownership.

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He may require from the developer or an administrator any information or explanation that he considers necessary for the performance of his duties.

1991, c. 64, a. 1106; I.N. 2014-05-01; 2016, c. 4, s. 144.

1106.1. Within 30 days of the special meeting, the developer shall provide the following to the syndicate:

(1) the maintenance log kept for the immovable and the contingency fund study;

(2) where the immovable is new or has been renovated by the developer, the plans and specifications showing any substantial changes made to it during construction or renovation in comparison with the original plans and specifications;

(3) the other plans and specifications relating to the immovable that are available;

(4) the location certificates relating to the immovable that are available;

(5) the description of the private portions provided for in article 1070; and

(6) any other document or information prescribed by government regulation.

The developer is liable for any injury resulting from his failure to provide such documents and information.

2018, c. 23, s. 648; 2019, c. 28, s. 60.

1107. The new board of directors may, within 60 days after the election, terminate without penalty a contract entered into before the election by the syndicate for maintenance of the immovable or for other services, if the term of the contract exceeds one year.

1991, c. 64, a. 1107; I.N. 2014-05-01.

DIVISION IX

TERMINATION OF CO-OWNERSHIP

1108. Co-ownership of an immovable may be terminated by a decision of a majority of three-quarters of the co-owners representing 90% of the votes of all the co-owners.

The decision to terminate the co-ownership shall be recorded in writing and signed by the syndicate and the persons holding hypothecs on the immovable or part thereof. This decision is registered in the land register under the registration numbers of the common portions and private portions.

1991, c. 64, a. 1108; I.N. 2014-05-01; I.N. 2015-11-01.

1109. The syndicate is liquidated according to the rules of Book One on the liquidation of legal persons.

For that purpose, the liquidator is seized of the immovable and of all the rights and obligations of the co-owners in the immovable, in addition to the property of the syndicate.

1991, c. 64, a. 1109; I.N. 2015-11-01.

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CHAPTER IV

SUPERFICIES

DIVISION I

ESTABLISHMENT OF SUPERFICIES

1110. Superficies results from division of the subject of the right of ownership of an immovable, transfer of the right of accession or renunciation of the benefit of accession.

1991, c. 64, a. 1110; I.N. 2015-11-01.

1111. The right of the superficiary to use the subsoil is governed by an agreement. Failing agreement, the subsoil is charged with the servitudes necessary for the exercise of the right. These servitudes are extinguished upon termination of the right.

1991, c. 64, a. 1111.

1112. The superficiary and the owner of the subsoil each bear the charges encumbering what constitutes the object of their respective rights of ownership.

1991, c. 64, a. 1112.

1113. Superficies may be perpetual, but a term may be fixed by the agreement establishing its conditions.

1991, c. 64, a. 1113.

DIVISION II

TERMINATION OF SUPERFICIES

1114. Superficies is terminated

(1) by the union of the qualities of subsoil owner and superficiary in the same person, subject to the rights of third persons;

(2) by the fulfilment of a resolutive condition;

(3) by the expiry of the term.

1991, c. 64, a. 1114.

1115. The total loss of the constructions, works or plantations terminates superficies only if superficies is a result of the division of the subject of the right of ownership.

Expropriation of the constructions, works or plantations or expropriation of the subsoil does not terminate superficies.

1991, c. 64, a. 1115; I.N. 2015-11-01.

1116. At the termination of superficies, the subsoil owner acquires by accession ownership of the constructions, works or plantations by paying their value to the superficiary.

If, however, the constructions, works or plantations are equal in value to the subsoil or of greater value, the superficiary has a right to acquire ownership of the subsoil by paying its value to the subsoil owner, unless he

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prefers to remove, at his own expense, the constructions, works and plantations he has made and return the subsoil to its former condition.

1991, c. 64, a. 1116.

1117. Where the superficiary fails to exercise his right to acquire ownership of the subsoil within 90 days from the end of the superficies, the owner of the subsoil retains ownership of the constructions, works and plantations.

1991, c. 64, a. 1117.

1118. A subsoil owner and a superficiary who do not agree on the price and other terms and conditions of acquisition of the subsoil or of the constructions, works or plantations may apply to have the court fix the price and the terms and conditions of acquisition. The judgment is equivalent to a valid title and has all the effects thereof.

They may also, if they fail to agree on the terms and conditions of removal of the constructions, works or plantations, apply to have the court determine them.

1991, c. 64, a. 1118; I.N. 2014-05-01.

TITLE FOUR

DISMEMBERMENTS OF THE RIGHT OF OWNERSHIP

GENERAL PROVISION

1119. Usufruct, use, servitude and emphyteusis are dismemberments of the right of ownership and are real rights.

1991, c. 64, a. 1119.

CHAPTER I

USUFRUCT

DIVISION I

NATURE OF USUFRUCT

1120. Usufruct is the right of use and enjoyment, for a certain time, of property owned by another, as one's own, subject to the obligation of preserving its substance.

1991, c. 64, a. 1120; I.N. 2014-05-01.

1121. Usufruct is established by contract, by will or by law; it may also be established by judgment in the cases prescribed by law.

1991, c. 64, a. 1121.

1122. Usufruct may be established for the benefit of one or several usufructuaries jointly or successively.

Only a person who exists when the usufruct in his favour opens may be a usufructuary.

1991, c. 64, a. 1122.

1123. No usufruct may last longer than 100 years even if the act granting it provides a longer term or creates a successive usufruct.

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Usufruct granted without a term is granted for life or, if the usufructuary is a legal person, for 30 years.

1991, c. 64, a. 1123.

DIVISION II

RIGHTS OF THE USUFRUCTUARY

§ 1. — *Scope of the usufruct*

1124. The usufructuary has the use and enjoyment of the property subject to usufruct; he takes the property in the condition in which he finds it.

Usufruct bears on all accessories and on everything that is naturally united to or incorporated with the immovable by accession.

1991, c. 64, a. 1124; I.N. 2014-05-01.

1125. The usufructuary may require the bare owner to cease any act which prevents him from fully exercising his right.

The bare owner's alienation of his right does not affect the right of the usufructuary.

1991, c. 64, a. 1125.

1126. The usufructuary appropriates the fruits and revenues produced by the property.

1991, c. 64, a. 1126.

1127. The usufructuary may dispose, as though he were its owner, of all the property under his usufruct which cannot be used without being consumed, subject to the obligation of returning similar property in the same quantity and of the same quality at the end of the usufruct.

Where the usufructuary is unable to return similar property he shall pay the value thereof in cash.

1991, c. 64, a. 1127.

1128. The usufructuary may dispose, as a prudent and diligent administrator, of property which, though not consumable, rapidly deteriorates with use.

In the case described in the first paragraph, the usufructuary shall, at the end of the usufruct, return the value of the property at the time he disposed of it.

1991, c. 64, a. 1128.

1129. The usufructuary is entitled to the fruits attached to the property at the beginning of the usufruct. He has no right to the fruits still attached to it at the time his usufruct ceases.

An indemnity is due by the bare owner or by the usufructuary, as the case may be, to the person who has done the work, or incurred the expenses, necessary for the production of the fruits.

1991, c. 64, a. 1129; I.N. 2014-05-01.

1130. Revenues are counted, between the usufructuary and the bare owner, day by day. They belong to the usufructuary from the day his right begins to the day it terminates, regardless of when they are payable or paid, except dividends, which belong to the usufructuary only if they are declared during the usufruct.

1991, c. 64, a. 1130; I.N. 2014-05-01.

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1131. Extraordinary gains derived from ownership of the property subject to usufruct, such as premiums granted upon the redemption of securities, are paid to the usufructuary, who is accountable for them to the bare owner at the end of the usufruct.

1991, c. 64, a. 1131; I.N. 2014-05-01.

1132. If a claim subject to a usufruct becomes payable during the usufruct, it is paid to the usufructuary, who gives an acquittance for it.

The usufructuary is accountable for it to the bare owner at the end of the usufruct.

1991, c. 64, a. 1132; I.N. 2014-05-01.

1133. The right to increase the capital subject to the usufruct, such as the right to subscribe for securities, belongs to the bare owner, but the right of the usufructuary extends to the increase.

Where the bare owner elects to alienate his right, the proceeds of the alienation are remitted to the usufructuary, who is accountable for them at the end of the usufruct.

1991, c. 64, a. 1133; I.N. 2014-05-01.

1134. Voting rights attached to shares or to other securities, to an undivided share, to a fraction of property held in co-ownership or to any other property belong to the usufructuary.

However, any vote having the effect of altering the substance of the principal property, such as share capital or property held in co-ownership, or of changing the destination of the property or terminating the legal person, enterprise or group concerned belongs to the bare owner.

The allocation of the exercise of voting rights may not be set up against third persons; it is discussed only between the usufructuary and the bare owner.

1991, c. 64, a. 1134; I.N. 2014-05-01.

1135. The usufructuary may transfer his right or lease property included in the usufruct.

1991, c. 64, a. 1135; I.N. 2014-05-01.

1136. A creditor of the usufructuary may cause the rights of the usufructuary to be seized and sold, subject to the rights of the bare owner.

A creditor of the bare owner may also cause the rights of the bare owner to be seized and sold, subject to the rights of the usufructuary.

1991, c. 64, a. 1136.

§ 2. — *Disbursements*

1137. Necessary disbursements made by the usufructuary are treated, in relation to the bare owner, as those made by a possessor in good faith.

1991, c. 64, a. 1137.

1138. The useful disbursements made by the usufructuary are retained by the bare owner without indemnity at the end of the usufruct, unless the usufructuary elects to remove them and restore the property to its original condition. However, the bare owner may not compel the usufructuary to remove them.

1991, c. 64, a. 1138; I.N. 2014-05-01; 2016, c. 4, s. 145.

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§ 3. — *Trees and minerals*

1139. In no case may the usufructuary fell trees growing on the land subject to the usufruct except for repairs, maintenance or exploitation of the land. He may, however, dispose of those which have fallen or died naturally.

The usufructuary replaces the trees that have been destroyed, in conformity with the usage of the place or the custom of the owners. He also replaces orchard and sugar bush trees, unless most of them have been destroyed.

1991, c. 64, a. 1139.

1140. The usufructuary may begin agricultural or sylvicultural operations if the land subject to the usufruct is suitable therefor.

Where the usufructuary begins or continues operations, he shall do so in such a manner as not to exhaust the soil or prevent the regrowth of the forest. He shall also, in the case of sylvicultural operations, have his operating plan approved by the bare owner before his operations begin. If he fails to obtain such approval, he may have the plan approved by the court.

1991, c. 64, a. 1140.

1141. No usufructuary may extract minerals from the land subject to the usufruct except for the repair and maintenance of the land.

However, where the extraction of minerals constituted a source of income for the owner before the opening of the usufruct, the usufructuary may continue the extraction in the same way as it was begun.

1991, c. 64, a. 1141.

DIVISION III

OBLIGATIONS OF THE USUFRUCTUARY

§ 1. — *Inventory and security*

1142. The usufructuary, in the manner of an administrator of the property of others, makes an inventory of the property subject to his right unless the person constituting the usufruct has done so himself or has exempted him from doing so. No exemption may be granted if the usufruct is successive.

The usufructuary makes the inventory at his own expense and furnishes a copy to the bare owner.

1991, c. 64, a. 1142.

1143. In no case may the usufructuary compel the person constituting the usufruct or the bare owner to deliver the property to him until he has made an inventory.

1991, c. 64, a. 1143.

1144. Except in the case of a seller or donor who has reserved the usufruct, the usufructuary shall, within 60 days from the opening of the usufruct, take out insurance or furnish other security to the bare owner to guarantee performance of his obligations. The usufructuary shall furnish additional security if his obligations increase while the usufruct lasts.

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The usufructuary is exempted from these obligations if he is unable to perform them or if the person constituting the usufruct so provides.

1991, c. 64, a. 1144; I.N. 2014-05-01.

1145. If the usufructuary fails to furnish security within the allotted time, the bare owner may have the property sequestrated.

The sequestrator, in the manner of an administrator of the property of others charged with simple administration, invests the amounts included in the usufruct and the proceeds of the sale of perishable property. He similarly invests the amounts deriving from payment of the claims subject to the usufruct.

1991, c. 64, a. 1145.

1146. Any unjustified delay by the usufructuary in making an inventory of the property or furnishing security deprives him of his right to the fruits and revenues from the opening of the usufruct until the performance of his obligations.

1991, c. 64, a. 1146.

1147. The usufructuary may apply to the court for leave to retain sequestrated movables necessary for his use under no other condition than that he undertake to return them at the end of the usufruct.

1991, c. 64, a. 1147; I.N. 2015-11-01.

§ 2. — *Insurance and repairs*

1148. The usufructuary is bound to insure the property against ordinary risks such as fire and theft and to pay the insurance premiums while the usufruct lasts. He is, however, exempt from that obligation where the insurance premium is too high in relation to the risks.

1991, c. 64, a. 1148.

1149. In the case of a loss, the indemnity is paid to the usufructuary, who gives an acquittance therefor to the insurer.

The usufructuary is bound to use the indemnity for the repair of the property, except in the case of total loss, where he may have enjoyment of the indemnity.

1991, c. 64, a. 1149.

1150. The usufructuary or the bare owner may take out insurance on his own account to secure his rights.

The indemnity belongs to the usufructuary or the bare owner, as the case may be.

1991, c. 64, a. 1150.

1151. Maintenance of the property is the responsibility of the usufructuary. He is not bound to make major repairs, unless they result from his act or omission, in particular his failure to carry out maintenance repairs since the opening of the usufruct.

1991, c. 64, a. 1151; I.N. 2014-05-01.

1152. Major repairs are those which affect a substantial part of the property and require extraordinary outlays, such as repairs relating to beams and support walls, to the replacement of roofs, to retaining walls or

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to heating, electrical, plumbing or electronic systems, and, with respect to movables, to motive parts or the casing of the property.

1991, c. 64, a. 1152; I.N. 2014-05-01.

1153. The usufructuary shall notify the bare owner that major repairs are necessary.

The bare owner is not bound to make the major repairs. If he makes them, the usufructuary suffers the resulting inconvenience. If he does not make them, the usufructuary may make them and be reimbursed for the cost at the end of the usufruct.

1991, c. 64, a. 1153; I.N. 2014-05-01.

§ 3. — *Other charges*

1154. The usufructuary is liable, in proportion to the duration of the usufruct, for ordinary charges against the property subject to his right and for the other charges that are ordinarily paid with the revenues.

The usufructuary is similarly liable for extraordinary charges that are payable in periodic instalments over several years.

1991, c. 64, a. 1154; I.N. 2014-05-01.

1155. If a usufructuary by particular title is forced to pay a debt of the succession in order to retain the property subject to his right, he may require immediate reimbursement from the debtor or reimbursement from the bare owner at the end of the usufruct.

1991, c. 64, a. 1155; 2016, c. 4, s. 146.

1156. The usufructuary by general title and the bare owner are bound to pay the debts of the succession in proportion to their shares in the succession.

The bare owner is liable for the capital and the usufructuary for the interest.

1991, c. 64, a. 1156; I.N. 2014-05-01.

1157. The usufructuary by general title may pay the debts of the succession; the bare owner is accountable therefor to him at the end of the usufruct.

Where the usufructuary elects not to pay the debts of the succession, the bare owner may cause the sale of property subject to the usufruct, up to the amount of the debts, or pay the debts himself; in the latter case, the usufructuary pays interest to the bare owner on the amount paid, for the duration of the usufruct.

1991, c. 64, a. 1157; I.N. 2014-05-01; I.N. 2015-11-01.

1158. The usufructuary is liable for the legal costs of any judicial applications related to his right of usufruct.

Where applications relate to both the rights of the bare owner and those of the usufructuary, the rules governing payment of the debts of the succession between the usufructuary by general title and the bare owner apply unless the usufruct is terminated by the judgment, in which case the legal costs are divided equally between the usufructuary and the bare owner.

1991, c. 64, a. 1158; I.N. 2015-11-01; I.N. 2016-01-01 (NCCP); 2016, c. 4, s. 147.

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1159. If, during the usufruct, a third person encroaches on the property or otherwise infringes the rights of the bare owner, the usufructuary shall notify the bare owner, failing which he is liable for all resulting damage, as if he himself had committed waste.

1991, c. 64, a. 1159; I.N. 2014-05-01.

1160. Neither the bare owner nor the usufructuary is bound to replace anything that has fallen into decay.

A usufructuary exempted from insuring the property is not bound to replace or pay the value of any property that perishes by superior force.

1991, c. 64, a. 1160; I.N. 2014-05-01.

1161. If a usufruct is established upon a herd or a flock and the entire herd or flock perishes by superior force, the usufructuary exempted from insuring the herd or flock is bound to account to the owner for the skins or their value.

If the herd or flock does not perish entirely, the usufructuary is bound to replace those animals which have perished, up to the number of the increase.

1991, c. 64, a. 1161; 2015, c. 35, s. 6.

DIVISION IV

EXTINCTION OF USUFRUCT

1162. Usufruct is extinguished

(1) by the expiry of the term;

(2) by the death of the usufructuary or the dissolution of the legal person;

(3) by the union of the qualities of usufructuary and bare owner in the same person, subject to the rights of third persons;

(4) by the forfeiture or renunciation of the right or its conversion into an annuity;

(5) by non-use for 10 years.

1991, c. 64, a. 1162.

1163. Usufruct is also extinguished by the total loss of the property on which it is established, unless the property is insured by the usufructuary.

In case of partial loss of the property, the usufruct subsists upon the remainder.

1991, c. 64, a. 1163; I.N. 2014-05-01.

1164. Usufruct is not extinguished by expropriation of the property on which it is established. The indemnity is remitted to the usufructuary under the condition of his rendering account of it at the end of the usufruct.

1991, c. 64, a. 1164.

1165. If a usufruct is granted until a third person reaches a certain age, it continues until the date he would have reached that age, even if he has died.

1991, c. 64, a. 1165.

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1166. A usufruct created for the benefit of several successive usufructuaries is extinguished with the death of the last usufructuary or the dissolution of the last legal person.

The extinction of the right of one of the usufructuaries in a joint usufruct benefits the bare owner.

1991, c. 64, a. 1166; I.N. 2014-05-01.

1167. At the end of the usufruct, the usufructuary returns the property subject to the usufruct to the bare owner in the condition in which it is at that time.

The usufructuary is liable for any loss due to his fault or not resulting from normal use of the property.

1991, c. 64, a. 1167; I.N. 2014-05-01.

1168. A usufructuary who abuses his enjoyment, commits waste on the property, allows it to decline or in any manner endangers the rights of the bare owner may forfeit his right.

The court may, according to the gravity of the circumstances, pronounce the absolute extinction of the usufruct, with an indemnity payable immediately or by instalments to the bare owner, or without indemnity. It may also declare the usufructuary's right forfeited in favour of a joint or successive usufructuary, or it may impose conditions for the continuance of the usufruct.

The creditors of the usufructuary may intervene in the proceedings to ensure the preservation of their rights; they may offer to repair the waste and provide security for the future.

1991, c. 64, a. 1168; I.N. 2014-05-01; I.N. 2015-11-01; 2016, c. 4, s. 148.

1169. A usufructuary may renounce his right, in whole or in part.

Where part only of the right is renounced and failing an agreement, the court fixes the new obligations of the usufructuary, taking into account, in particular, the scope and duration of the right, and the fruits and revenues derived therefrom.

1991, c. 64, a. 1169.

1170. Total renunciation may be set up against the bare owner from the day he is served notice of it; partial renunciation may be set up from the date of judicial applications or of an agreement between the parties.

1991, c. 64, a. 1170; I.N. 2015-11-01.

1171. A usufructuary having serious difficulty in performing his obligations is entitled to require the bare owner or joint or successive usufructuary to convert his right to an annuity.

Failing agreement, the court, if it confirms the right of the usufructuary, fixes the annuity, taking into account, in particular, the scope and duration of the right and the fruits and revenues derived from it.

1991, c. 64, a. 1171.

CHAPTER II

USE

1172. A right of use is the right to temporarily use the property of another and to take the fruits and revenues thereof, to the extent of the needs of the user and the persons living with him or his dependants.

1991, c. 64, a. 1172; I.N. 2014-05-01; 2016, c. 4, s. 149.

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1173. The right of use may not be assigned or seized unless the agreement or the act establishing the right of use provides otherwise.

If the agreement or act is silent as to whether the right may be assigned or seized, the court may, in the interest of the user and after ascertaining that the owner suffers no injury, authorize the assignment or seizure of the right.

1991, c. 64, a. 1173; I.N. 2014-05-01.

1174. A user whose right bears on only part of a property may use any facility intended for common use.

1991, c. 64, a. 1174.

1175. A user who takes all the fruits and revenues of the property or who uses the property in its entirety is liable, for the whole, for the costs he incurred to produce them, for the maintenance repairs and for the payment of the charges, in the same manner as a usufructuary.

Where the user takes only part of the fruits and revenues or uses only part of the property, he contributes in proportion to his use.

1991, c. 64, a. 1175; I.N. 2014-05-01.

1176. The provisions governing usufruct, adapted as required, are, in all other respects, applicable to the right of use.

However, the rules relating to conversion of the usufruct into an annuity do not apply to the right of use unless that right may be assigned and seized.

1991, c. 64, a. 1176.

CHAPTER III

SERVITUDES

DIVISION I

NATURE OF SERVITUDES

1177. A servitude is a charge imposed on an immovable, the servient land, in favour of another immovable, the dominant land, belonging to a different owner.

Under the charge the owner of the servient land is required to tolerate certain acts of use by the owner of the dominant land or himself abstain from exercising certain rights inherent in ownership.

A servitude extends to all that is necessary for its exercise.

1991, c. 64, a. 1177.

1178. An obligation to do something may be attached to a servitude and imposed on the owner of the servient land. The obligation is an accessory to the servitude and can only be stipulated for the service or exploitation of the immovable.

1991, c. 64, a. 1178; I.N. 2014-05-01.

1179. Servitudes are either continuous or discontinuous.

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Continuous servitudes, such as servitudes of view or of non-construction, are those the exercise of which does not require the actual intervention of the holder.

Discontinuous servitudes, such as pedestrian or vehicular rights of way, are those the exercise of which requires the actual intervention of the holder.

1991, c. 64, a. 1179; I.N. 2014-05-01.

1180. Servitudes are either apparent or unapparent.

A servitude is apparent if it is manifested by an external sign; otherwise it is unapparent.

1991, c. 64, a. 1180.

1181. A servitude is established by contract, by will, by destination of the owner or by operation of law.

It may not be established without title, and possession, even immemorial, is insufficient for this purpose.

1991, c. 64, a. 1181; I.N. 2014-05-01.

1182. Servitudes are not affected by the transfer of ownership of the servient or dominant land. They remain attached to the immovables through changes of ownership, subject to the provisions relating to the publication of rights.

1991, c. 64, a. 1182.

1183. Servitude by destination of the owner is evidenced in writing by the owner of the land who, in contemplation of its future parcelling, immediately establishes the nature, scope and situation of the servitude on one part of the land in favour of other parts.

1991, c. 64, a. 1183; I.N. 2014-05-01.

DIVISION II

EXERCISE OF SERVITUDES

1184. The owner of the dominant land may, at his own expense, take the measures or make all the works necessary for the exercise and preservation of the servitude unless otherwise stipulated in the act establishing the servitude.

At the end of the servitude he shall, at the request of the owner of the servient land, restore the place to its former condition.

1991, c. 64, a. 1184.

1185. The owner of the servient land, charged by the title with making the necessary works for the exercise and preservation of the servitude, may free himself of the charge by abandoning the entire servient land or any part of it sufficient for the exercise of the servitude to the owner of the dominant land.

1991, c. 64, a. 1185.

1186. In no case may the owner of the dominant land make any change that would aggravate the situation of the servient land.

In no case may the owner of the servient land do anything that would tend to diminish the exercise of the servitude or to render it less convenient. However, he may, at his own expense, provided he has an interest in

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doing so, transfer the site of the servitude to another place where its exercise will be no less convenient to the owner of the dominant land.

1991, c. 64, a. 1186.

1187. If the dominant land is divided, the servitude remains due for each portion, but the situation of the servient land may not thereby be aggravated.

Thus, in the case of a right of way, all owners of lots resulting from the division of the dominant land shall exercise it over the same place.

1991, c. 64, a. 1187.

1188. Division of the servient land does not affect the rights of the owner of the dominant land.

1991, c. 64, a. 1188.

1189. Except in the case of land enclosed by that of others, a servitude of right of way may be redeemed where its usefulness to the dominant land is out of proportion to the inconvenience or depreciation it entails for the servient land.

Failing agreement, the court, if it grants the right of redemption, fixes the price, taking into account, in particular, the length of time for which the servitude has existed and the change of value entailed by the servitude both in favour of the servient land and to the detriment of the dominant land.

1991, c. 64, a. 1189.

1190. The parties may, in writing, exclude the possibility of redeeming a servitude for a period of not over 30 years.

1991, c. 64, a. 1190.

DIVISION III

EXTINCTION OF SERVITUDES

1191. A servitude is extinguished

(1) by the union of the qualities of owner of the servient land and owner of the dominant land in the same person;

(2) by the express renunciation of the owner of the dominant land;

(3) by the expiry of the term for which it was established;

(4) by redemption;

(5) by non-use for 10 years.

1991, c. 64, a. 1191.

1192. In the case of discontinuous servitudes, prescription begins to run from the day the owner of the dominant land ceases to exercise the servitude and, in the case of continuous servitudes, from the day any act contrary to their exercise is done.

1991, c. 64, a. 1192; I.N. 2014-05-01.

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1193. The mode of exercising a servitude may be prescribed just as the servitude itself, and in the same manner.

1991, c. 64, a. 1193.

1194. Prescription runs even where the dominant land or the servient land undergoes a change of such a kind as to render exercise of the servitude impossible.

1991, c. 64, a. 1194.

CHAPTER IV

EMPHYTEUSIS

DIVISION I

NATURE OF EMPHYTEUSIS

1195. Emphyteusis is the right which, for a certain time, grants a person the full benefit and use of an immovable owned by another provided he does not endanger its existence and undertakes to make constructions, works or plantations thereon that increase its value in a lasting manner.

Emphyteusis is established by contract or by will.

1991, c. 64, a. 1195; I.N. 2014-05-01; 2016, c. 4, s. 150.

1196. Emphyteusis both on land and an existing building may be the subject of a declaration of co-emphyteusis, which is governed by the same rules as those provided for a declaration of co-ownership. It is also subject to the rules, adapted as required, applicable to co-ownership established on a building built by an emphyteuta.

1991, c. 64, a. 1196; I.N. 2014-05-01.

1197. The term of the emphyteusis shall be stipulated in the constituting act and shall be not less than 10 nor more than 100 years. If it is longer, it is reduced to 100 years.

1991, c. 64, a. 1197; I.N. 2014-05-01.

1198. Emphyteusis on land on which a building held in co-ownership is built, or both on land and an existing building, may be renewed without the emphyteuta being required to make new constructions or plantations or new works, other than useful disbursements.

1991, c. 64, a. 1198; I.N. 2014-05-01.

1199. The creditor of the emphyteuta may cause the latter's rights to be seized and sold, subject to the rights of the owner of the immovable.

The creditor of the owner may also cause the latter's rights to be seized and sold, subject to the rights of the emphyteuta.

1991, c. 64, a. 1199; I.N. 2015-11-01.

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DIVISION II

RIGHTS AND OBLIGATIONS OF THE EMPHYTEUTA AND OF THE OWNER

1991, c. 64, sec. II; I.N. 2014-05-01.

1200. The emphyteuta has all the rights in the immovable attaching to the quality of owner, subject to the restrictions contained in this chapter and in the act constituting emphyteusis.

The constituting act may limit the exercise of the rights of the parties, particularly by granting rights or guarantees to the owner for protecting the value of the immovable, ensuring its conservation, yield or utility or by otherwise preserving the rights of the owner or of the emphyteuta or regulating the performance of the obligations established in the constituting act.

1991, c. 64, a. 1200; I.N. 2014-05-01; 2016, c. 4, s. 151.

1201. The emphyteuta, at his own expense, and after convening the owner, causes a statement of the immovables subject to his right to be drawn up, unless the owner has exempted him therefrom.

1991, c. 64, a. 1201; I.N. 2014-05-01.

1202. The emphyteuta is liable for partial loss of the immovable; he remains liable in such a case for full payment of the price stipulated in the constituting act.

1991, c. 64, a. 1202; I.N. 2014-05-01.

1203. The emphyteuta is bound to make repairs, even major repairs, concerning the immovable or the constructions, works or plantations made in the performance of his obligation.

1991, c. 64, a. 1203; I.N. 2014-05-01.

1204. If an emphyteuta commits waste on the immovable, allows it to decline or in any manner endangers the rights of the owner, the emphyteuta may forfeit his right.

The court, according to the gravity of the circumstances, may resiliate the emphyteusis with an indemnity payable immediately or by instalments to the owner, or without indemnity, or it may require the emphyteuta to furnish other security or impose any other obligations or conditions on him.

The creditors of the emphyteuta may intervene in the proceedings to preserve their rights; they may offer to repair the waste and give security for the future.

1991, c. 64, a. 1204; I.N. 2014-05-01; I.N. 2015-11-01.

1205. The emphyteuta is liable for all property charges against the immovable.

1991, c. 64, a. 1205; I.N. 2014-05-01; 2016, c. 4, s. 152.

1206. The owner has the same obligations towards the emphyteuta as a seller.

1991, c. 64, a. 1206; I.N. 2014-05-01.

1207. Where a price payable in a lump sum or by instalments is fixed in the constituting act and the emphyteuta fails to pay it for three years, the owner is entitled, after at least 90 days' notice, to apply for resiliation of the constituting act.

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Resiliation may not be applied for where divided co-ownership is established on a building built by the emphyteuta. The same applies where the immovable is the subject of a declaration of co-emphyteusis.

1991, c. 64, a. 1207; I.N. 2014-05-01.

DIVISION III

TERMINATION OF EMPHYTEUSIS

1208. Emphyteusis is terminated

(1) by the expiry of the term stipulated in the constituting act;

(2) by the total loss or expropriation of the immovable;

(3) by the resiliation of the constituting act;

(4) by the union of the qualities of owner and emphyteuta in the same person;

(5) by non-use for 10 years;

(6) by abandonment.

1991, c. 64, a. 1208; I.N. 2014-05-01.

1209. Upon termination of the emphyteusis, the owner recovers the immovable free of all the rights and charges granted by the emphyteuta, unless the termination of the emphyteusis results from resiliation by agreement or from the union of the qualities of owner and emphyteuta in the same person.

1991, c. 64, a. 1209; I.N. 2014-05-01.

1210. Upon termination of the emphyteusis, the emphyteuta shall return the immovable in a good state of repair with the constructions, works or plantations stipulated in the constituting act, unless they have perished by superior force.

Any additions made to the immovable by the emphyteuta which he is under no obligation to make are treated as disbursements made by a possessor in good faith.

1991, c. 64, a. 1210; I.N. 2014-05-01.

1211. Unless the emphyteuta has renounced his right, emphyteusis may also be terminated by abandonment, which may take place only if the emphyteuta has fulfilled all his past obligations and leaves the immovable free of all charges.

1991, c. 64, a. 1211; I.N. 2014-05-01.

TITLE FIVE

RESTRICTIONS ON THE FREE DISPOSITION OF CERTAIN PROPERTY

CHAPTER I

STIPULATIONS OF INALIENABILITY

1212. A restriction on the exercise of the right to dispose of property may only be stipulated by gift or will.

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A stipulation of inalienability is made in writing at the time of transfer of ownership of the property or a dismemberment of the right of ownership in it to a person or to a trust.

The stipulation of inalienability is valid only if it is temporary and justified by a serious and legitimate interest. Nevertheless, it may be valid for the duration of a substitution or trust.

1991, c. 64, a. 1212; I.N. 2014-05-01.

1213. A person whose property is inalienable may be authorized by the court to dispose of the property if the interest that had justified the stipulation of inalienability has disappeared or where a greater interest comes to require it.

The court may, where it authorizes alienation of the property, fix any conditions it considers necessary to safeguard the interests of the person who stipulated inalienability, his successors or the person for whose benefit inalienability was stipulated.

1991, c. 64, a. 1213.

1214. A stipulation of inalienability may not be set up against third persons unless it is published in the appropriate register.

1991, c. 64, a. 1214; I.N. 2014-05-01.

1215. A stipulation of inalienability of property renders the property unseizable for any debt contracted before or during the period of inalienability by the person who receives the property, subject, in particular, to the provisions of the Code of Civil Procedure (chapter C-25.01).

1991, c. 64, a. 1215; I.N. 2014-05-01; I.N. 2016-01-01 (NCCP); 2016, c. 4, s. 153.

1216. Any clause tending to prevent a person whose property is inalienable from contesting the validity of the stipulation of inalienability or from applying for authorization to alienate the property is deemed unwritten.

Any penal clause to the same effect is also deemed unwritten.

1991, c. 64, a. 1216; 2002, c. 19, s. 15; I.N. 2015-11-01.

1217. The nullity of an alienation made notwithstanding a stipulation of inalienability and without the authorization of the court may not be invoked by anyone except the person who made the stipulation and his successors or the person for whose benefit the stipulation was made.

1991, c. 64, a. 1217.

CHAPTER II

SUBSTITUTION

DIVISION I

NATURE AND SCOPE OF SUBSTITUTION

1218. Substitution exists where a person receives property by a liberality with the obligation of handing it over to a third person after a certain period.

Substitution is established by gift or by will; it shall be evidenced in writing and published at the registry office.

1991, c. 64, a. 1218; I.N. 2014-05-01; I.N. 2015-11-01.

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1219. The person who has the obligation to hand over is called the institute and the person who is entitled to take after him is called the substitute.

A substitute who takes with the obligation to hand over becomes in turn the institute with respect to the subsequent substitute.

1991, c. 64, a. 1219; I.N. 2014-05-01.

1220. A prohibition against disposing of the property by will, placed on the donee or legatee without further indication, entails substitution in favour of the intestate heirs of the donee or legatee with respect to the property given or bequeathed and remaining at his death.

1991, c. 64, a. 1220; I.N. 2014-05-01; 2016, c. 4, s. 154.

1221. A substitution may not extend to more than two successive ranks of persons, in addition to that of the initial institute, and is without effect for subsequent ranks.

Accretion between co-institutes upon the death of one of them, where it is stipulated that his share passes to the surviving institutes, is not considered to be made to a subsequent rank.

1991, c. 64, a. 1221; I.N. 2014-05-01.

1222. The rules on successions, particularly those relating to the right of option or to testamentary provisions, adapted as required, apply to a substitution from the time it opens, whether it was created by gift or by will.

1991, c. 64, a. 1222; I.N. 2015-11-01.

DIVISION II

SUBSTITUTIONS BEFORE OPENING

§ 1. — *Rights and obligations of the institute*

1223. Before the opening of a substitution, the institute is the owner of the substituted property, which forms, within his personal patrimony, a separate patrimony intended for the substitute.

1991, c. 64, a. 1223.

1224. Within two months after the gift or after acceptance of the legacy, the institute, in the manner of an administrator of the property of others, shall make an inventory of the property at his own expense, after convening the substitute.

1991, c. 64, a. 1224.

1225. The institute, in exercising his rights and performing his obligations, shall act with prudence and diligence, having regard to the rights of the substitute.

1991, c. 64, a. 1225; I.N. 2014-05-01.

1226. The institute shall perform all acts necessary to maintain and preserve the property.

He pays the charges and debts of all kinds that became due before the opening; he collects the claims, gives acquittance therefor and exercises all judicial recourses relating to the substituted property.

1991, c. 64, a. 1226.

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1227. The institute shall insure the property against ordinary risks such as fire and theft. He is, however, dispensed from that obligation if the insurance premium is too high in relation to the risks.

The insurance indemnity becomes substituted property.

1991, c. 64, a. 1227.

1228. The right of an institute to begin or continue agricultural, sylvicultural or mining operations on substituted land is governed by the rules on usufruct.

1991, c. 64, a. 1228.

1229. An institute may alienate the substituted property by onerous title or lease it. He may also charge it with a hypothec if that is required for its maintenance and preservation or to make an investment in the name of the substitution.

The rights of the acquirer, creditor or lessee are unaffected by the rights of the substitute at the opening of the substitution.

1991, c. 64, a. 1229; I.N. 2014-05-01.

1230. The institute is bound to reinvest, in the name of the substitution, the proceeds of any alienation of substituted property and the capital paid to him before the opening or received by him from the grantor, in accordance with the provisions relating to investments presumed sound.

1991, c. 64, a. 1230; I.N. 2014-05-01.

1231. On each anniversary of the date of inventory of the property, the institute shall inform the substitute of any change in the general mass of the property; he shall also inform him of the reinvestment he has made of the proceeds of alienation of property.

1991, c. 64, a. 1231.

1232. If the act constituting the substitution provides therefor, the institute may dispose of the substituted property gratuitously or not reinvest the proceeds of its alienation; he has no right to bequeath it unless that is expressly permitted by the act.

In such cases, the substitution has effect only as regards the property that was not disposed of by the institute.

1991, c. 64, a. 1232; I.N. 2014-05-01.

1233. Creditors holding a prior claim or a hypothec on substituted property have, with respect to that property, the rights and remedies conferred on them by law.

The other creditors may cause substituted property to be seized and sold by sale under judicial authority, after discussion of the personal patrimony of the institute. The substitute may oppose the seizure and demand that the seizure and sale be limited to the rights conferred on the institute by the substitution. Failing opposition, the sale is valid; the successful bidder has a good title and the right of action of the substitute is exercisable only against the institute.

1991, c. 64, a. 1233; I.N. 2014-05-01; I.N. 2016-01-01 (NCCP).

1234. The institute may, before the substitution opens, renounce his rights in favour of the substitute and hand over the substituted property to him in advance.

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The renunciation by the institute may not prejudice the rights of his creditors or the rights of the eventual substitute.

1991, c. 64, a. 1234; I.N. 2014-05-01.

§ 2. — *Rights of the substitute*

1235. Before the substitution opens, the substitute has an eventual right to the property substituted; he may dispose of or renounce his right and perform any conservatory act to ensure the protection of his right.

1991, c. 64, a. 1235; I.N. 2014-05-01.

1236. Where the institute refuses or fails to make an inventory of the property within the required time, the substitute may do so at the expense of the institute. He first convenes the institute and the other interested persons.

1991, c. 64, a. 1236.

1237. The institute shall, if the act creating the substitution so requires or if ordered by the court upon the application of the substitute or any interested person who establishes that such a measure is necessary, take out insurance or furnish other security to guarantee the performance of his obligations.

He shall also furnish additional security where his obligations are increased before the opening of the substitution.

1991, c. 64, a. 1237; I.N. 2014-05-01.

1238. If the institute fails to perform his obligations or acts in a manner that endangers the rights of the substitute, the court may, depending on the gravity of the circumstances, deprive him of fruits and revenues, require him to restore the capital, declare his rights forfeited in favour of the substitute or appoint a sequestrator chosen preferably from the substitutes.

1991, c. 64, a. 1238.

1239. The rights of a substitute who is not yet conceived are exercised by the person designated by the grantor to act as curator to the substitution and who accepts the office or, failing designation or acceptance, by the person appointed by the court on the application of the institute or any interested person.

The Public Curator may be designated to act.

1991, c. 64, a. 1239; I.N. 2014-05-01.

DIVISION III

OPENING OF THE SUBSTITUTION

1240. Unless an earlier time has been fixed by the grantor, the opening of the substitution takes place on the death of the institute.

Where the institute is a legal person, the substitution may not open more than 30 years after the gift or the opening of the succession, or after the day its right arises.

1991, c. 64, a. 1240.

1241. Where it is stipulated that the share of an institute passes, on his death, to the surviving institutes of the same rank, the opening of the substitution takes place only on the death of the last institute.

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However, an opening so deferred may not prejudice the rights of the substitute who would have received on the death of an institute but for the stipulation; the right to receive is vested in the substitute but its exercise is suspended until the substitution opens.

1991, c. 64, a. 1241; I.N. 2014-05-01.

1242. Only a person having the required qualities to receive by gift or by will at the time the substitution opens may be a substitute.

Where there are several substitutes of the same rank, only one need have the required qualities to receive at the time his right arises to protect the right of all the other substitutes to receive, if they subsequently accept the substitution.

1991, c. 64, a. 1242.

DIVISION IV

SUBSTITUTION AFTER OPENING

1243. The substitute who accepts the substitution receives the property directly from the grantor and is, by the opening, seised of ownership of the property.

1991, c. 64, a. 1243.

1244. The institute shall, at the opening, render account to the substitute and hand over the substituted property to him.

Where the substituted property is no longer in kind, the institute hands over whatever has been acquired through reinvestment or, failing that, the value of the property at the time of the alienation.

1991, c. 64, a. 1244; I.N. 2014-05-01.

1245. The institute hands over the property in the condition it is in at the opening of the substitution.

The institute is liable for any loss caused by his fault or not resulting from normal use.

1991, c. 64, a. 1245; I.N. 2014-05-01.

1246. Where only the residue of the property given or bequeathed is subject to the substitution, the institute hands over only the property remaining and the balance of the proceeds of the alienated property.

1991, c. 64, a. 1246; I.N. 2014-05-01.

1247. The institute is entitled to reimbursement, with interest accrued from the opening, of capital debts that he has paid without having been charged to do so and of expenditures generally debited from the capital that he has incurred by reason of the substitution.

The institute is also entitled to reimbursement, in proportion to the duration of his right, of expenditures generally debited from the revenues for any object that exceeds that duration.

1991, c. 64, a. 1247; I.N. 2014-05-01.

1248. The institute is entitled to be reimbursed for the useful disbursements he has made, in accordance with the rules applicable to possessors in good faith.

1991, c. 64, a. 1248; I.N. 2014-05-01.

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1249. The opening of a substitution revives the claims and debts that existed between the institute and the grantor; it terminates the confusion, in the person of the institute, of the qualities of creditor and debtor, except for interest accrued until the opening.

1991, c. 64, a. 1249; I.N. 2014-05-01.

1250. The institute may retain the substituted property until payment of what is due to him.

1991, c. 64, a. 1250.

1251. The heirs of the institute are bound to perform the obligations that this section imposes on the institute, and they have the same rights as it confers on him.

The heirs of the institute are bound to continue anything that is a necessary consequence of the acts performed by him or that cannot be deferred without risk of loss.

1991, c. 64, a. 1251; I.N. 2014-05-01.

DIVISION V

LAPSE AND REVOCATION OF SUBSTITUTION

1252. Lapse of a testamentary substitution with regard to an institute does not give rise to representation; it benefits his co-institutes or, in the absence of co-institutes, the substitute.

Lapse of a testamentary substitution with regard to a substitute benefits his co-substitutes, if any; otherwise, it benefits the institute.

1991, c. 64, a. 1252; I.N. 2014-05-01.

1253. The donor may revoke the substitution with regard to the substitute, until the opening, as long as it has not been accepted by or for the substitute. However, with respect to the donor, the substitute is deemed to have accepted where he is the child of the institute or where one of the co-substitutes has accepted the substitution.

1991, c. 64, a. 1253; I.N. 2014-05-01.

1254. Revocation of a substitution with regard to the institute benefits the co-institute, if any; otherwise it benefits the substitute; revocation with regard to the substitute benefits the co-substitute, if any; otherwise it benefits the institute.

1991, c. 64, a. 1254.

1255. The grantor may reserve for himself the right to determine the share of the substitutes or confer that right on the institute.

The exercise of the right by the donor does not constitute a revocation of the substitution even if it has the effect of completely excluding a substitute from the benefit of the substitution.

1991, c. 64, a. 1255; I.N. 2014-05-01.

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TITLE SIX

CERTAIN PATRIMONIES BY APPROPRIATION

CHAPTER I

THE FOUNDATION

1256. A foundation results from an act whereby a person irrevocably appropriates the whole or part of his property to the lasting fulfilment of a socially beneficial purpose.

It may not have the making of profit or the operation of an enterprise as its essential object.

1991, c. 64, a. 1256; 2016, c. 4, s. 155.

1257. The property of the foundation constitutes either an autonomous patrimony distinct from that of the settlor or any other person, or the patrimony of a legal person.

In the first case, the foundation is governed by the provisions of this Title relating to a social trust, subject to the provisions of law; in the second case, the foundation is governed by the laws applicable to legal persons of the same kind.

1991, c. 64, a. 1257.

1258. A foundation created by trust is established by gift or by will in accordance with the rules governing those acts.

1991, c. 64, a. 1258.

1259. Unless otherwise provided in the act constituting the foundation, the property forming the initial patrimony of the trust foundation or any property subrogated or added thereto shall be preserved and allow for the fulfilment of the purpose, either by the distribution only of those revenues that derive therefrom or by a use that does not appreciably alter the substance of the patrimony.

1991, c. 64, a. 1259; I.N. 2014-05-01; 2016, c. 4, s. 156.

CHAPTER II

THE TRUST

DIVISION I

NATURE OF THE TRUST

1260. A trust results from an act whereby a person, the settlor, transfers property from his patrimony to another patrimony constituted by him which he appropriates to a particular purpose and which a trustee undertakes, by his acceptance, to hold and administer.

1991, c. 64, a. 1260.

1261. The trust patrimony, consisting of the property transferred in trust, constitutes a patrimony by appropriation, autonomous and distinct from that of the settlor, trustee or beneficiary and in which none of them has any real right.

1991, c. 64, a. 1261.

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1262. A trust is established by contract, whether by onerous or gratuitous title, by will or, in certain cases, by law. Where authorized by law, it may also be established by judgment.

1991, c. 64, a. 1262; I.N. 2014-05-01.

1263. A trust established by onerous contract may have as its object the guarantee of the performance of an obligation. In that case, to be set up against third persons, the trust must be published in the register of personal and movable real rights or in the land register, according to the movable or immovable nature of the property transferred in trust.

Upon the default of the settlor, the trustee is governed by the rules regarding the exercise of hypothecary rights set out in the Book on Prior Claims and Hypothecs.

1991, c. 64, a. 1263; 1998, c. 5, s. 1; I.N. 2014-05-01; 2016, c. 4, s. 157.

1264. A trust is constituted upon the acceptance of the trustee or of one of the trustees if there are several.

In the case of a testamentary trust, the effects of the trustee's acceptance are retroactive to the day of death.

1991, c. 64, a. 1264.

1265. Acceptance of the trust divests the settlor of the property, charges the trustee with seeing to the appropriation of the property and the administration of the trust patrimony and is sufficient to establish the right of the beneficiary with certainty.

1991, c. 64, a. 1265.

DIVISION II

VARIOUS KINDS OF TRUSTS AND THEIR DURATION

1266. Trusts are constituted for personal purposes or for purposes of private or social utility.

Provided it is designated as a trust, a trust may be identified by the name of the grantor, the trustee or the beneficiary or, in the case of a trust constituted for purposes of private or social utility, by a name which reflects its object.

1991, c. 64, a. 1266.

1267. A personal trust is constituted gratuitously for the purpose of securing a benefit for a determinate or determinable person.

1991, c. 64, a. 1267.

1268. A private trust has as its object the erection, maintenance or preservation of corporeal property or the use of property appropriated to a specific use, whether for the indirect benefit of a person or in his memory, or for some other private purpose.

1991, c. 64, a. 1268; I.N. 2014-05-01; I.N. 2015-11-01; 2016, c. 4, s. 158.

1269. A trust constituted by onerous title for the purpose, in particular, of allowing the making of profit by means of investments, providing for retirement or procuring another benefit for the settlor or for the persons he designates or for the members of a partnership, company or association, or for employees or holders of securities, is also a private trust.

1991, c. 64, a. 1269; I.N. 2014-05-01; 2016, c. 4, s. 159.

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1270. A social trust is a trust constituted for a purpose of general interest, such as a cultural, educational, philanthropic, religious or scientific purpose.

It does not have the making of profit or the operation of an enterprise as its essential object.

1991, c. 64, a. 1270; 2016, c. 4, s. 160.

1271. A personal trust constituted for the benefit of several persons successively may not include more than two ranks of beneficiaries of the fruits and revenues, in addition to that of the beneficiary of the capital; it is without effect with respect to any subsequent ranks it might contemplate.

Accretions of fruits and revenues between co-beneficiaries of the same rank are subject to the rules of substitution relating to accretions between co-institutes of the same rank.

1991, c. 64, a. 1271; I.N. 2014-05-01.

1272. The right of beneficiaries of the first rank opens not later than 100 years after the trust is constituted, even if a longer term is stipulated. The right of beneficiaries of subsequent ranks may open later but solely for the benefit of those beneficiaries who have the required quality to receive at the expiry of 100 years after the constitution of the trust.

In no case may a legal person be a beneficiary for a period exceeding 100 years, even if a longer term is stipulated.

1991, c. 64, a. 1272; I.N. 2014-05-01.

1273. A private or social trust may be perpetual.

1991, c. 64, a. 1273.

DIVISION III

ADMINISTRATION OF THE TRUST

§ 1. — *Appointment and office of the trustee*

1274. Any natural person having the full exercise of his civil rights, and any legal person authorized by law, may act as a trustee.

1991, c. 64, a. 1274.

1275. The settlor or the beneficiary may be a trustee but he shall act jointly with a trustee who is neither the settlor nor a beneficiary.

1991, c. 64, a. 1275.

1276. The settlor may appoint one or several trustees or provide the mode of their appointment or replacement.

1991, c. 64, a. 1276.

1277. The court may, at the request of an interested person and after notice has been given to the persons it indicates, appoint a trustee where the settlor has failed to do so or where it is impossible to appoint or replace a trustee.

The court may appoint one or several other trustees where required by the conditions of the administration.

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1278. A trustee has the control and the exclusive administration of the trust patrimony, and the titles relating to the property of which it is composed are drawn up in his name; he has the exercise of all the rights pertaining to the patrimony and may take any proper measure to secure its appropriation.

A trustee acts as the administrator of the property of others charged with full administration.

1991, c. 64, a. 1278.

§ 2. — *The beneficiary and his rights*

1279. Only a person having the qualities to receive by gift or by will at the time his right opens may be the beneficiary of a trust constituted gratuitously.

Where there are several beneficiaries of the same rank, it is sufficient that one of them have such qualities to preserve the right of the others if they avail themselves of it.

1991, c. 64, a. 1279.

1280. To receive, the beneficiary of a trust shall meet the conditions required by the constituting act.

1991, c. 64, a. 1280.

1281. The settlor may reserve the right to receive the fruits and revenues or even, where such is the case, the capital of the trust, even a trust constituted by gratuitous title, or to participate in the benefits it procures.

1991, c. 64, a. 1281; I.N. 2014-05-01.

1282. The settlor may reserve for himself the power to appoint the beneficiaries or determine their shares, or confer it on the trustees or a third person.

In the case of a social trust, the trustee's power to appoint the beneficiaries and determine their shares is presumed. In the case of a personal or private trust, the power to appoint may be exercised by the trustee or the third person only if the class of persons from which he is to appoint the beneficiary is clearly determined in the constituting act.

1991, c. 64, a. 1282; 2016, c. 4, s. 161.

1283. The person having the power to appoint the beneficiaries or determine their shares exercises it as he sees fit. He may change or revoke his decision for the requirements of the trust.

The person exercising that power may not do so for his own benefit.

1991, c. 64, a. 1283; I.N. 2014-05-01.

1284. While the trust is in effect, the beneficiary has the right to require, pursuant to the constituting act, either the provision of a benefit granted to him, or the payment of the fruits and revenues and of the capital or the payment of one or the other.

1991, c. 64, a. 1284; I.N. 2014-05-01.

1285. The beneficiary of a trust constituted by gratuitous title is presumed to have accepted the right granted to him and he is entitled to dispose of it.

He may renounce it at any time; he shall then do so by notarial act *en minute* if he is the beneficiary of a personal or private trust.

1991, c. 64, a. 1285.

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1286. If the beneficiary renounces his right, or if his right lapses, it passes, according to whether he is the beneficiary of the fruits and revenues or of the capital, to the co-beneficiaries of the fruits and revenues or of the capital, in proportion to the share of each.

If he is the sole beneficiary of the fruits and revenues of his rank, his right passes, in proportion to the share of each, to the beneficiaries of the fruits and revenues of the second rank, or where there are no such beneficiaries, to the beneficiaries of the capital.

1991, c. 64, a. 1286.

§ 3. — *Measures of supervision and control*

1287. The administration of a trust is subject to the supervision of the settlor or of his heirs, if he has died, and of the beneficiary, even a future beneficiary.

In addition, in cases provided for by law, the administration of a private or social trust is subject, according to its object and purpose, to the supervision of the persons or bodies designated by law.

1991, c. 64, a. 1287.

1288. Upon the constitution of a private or social trust subject to the supervision of a person or body designated by law, the trustee shall file with the person or body a statement indicating, in particular, the nature, object and term of the trust and the name and address of the trustee.

The trustee shall, at the request of the person or body, allow the trust records to be examined and furnish any account, report or information requested of him.

1991, c. 64, a. 1288.

1289. The rights of the beneficiary of a personal trust, if he is not yet conceived, are exercised by the person who, having been designated by the settlor to act as curator, accepts the office or, failing him, by the person appointed by the court on the application of the trustee or any interested person. The Public Curator may be designated to act.

In a private trust of which no person, even determinable or future, may be a beneficiary, the rights granted to the beneficiary under this subsection may be exercised by the Public Curator.

1991, c. 64, a. 1289.

1290. The settlor, the beneficiary or any other interested person may, notwithstanding any stipulation to the contrary, take action against the trustee to compel him to perform his obligations or to perform any act which is necessary in the interest of the trust, to enjoin him to abstain from any action harmful to the trust or to have him removed.

He may also impugn any acts performed by the trustee in fraud of the trust patrimony or the rights of the beneficiary.

1991, c. 64, a. 1290.

1291. The court may authorize the settlor, the beneficiary or any other interested person to take part in judicial proceedings in the place and stead of the trustee when, without sufficient reason, he refuses or neglects to do so or is prevented from doing so.

1991, c. 64, a. 1291; 2016, c. 4, s. 162.

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1292. The trustee, the settlor and the beneficiary are solidarily liable for acts in which they participate that are performed in fraud of the rights of the creditors of the settlor or of the trust patrimony.

1991, c. 64, a. 1292.

DIVISION IV

CHANGES TO THE TRUST AND TO THE PATRIMONY

1293. Any person may increase the trust patrimony by transferring property to it by contract or by will in conformity with the rules applicable to the constitution of a trust. The person does not acquire the rights of a settlor by that fact.

The transferred property is mingled with the other property of the trust patrimony and is administered in accordance with the provisions of the constituting act.

1991, c. 64, a. 1293.

1294. Where a trust has ceased to meet the original intent of the settlor, particularly as a result of circumstances unknown to him or unforeseeable and which make the pursuit of the purpose of the trust impossible or too onerous, the court may, on the application of an interested person, terminate the trust; the court may also, in the case of a social trust, substitute, for the original purpose of the trust, a purpose as nearly like it as possible.

Where the trust continues to meet the intent of the settlor but new measures would allow a more faithful compliance with his intent or facilitate the fulfilment of the trust, the court may amend the provisions of the constituting act.

1991, c. 64, a. 1294; I.N. 2014-05-01; 2016, c. 4, s. 163.

1295. Notice of the application shall be given to the settlor and to the trustee and, where such is the case, to the beneficiary, to the liquidator of the succession of the settlor, or his heirs, and to any other person or body designated by law, where the trust is subject to their supervision.

1991, c. 64, a. 1295.

DIVISION V

TERMINATION OF THE TRUST

1296. A trust is terminated by the renunciation or lapse of the right of all the beneficiaries, both of the capital and of the fruits and revenues.

A trust is also terminated by the expiry of the term or the fulfilment of the condition, by the attainment of the purpose of the trust or by the impossibility, confirmed by the court, of attaining it.

1991, c. 64, a. 1296.

1297. At the termination of a trust, the trustee shall hand over the property to those who are entitled to it.

Where there is no beneficiary, any property remaining when the trust is terminated devolves to the settlor or his heirs.

1991, c. 64, a. 1297; I.N. 2014-05-01.

1298. The property of a social trust that terminates by the impossibility of its fulfilment devolves to a trust, to a legal person or to any other group of persons devoted to a purpose as nearly like that of the trust as

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possible, designated by the court on the recommendation of the trustee. The court also obtains the advice of any person or body designated by law to supervise the trust.

1991, c. 64, a. 1298.

TITLE SEVEN

ADMINISTRATION OF THE PROPERTY OF OTHERS

CHAPTER I

GENERAL PROVISIONS

1299. Any person who is charged with the administration of property or a patrimony that is not his own assumes the office of administrator of the property of others. The rules of this Title apply to every administration unless another form of administration applies under the law or the constituting act, or due to circumstances.

1991, c. 64, a. 1299.

1300. Unless the administration is gratuitous according to law, the act or the circumstances, the administrator is entitled to the remuneration fixed in the act, by usage or by law, or to the remuneration determined according to the value of the services rendered.

A person acting without right or authorization is not entitled to any remuneration.

1991, c. 64, a. 1300; I.N. 2015-11-01.

CHAPTER II

KINDS OF ADMINISTRATION

DIVISION I

SIMPLE ADMINISTRATION OF THE PROPERTY OF OTHERS

1301. A person charged with simple administration shall perform all the acts necessary for the preservation of the property or useful for the maintenance of the use for which the property is ordinarily destined.

1991, c. 64, a. 1301.

1302. An administrator charged with simple administration is bound to collect the fruits and revenues of the property under his administration and to exercise the rights pertaining to the property.

He collects the claims under his administration and gives valid acquittance for them; he exercises the rights pertaining to the securities administered by him, such as voting, conversion or redemption rights.

1991, c. 64, a. 1302; I.N. 2014-05-01.

1303. An administrator shall continue the use or operation of the property which produces fruits and revenues without changing its destination, unless he is authorized to make such a change by the beneficiary or, in case of impediment, by the court.

1991, c. 64, a. 1303; I.N. 2014-05-01.

1304. An administrator is bound to invest the sums of money under his administration in accordance with the rules of this Title relating to investments presumed sound.

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He may likewise change any investment made before he took office or that he has made himself.

1991, c. 64, a. 1304; I.N. 2014-05-01.

1305. An administrator, with the authorization of the beneficiary or, if the beneficiary is prevented from acting, of the court, may alienate the property by onerous title or charge it with a hypothec where that is necessary for the payment of the debts, maintenance of the use for which the property is ordinarily destined, or the preservation of its value.

He may, however, alienate alone any property that is perishable or likely to depreciate rapidly.

1991, c. 64, a. 1305.

DIVISION II

FULL ADMINISTRATION OF THE PROPERTY OF OTHERS

1306. A person charged with full administration shall preserve the property and make it productive, increase the patrimony or secure its appropriation, where the interest of the beneficiary or the pursuit of the purpose of the trust requires it.

1991, c. 64, a. 1306; 2016, c. 4, s. 164.

1307. An administrator may, to perform his obligations, alienate the property by onerous title, charge it with a real right or change its destination and perform any other necessary or useful act, including any form of investment.

1991, c. 64, a. 1307.

CHAPTER III

RULES OF ADMINISTRATION

DIVISION I

OBLIGATIONS OF THE ADMINISTRATOR TOWARDS THE BENEFICIARY

1308. The administrator of the property of others shall, in carrying out his duties, comply with the obligations imposed on him by law and by the constituting act. He shall act within the powers conferred on him.

He is not liable for loss of the property resulting from superior force or from its age, its perishable nature or its normal and authorized use.

1991, c. 64, a. 1308; I.N. 2014-05-01; 2016, c. 4, s. 165.

1309. An administrator shall act with prudence and diligence.

He shall also act honestly and faithfully in the best interest of the beneficiary or of the object pursued.

1991, c. 64, a. 1309.

1310. No administrator may exercise his powers in his own interest or that of a third person or place himself in a position where his personal interest is in conflict with his obligations as administrator.

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If the administrator himself is a beneficiary, he shall exercise his powers in the common interest, giving the same consideration to his own interest as to that of the other beneficiaries.

1991, c. 64, a. 1310.

1311. An administrator shall, without delay, declare to the beneficiary any interest he has in an enterprise that could place him in a position of conflict of interest as well as the rights he may invoke against the beneficiary or in the property administered, indicating, where applicable, the nature and value of the rights. He is not bound to declare the interest or rights deriving from the act having given rise to the administration.

Any interest or right pertaining to the property of a trust under the supervision of a person or body designated by law is disclosed to that person or body.

1991, c. 64, a. 1311; I.N. 2014-05-01.

1312. No administrator may, in the course of his administration, become a party to a contract affecting the administered property or acquire, otherwise than by succession, any right in the property or against the beneficiary.

He may, nevertheless, be expressly authorized to do so by the beneficiary or, in case of impediment or if there is no determinate beneficiary, by the court.

1991, c. 64, a. 1312; I.N. 2014-05-01.

1313. No administrator may mingle the administered property with his own property.

1991, c. 64, a. 1313.

1314. No administrator may use for his benefit the property he administers or information he obtains by reason of his administration except with the consent of the beneficiary or unless it results from the law or the act constituting the administration.

1991, c. 64, a. 1314.

1315. Unless it is of the very nature of his administration to do so, no administrator may dispose gratuitously of the property entrusted to him, except property of little value disposed of in the interest of the beneficiary or of the object pursued.

No administrator may, except for valuable consideration, renounce any right belonging to the beneficiary or forming part of the patrimony administered.

1991, c. 64, a. 1315; 2002, c. 19, s. 15.

1316. An administrator may sue and be sued with respect to anything connected with his administration; he may also intervene in any action respecting the administered property.

1991, c. 64, a. 1316; I.N. 2014-05-01.

1317. If there are several beneficiaries of the administration, concurrently or successively, the administrator is bound to act impartially in their regard, taking account of their respective rights.

1991, c. 64, a. 1317.

1318. The court, in appreciating the extent of the liability of an administrator and fixing the resulting damages, may reduce them in view of the circumstances in which the administration is assumed or of the fact that the administrator acts gratuitously or that he is a minor or a person of full age under tutorship or under a protection mandate.

1991, c. 64, a. 1318; 2020, c. 11, s. 69.

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DIVISION II

OBLIGATIONS OF THE ADMINISTRATOR AND THE BENEFICIARY TOWARDS THIRD PERSONS

1319. Where an administrator binds himself, within the limits of his powers, in the name of the beneficiary or the trust patrimony, he is not personally liable to third persons with whom he contracts.

He is liable to them if he binds himself in his own name, subject to any rights they have against the beneficiary or the trust patrimony.

1991, c. 64, a. 1319; I.N. 2014-05-01.

1320. Where an administrator exceeds his powers, he is liable to third persons with whom he contracts unless the third persons were sufficiently aware of that fact or unless the obligations contracted were expressly or tacitly ratified by the beneficiary.

1991, c. 64, a. 1320; I.N. 2014-05-01.

1321. An administrator who exercises alone powers that he is required to exercise jointly with another person exceeds his powers.

He does not exceed his powers if he exercises them more advantageously than he is required to do.

1991, c. 64, a. 1321.

1322. The beneficiary is liable to third persons for injury caused by the fault of the administrator in carrying out his duties only up to the amount of the benefit he has derived from the act. In the case of a trust, these obligations fall back upon the trust patrimony.

1991, c. 64, a. 1322; I.N. 2014-05-01.

1323. Where a person fully capable of exercising his civil rights has given reason to believe that another person was the administrator of his property, he is liable to third persons who in good faith have contracted with that other person, as though the property had been under administration.

1991, c. 64, a. 1323; I.N. 2014-05-01.

DIVISION III

INVENTORY, SECURITY AND INSURANCE

1324. An administrator is not bound to make an inventory, to take out insurance or to furnish other security to guarantee the performance of his obligations unless required to do so by law or by the act, or, again, by the court on the application of the beneficiary or any interested person.

Where the act creates these obligations, the administrator may apply for an exemption if circumstances warrant it.

1991, c. 64, a. 1324.

1325. In making its decision upon an application, the court takes account of the value of the property administered, the situation of the parties and the other circumstances.

It may not grant the application if that would have the effect of calling into question the terms of an agreement to which the administrator and the beneficiary were initially parties.

1991, c. 64, a. 1325; I.N. 2014-05-01; 2016, c. 4, s. 166.

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1326. An administrator bound to make an inventory shall include in it a faithful and exact enumeration of all the property entrusted to his administration or constituting the administered patrimony.

Such an inventory contains the following in particular:

(1) the description of the immovables, and a description of the movables, with indication of their value and, in the case of a universality of movable property, sufficient identification of the universality;

(2) a description of the currency in cash and other securities;

(3) a listing of valuable documents.

It also contains a statement of liabilities and concludes with a recapitulation of assets and liabilities.

1991, c. 64, a. 1326.

1327. The inventory is made by notarial act *en minute*. It may also be made by a private writing before two witnesses. In the latter case, the author and the witnesses sign it, indicating the date and place of execution.

1991, c. 64, a. 1327.

1328. Where the administered patrimony contains personal effects of the holder of the patrimony or, as the case may be, of the deceased, it is sufficient to make a general reference to them in the inventory and to list or describe only those worth over $100 each consisting of clothing, personal papers, jewelry or items of everyday use.

1991, c. 64, a. 1328; I.N. 2014-05-01; I.N. 2015-11-01; 2016, c. 4, s. 167.

1329. The property described in the inventory is presumed to be in good condition on the date of preparation of the inventory, unless the administrator appends a document attesting the contrary.

1991, c. 64, a. 1329.

1330. The administrator shall furnish a copy of the inventory to the person who charged him with the administration and to the beneficiary of the administration, and also to every person he knows to have an interest. He shall also, where required by law, file the inventory or notice of the closure of the inventory in the indicated place, specifying in the latter case where the inventory may be consulted.

Any interested person may contest the inventory or any item therein; he may also demand that a new inventory be prepared.

1991, c. 64, a. 1330; I.N. 2014-05-01; I.N. 2015-11-01.

1331. An administrator may insure the property entrusted to him against ordinary risks such as fire and theft at the expense of the beneficiary or trust.

He may also take out insurance guaranteeing the performance of his obligations; he does so at the expense of the beneficiary or trust if his administration is gratuitous.

1991, c. 64, a. 1331.

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DIVISION IV

JOINT ADMINISTRATION AND DELEGATION

1332. Where several administrators are charged with the administration, a majority of them may act unless the act or the law requires them to act jointly or in a determinate proportion.

1991, c. 64, a. 1332.

1333. Where the administrators are prevented from acting as a majority or in the specified proportion, owing to an impediment or the systematic opposition of some of them, the others may act alone for conservatory acts; they may also, with the authorization of the court, act alone for acts requiring immediate action.

Where the situation persists and the administration is seriously impeded as a result, the court, on the application of an interested person, may exempt the administrators from acting in the specified proportion, divide their duties, give a casting vote to one of them or make any order it sees fit in the circumstances.

1991, c. 64, a. 1333; I.N. 2014-05-01.

1334. Joint administrators are solidarily liable for their administration.

However, where the duties of joint administrators have been divided by law, the act or the court, and the division has been respected, each administrator is liable for his own administration only.

1991, c. 64, a. 1334.

1335. An administrator is presumed to have approved any decision made by his co-administrators. He is liable with them for the decision unless he immediately indicates his dissent to them and notifies it to the beneficiary within a reasonable time.

The administrator may be relieved of liability, however, if he proves that he was unable for serious reasons to make his dissent known to the beneficiary in due time.

1991, c. 64, a. 1335.

1336. An administrator is presumed to have approved a decision made in his absence unless he makes his dissent known to the other administrators and to the beneficiary within a reasonable time after becoming aware of the decision.

1991, c. 64, a. 1336.

1337. An administrator may delegate his duties or be represented by a third person for specific acts; however, he may not delegate generally the conduct of the administration or the exercise of a discretionary power, except to his co-administrators.

He is accountable for the person selected by him if, among other things, he was not authorized to make the selection. If he was so authorized, he is accountable only for the care with which he selected the person and gave him instructions.

1991, c. 64, a. 1337.

1338. A beneficiary who suffers injury may repudiate the acts of the person mandated by the administrator if they are done contrary to the constituting act or to usage.

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The beneficiary may also exercise his remedies against the mandated person even where the administrator could validly confer the mandate.

1991, c. 64, a. 1338; I.N. 2014-05-01; 2016, c. 4, s. 168.

DIVISION V

INVESTMENTS PRESUMED SOUND

1991, c. 64, Div. V; I.N. 2014-05-01.

1339. Investments in the following are presumed sound:

(1) titles of ownership in an immovable;

(2) bonds or other evidences of indebtedness issued or guaranteed by Québec, Canada or a province of Canada, the United States of America or any of its member states, the International Bank for Reconstruction and Development, a municipality or a school board in Canada, or a school service centre or a fabrique in Québec;

(3) bonds or other evidences of indebtedness issued by a legal person which operates a public service in Canada and which is entitled to impose a tariff for such service;

(4) bonds or other evidences of indebtedness guaranteed by an undertaking towards a trustee by Québec, Canada or a province of Canada, to pay sufficient subsidies to meet the interest and the capital upon their respective maturities;

(5) bonds or other evidences of indebtedness of a company in the following cases:

(a) they are secured by a hypothec ranking first on an immovable or on securities presumed to be sound investments;

(b) they are secured by a hypothec ranking first on equipment and the company has regularly serviced the interest on its borrowings during the last 10 financial years;

(c) they are issued by a company whose common or preferred shares are investments presumed sound;

(6) bonds or other evidences of indebtedness issued by a deposit institution authorized under the Deposit Institutions and Deposit Protection Act (chapter I-13.2.2);

(7) claims secured by hypothec on immovables in Québec:

(a) if payment of the capital and interest is guaranteed or secured by Québec, Canada or a province of Canada;

(b) if the amount of the claim is not more than 80% of the value of the immovable property securing payment of the claim after deduction of the other claims secured by the same immovable and ranking equally with or before the claims;

(c) if the amount of the claim that exceeds 80% of the value of the immovable by which it is secured, after deduction of the other claims secured by the same immovable and ranking equally with or before the claim, is guaranteed or secured by Québec, Canada or a province of Canada, the Canada Mortgage and Housing Corporation, the Société d'habitation du Québec or a hypothecary insurance contract underwritten by an insurer authorized under the Insurers Act (chapter A-32.1);

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(8) fully paid preferred shares issued by a company whose common shares are investments presumed sound or which, during the last five financial years, has distributed the stipulated dividend on all its preferred shares;

(9) common shares, issued by a company that for three years has been meeting the continuous disclosure requirements defined in the Securities Act (chapter V-1.1), where they are listed on a stock exchange recognized for that purpose by the Government on the recommendation of the Autorité des marchés financiers, and where the market capitalization of the company, not taking into account preferred shares or blocks of shares of 10% or more, is higher than the amount so fixed by the Government;

(10) securities of an investment fund or of a private trust, provided that 60% of its portfolio consists of investments presumed sound and that the fund or trust has fulfilled in the last three years the continuous disclosure requirements specified in the Securities Act.

1991, c. 64, a. 1339; 2002, c. 19, s. 7; 2002, c. 45, s. 159; 2004, c. 37, s. 90; 2006, c. 50, s. 112; 2007, c. 16, s. 4; I.N. 2014-05-01; I.N. 2015-11-01; 2016, c. 4, s. 169; 2018, c. 23, s. 713; 2020, c. 1, s. 171.

1340. The administrator decides on the investments to make according to the yield and the anticipated capital gain; so far as possible, he works towards a diversified portfolio producing fixed income and variable revenues in the proportion suggested by the prevailing economic conditions.

He may not, however, acquire more than five per cent of the shares of the same company, nor acquire shares, bonds or other evidences of indebtedness of a legal person or limited partnership which has failed to pay the dividends set for its shares or the interest on its bonds or other securities, nor grant a loan to that legal person or partnership.

1991, c. 64, a. 1340; I.N. 2014-05-01; I.N. 2015-11-01.

1341. An administrator may deposit the sums of money entrusted to him in or with a bank, a savings and credit union or any other financial institution, if the deposit is repayable on demand or on 30 days' notice.

He may also deposit the sums of money for a longer term if repayment of the deposit is fully guaranteed by the Autorité des marchés financiers; otherwise, he may not do so except with the authorization of the court and on the conditions it determines.

1991, c. 64, a. 1341; 2002, c. 45, s. 160; 2004, c. 37, s. 90.

1342. An administrator may maintain the existing investments upon his taking office even if they are not investments presumed sound.

The administrator may also hold securities which, following the reorganization, winding-up or amalgamation of a legal person, replace securities he held.

1991, c. 64, a. 1342; I.N. 2014-05-01.

1343. An administrator who acts in accordance with this section is presumed to act prudently.

An administrator who makes an investment he is not authorized to make is, by that very fact and without further proof of fault, liable for any loss resulting from it.

1991, c. 64, a. 1343.

1344. Investments made in the course of administration shall be made in the name of the administrator as acting in that quality.

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Such investments may also be made in the name of the beneficiary, if it is also indicated that they are made by the administrator as acting in that quality.

1991, c. 64, a. 1344; I.N. 2014-05-01.

DIVISION VI

APPORTIONMENT OF PROFIT AND EXPENDITURE

1345. Apportionment of profit and expenditure between the beneficiary of the fruits and revenues and the beneficiary of the capital is made in accordance with the stipulations and clear intention of the constituting act.

Failing sufficient indication in the act, apportionment is made as equitably as possible, taking into account the object of the administration, the circumstances that gave rise to it and generally recognized accounting practices.

1991, c. 64, a. 1345.

1346. The revenue account is generally debited for the following expenditures and other expenditures of the same kind:

(1) insurance premiums, the cost of minor repairs and other ordinary expenses of administration;

(2) one-half of the remuneration of the administrator and his reasonable expenses for joint administration of the capital and fruits and revenues;

(3) taxes payable on the administered property;

(4) unless the court orders otherwise, costs paid to safeguard the rights of the beneficiary of the fruits and revenues and one-half of the cost of the judicial rendering of account;

(5) amortization of the property, except property used by the beneficiary for personal purposes.

The administrator may, to maintain revenue at a regular level, spread substantial expenses over a reasonable period.

1991, c. 64, a. 1346.

1347. The capital account is generally debited for expenditures that are not debited from the revenues, including expenses pertaining to capital investment, alienation of property, and safeguard of the rights of the capital beneficiary or the right of ownership of the administered property.

Taxes on gains and other amounts attributable to capital, even where the law governing such taxes considers them to be income taxes, are also generally debited from the capital account.

1991, c. 64, a. 1347.

1348. The beneficiary of the fruits and revenues is entitled to the net income of the administered property from the date determined in the act giving rise to the administration or, if no date is determined, from the date of the beginning of the administration or that of the death which gave rise to it.

1991, c. 64, a. 1348.

1349. Fruits and revenues payable periodically are counted day by day.

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Dividends and distributions of a legal person are due from the date indicated in the declaration of distribution or, failing that, from the date of the declaration.

1991, c. 64, a. 1349.

1350. At the extinction of his right, the beneficiary of the fruits and revenues is entitled to the fruits and revenues that have not been paid to him and to the portion earned but not yet collected by the administrator.

He is not entitled, however, to the dividends of a legal person that were not declared during the period his right existed.

1991, c. 64, a. 1350.

DIVISION VII

ANNUAL ACCOUNT

1351. An administrator renders a summary account of his administration to the beneficiary at least once a year.

1991, c. 64, a. 1351.

1352. The account shall be sufficiently detailed to allow verification of its accuracy.

Any interested person may, on a rendering of account, apply to the court for an order that the account be audited by an expert.

1991, c. 64, a. 1352; I.N. 2014-05-01.

1353. Where there are several administrators, they shall render one and the same account unless their duties have been divided by law, the act or the court, and the division has been respected.

1991, c. 64, a. 1353; 2016, c. 4, s. 170.

1354. An administrator shall at all times allow the beneficiary to examine the books and vouchers relating to the administration.

1991, c. 64, a. 1354.

CHAPTER IV

TERMINATION OF ADMINISTRATION

DIVISION I

CAUSES TERMINATING ADMINISTRATION

1355. The duties of an administrator terminate upon his death, resignation or replacement, his becoming bankrupt, or tutorship to a person of full age being instituted or a protection mandate homologated for him.

The duties of an administrator are also terminated where the beneficiary becomes bankrupt or tutorship to a person of full age is instituted or a protection mandate homologated for him, if that affects the administered property.

1991, c. 64, a. 1355; 2020, c. 11, s. 70.

1356. Administration is terminated

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(1) by extinction of the right of the beneficiary in the administered property;

(2) by expiry of the term or fulfilment of the condition stipulated in the act giving rise to the administration;

(3) by achievement of the object of the administration or disappearance of the cause that gave rise to it.

1991, c. 64, a. 1356.

1357. An administrator may resign by giving written notice to the beneficiary and, where applicable, to his co-administrators or to the person who may appoint an administrator in his place. Where there are no such persons or where it is impossible to give notice to them, the notice is given to the Minister of Revenue who, if necessary, assumes the provisional administration of the property and causes a new administrator to be appointed in place of the administrator who has resigned.

The administrator of a private trust or social trust shall also give notice of his resignation to the person or body designated by law to supervise his administration.

1991, c. 64, a. 1357; 2005, c. 44, s. 54; I.N. 2014-05-01; 2016, c. 4, s. 171.

1358. The resignation of the administrator takes effect on the date the notice is received or on any later date indicated in the notice.

1991, c. 64, a. 1358.

1359. An administrator is bound to make reparation for injury caused by his resignation where it is submitted without a serious reason and at an inopportune moment or where it amounts to failure of duty.

1991, c. 64, a. 1359; I.N. 2014-05-01.

1360. A beneficiary who has entrusted the administration of property to another person may replace the administrator or terminate the administration, particularly by exercising his right to require that the property be returned to him on demand.

Any interested person may apply for the replacement of an administrator who is unable to perform his duties or does not fulfil his obligations.

1991, c. 64, a. 1360; I.N. 2014-05-01.

1361. Upon the death of the administrator or tutorship to a person of full age being instituted or a protection mandate homologated for him, the liquidator of his succession, or his tutor or mandatary, if aware of the administration, is bound to give notice of the event to the beneficiary and to the co-administrators, if any, or, in the case of a private trust or social trust, to the person or body designated by law to supervise the administration.

The liquidator, tutor or mandatary is also bound, with respect to any matter already begun, to do all that is immediately necessary to prevent a loss; he shall also render account and hand over the property to those entitled to it.

1991, c. 64, a. 1361; I.N. 2014-05-01; 2020, c. 11, s. 71.

1362. Obligations contracted towards third persons in good faith by an administrator who is unaware that his administration has terminated are valid and bind the beneficiary or the trust patrimony; the same rule applies to obligations contracted by the administrator after the end of the administration that are its necessary consequence or are required to prevent a loss.

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The beneficiary or the trust patrimony is also bound by the obligations contracted towards third persons who were unaware that the administration had terminated.

1991, c. 64, a. 1362.

DIVISION II

RENDERING OF ACCOUNT AND DELIVERY OF PROPERTY

1363. On the termination of his administration, an administrator shall render a final account of his administration to the beneficiary and, where applicable, to the administrator replacing him or to his co-administrators. Where there are several administrators and their offices are terminated simultaneously, they shall render one and the same account, except where their duties are divided.

The account shall be made sufficiently detailed to allow verification of its accuracy; the books and other vouchers pertaining to the administration may be consulted by interested persons.

The acceptance of the account by the beneficiary closes the account.

1991, c. 64, a. 1363; I.N. 2014-05-01; 2016, c. 4, s. 172.

1364. An administrator may at any time and with the consent of all the beneficiaries render account by agreement.

If there is no agreement, the rendering of account is made judicially.

1991, c. 64, a. 1364.

1365. An administrator shall hand over the administered property at the place agreed upon or, failing that, where it is.

1991, c. 64, a. 1365; I.N. 2014-05-01.

1366. An administrator shall hand over all that he has received in the performance of his duties, even if what he has received was not due to the beneficiary or to the trust patrimony; he is also accountable for any personal profit or benefit he has realized by using, without authorization, information he had obtained by reason of his administration.

Where an administrator has used property without authorization, he is bound to indemnify the beneficiary or the trust patrimony for his use by paying an appropriate rent or the interest on the money.

1991, c. 64, a. 1366; I.N. 2014-05-01.

1367. The expenses of the administration, including the cost of rendering account and handing over the property, are borne by the beneficiary or the trust patrimony.

The resignation or replacement of the administrator binds the beneficiary or the trust patrimony to pay him, in addition to the expenses of the administration, any remuneration he has earned.

1991, c. 64, a. 1367; I.N. 2014-05-01.

1368. An administrator owes interest on the balance from the close of the final account or the date of the demand requiring him to produce it; the beneficiary or the trust patrimony owes interest only from the date of the demand.

1991, c. 64, a. 1368; I.N. 2015-11-01.

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1369. An administrator is entitled to deduct from the sums he is required to remit anything the beneficiary or the trust patrimony owes him by reason of the administration.

An administrator may retain the administered property until payment of what is owed to him.

1991, c. 64, a. 1369.

1370. Where there are several beneficiaries, their obligation towards the administrator is solidary.

1991, c. 64, a. 1370.

BOOK FIVE

OBLIGATIONS

TITLE ONE

OBLIGATIONS IN GENERAL

CHAPTER I

GENERAL PROVISIONS

1371. It is of the essence of an obligation that there be persons between whom it exists, a prestation which forms its object, and, in the case of an obligation arising out of a juridical act, a cause which justifies its existence.

1991, c. 64, a. 1371.

1372. An obligation arises from a contract or from any act or fact to which the effects of an obligation are attached by law.

An obligation may be pure and simple or subject to modalities.

1991, c. 64, a. 1372.

1373. The object of an obligation is the prestation that the debtor is bound to render to the creditor and which consists in doing or not doing something.

The debtor is bound to render a prestation that is possible and determinate or determinable and that is neither forbidden by law nor contrary to public order.

1991, c. 64, a. 1373.

1374. The prestation may relate to any property, even future property, provided that the property is determinate as to kind and determinable as to quantity.

1991, c. 64, a. 1374.

1375. The parties shall conduct themselves in good faith both at the time the obligation arises and at the time it is performed or extinguished.

1991, c. 64, a. 1375; I.N. 2014-05-01.

1376. The rules set forth in this Book apply to the State and its bodies, and to all other legal persons established in the public interest, subject to any other rules of law which may be applicable to them.

1991, c. 64, a. 1376.

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CHAPTER II

CONTRACTS

DIVISION I

GENERAL PROVISION

1377. The general rules set out in this chapter apply to all contracts, regardless of their nature.

For certain contracts, special rules which complement or depart from these general rules are established under Title Two of this Book.

1991, c. 64, a. 1377; I.N. 2014-05-01.

DIVISION II

NATURE AND CERTAIN CLASSES OF CONTRACTS

1378. A contract is an agreement of wills by which one or several persons obligate themselves to one or several other persons to perform a prestation.

Contracts may be divided into contracts of adhesion and contracts by mutual agreement, synallagmatic and unilateral contracts, onerous and gratuitous contracts, commutative and aleatory contracts, and contracts of instantaneous performance or of successive performance; they may also be consumer contracts.

1991, c. 64, a. 1378.

1379. A contract of adhesion is a contract in which the essential stipulations were imposed or drawn up by one of the parties, on his behalf or upon his instructions, and were not negotiable.

Any contract that is not a contract of adhesion is a contract by mutual agreement.

1991, c. 64, a. 1379.

1380. A contract is synallagmatic, or bilateral, when the parties obligate themselves reciprocally, each to the other, so that the obligation of one party is correlative to the obligation of the other.

When one party obligates himself to the other without any obligation on the part of the latter, the contract is unilateral.

1991, c. 64, a. 1380.

1381. A contract is onerous when each party obtains an advantage in return for his obligation.

When one party obligates himself to the other for the benefit of the latter without obtaining any advantage in return, the contract is gratuitous.

1991, c. 64, a. 1381.

1382. A contract is commutative when, at the time it is formed, the extent of the obligations of the parties and of the advantages obtained by them in return is certain and determinate.

When the extent of the obligations or of the advantages is uncertain, the contract is aleatory.

1991, c. 64, a. 1382.

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1383. Where the nature of things does not preclude the performance of the obligations of the parties at one single time, the contract is a contract of instantaneous performance.

Where the nature of things requires that the obligations be performed at several different times or on a continuing basis, the contract is a contract of successive performance.

1991, c. 64, a. 1383; I.N. 2014-05-01; 2016, c. 4, s. 173.

1384. A consumer contract is a contract whose field of application is delimited by legislation respecting consumer protection whereby one of the parties, being a natural person, the consumer, acquires, leases, borrows or obtains in any other manner, for personal, family or domestic purposes, property or services from the other party, who offers such property or services as part of an enterprise which he carries on.

1991, c. 64, a. 1384; 2016, c. 4, s. 174.

DIVISION III

FORMATION OF CONTRACTS

§ 1. — *Conditions of formation of contracts*

I. — *General provision*

1385. A contract is formed by the sole exchange of consents between persons having capacity to contract, unless, in addition, the law requires a particular form to be respected as a necessary condition of its formation, or unless the parties subject the formation of the contract to a solemn form.

It is also of the essence of a contract that it have a cause and an object.

1991, c. 64, a. 1385; I.N. 2014-05-01.

II. — *Consent*

1. — *Exchange of consents*

1386. The exchange of consents is accomplished by the express or tacit manifestation of the will of a person to accept an offer to contract made to him by another person.

1991, c. 64, a. 1386.

1387. A contract is formed when and where acceptance is received by the offeror, regardless of the method of communication used, and even though the parties have agreed to reserve agreement as to certain secondary elements.

1991, c. 64, a. 1387; I.N. 2014-05-01; 2016, c. 4, s. 175.

2. — *Offer and acceptance*

1388. An offer to contract is a proposal which contains all the essential elements of the proposed contract and in which the offeror signifies his willingness to be bound if it is accepted.

1991, c. 64, a. 1388.

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1389. An offer to contract derives from the person who initiates the contract or the person who determines its content or even, in certain cases, the person who presents the last essential element of the proposed contract.

1991, c. 64, a. 1389.

1390. An offer to contract may be made to a determinate or an indeterminate person, and a term for acceptance may or may not be attached to it.

Where a term is attached, the offer may not be revoked before the term expires; if none is attached, the offer may be revoked at any time before acceptance is received by the offeror.

1991, c. 64, a. 1390.

1391. Where the offeree receives a revocation before the offer, the offer lapses, even though a term is attached to it.

1991, c. 64, a. 1391.

1392. An offer lapses if no acceptance is received by the offeror before the expiry of the specified term or, where no term is specified, before the expiry of a reasonable time; it also lapses with respect to the offeree if he has rejected it.

The death or bankruptcy of the offeror or the offeree, whether or not a term is attached to the offer, or the institution of tutorship to a person of full age or the homologation of a protection mandate for either of them also causes the offer to lapse, if that event occurs before acceptance is received by the offeror.

1991, c. 64, a. 1392; I.N. 2014-05-01; 2020, c. 11, s. 72.

1393. Acceptance which does not correspond substantially to the offer or which is received by the offeror after the offer has lapsed does not constitute acceptance.

It may, however, constitute a new offer.

1991, c. 64, a. 1393.

1394. Silence does not imply acceptance of an offer, unless the contrary results from the will of the parties, the law or special circumstances, such as usage or a prior business relationship.

1991, c. 64, a. 1394; I.N. 2014-05-01.

1395. The offer of a reward made to anyone who performs a particular act is deemed to be accepted and is binding on the offeror as soon as the act is performed, even if the person who performs the act does not know of the offer, unless, in cases which admit of it, the offer was previously revoked expressly and adequately by the offeror.

1991, c. 64, a. 1395; I.N. 2014-05-01.

1396. An offer to contract made to a determinate person constitutes a promise to enter into the proposed contract from the moment that the offeree clearly indicates to the offeror that he intends to consider the offer and reply to it within a reasonable time or within the time stated therein.

A mere promise is not equivalent to the proposed contract; however, where the beneficiary of the promise accepts the promise or takes up his option, both he and the promisor are bound to enter into the contract, unless the beneficiary decides to enter into the contract immediately.

1991, c. 64, a. 1396.

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1397. A contract made in violation of a promise to contract may be set up against the beneficiary of the promise, but without affecting his remedy for damages against the promisor and the person having contracted in bad faith with the promisor.

The same rule applies to a contract made in violation of a first refusal agreement.

1991, c. 64, a. 1397.

3. — *Qualities and defects of consent*

1398. Consent may be given only by a person who, at the time of manifesting such consent, either expressly or tacitly, is capable of binding himself.

1991, c. 64, a. 1398.

1399. Consent must be free and enlightened.

It may be vitiated by error, fear or lesion.

1991, c. 64, a. 1399; I.N. 2014-05-01.

1400. Error vitiates the consent of the parties or of one of them where the error relates to the nature of the contract, to the object of the prestation or to any essential element that determined the consent.

An inexcusable error does not constitute a defect of consent.

1991, c. 64, a. 1400; I.N. 2014-05-01.

1401. Error on the part of one party induced by fraud committed by the other party or with his knowledge vitiates consent whenever, but for that error, the party would not have contracted, or would have contracted on different terms.

Fraud may result from silence or concealment.

1991, c. 64, a. 1401.

1402. Fear of serious injury to the person or property of one of the parties vitiates consent given by that party where the fear is induced by violence or threats exerted or made by or known to the other party.

Apprehended injury may also relate to another person or his property and is appraised according to the circumstances.

1991, c. 64, a. 1402.

1403. Fear induced by the abusive exercise of a right or power or by the threat of such exercise vitiates consent.

1991, c. 64, a. 1403.

1404. Consent to a contract the object of which is to deliver the person making it from fear of serious injury is not vitiated where the other contracting party, although aware of the state of necessity, is acting in good faith.

1991, c. 64, a. 1404.

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1405. Except in the cases expressly provided by law, lesion vitiates consent only with respect to minors and persons of full age under tutorship or under a protection mandate.

1991, c. 64, a. 1405; I.N. 2014-05-01; I.N. 2015-11-01; 2020, c. 11, s. 73.

1406. Lesion results from the exploitation of one of the parties by the other, which creates a serious disproportion between the prestations of the parties; the fact that there is a serious disproportion creates a presumption of exploitation.

In cases involving a minor or a person of full age under tutorship or under a protection mandate, lesion may also result from an obligation that is considered to be excessive in view of the patrimonial situation of the person, the advantages he gains from the contract and the circumstances as a whole.

1991, c. 64, a. 1406; I.N. 2014-05-01; 2020, c. 11, s. 74.

1407. A person whose consent is vitiated has the right to apply for annulment of the contract; in the case of error occasioned by fraud, of fear or of lesion, he may, in addition to annulment, also claim damages or, where he prefers that the contract be maintained, apply for a reduction of his obligation equivalent to the damages he would be justified in claiming.

1991, c. 64, a. 1407.

1408. In a case of lesion, the court may maintain a contract for which annulment is sought, if the defendant offers a reduction of his claim or an equitable pecuniary supplement.

1991, c. 64, a. 1408; I.N. 2014-05-01.

III. — *Capacity to contract*

1409. The rules relating to the capacity to contract are established principally in the Book on Persons.

1991, c. 64, a. 1409; I.N. 2014-05-01.

IV. — *Cause of contracts*

1410. The cause of a contract is the reason that determines each of the parties to enter into the contract.

The cause need not be expressed.

1991, c. 64, a. 1410.

1411. A contract whose cause is prohibited by law or contrary to public order is null.

1991, c. 64, a. 1411.

V. — *Object of contracts*

1412. The object of a contract is the juridical operation envisaged by the parties at the time of its formation, as it emerges from all the rights and obligations created by the contract.

1991, c. 64, a. 1412.

1413. A contract whose object is prohibited by law or contrary to public order is null.

1991, c. 64, a. 1413.

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VI. — *Form of contracts*

1414. Where a particular or solemn form is required as a necessary condition for the formation of a contract, it must be observed; it must also be observed for any modification to the contract, unless the modification is only an accessory stipulation.

1991, c. 64, a. 1414; I.N. 2014-05-01.

1415. A promise to enter into a contract is not subject to the form required for the contract.

1991, c. 64, a. 1415.

§ 2. — *Sanction of conditions of formation of contracts*

I. — *Nature of nullity*

1416. Any contract which does not meet the necessary conditions of its formation may be annulled.

1991, c. 64, a. 1416.

1417. A contract is absolutely null where the condition of formation sanctioned by its nullity is necessary for the protection of the general interest.

1991, c. 64, a. 1417.

1418. The absolute nullity of a contract may be invoked by any person having a present and actual interest in doing so; it is invoked by the court of its own motion.

A contract that is absolutely null may not be confirmed.

1991, c. 64, a. 1418.

1419. A contract is relatively null where the condition of formation sanctioned by its nullity is necessary for the protection of an individual interest, such as where the consent of the parties or of one of them is vitiated.

1991, c. 64, a. 1419.

1420. The relative nullity of a contract may be invoked only by the person in whose interest it is established or by the other contracting party, provided he is acting in good faith and suffers serious injury therefrom; it may not be invoked by the court of its own motion.

A contract that is relatively null may be confirmed.

1991, c. 64, a. 1420; I.N. 2014-05-01.

1421. Unless the nature of the nullity is clearly indicated in the law, a contract which does not meet the necessary conditions of its formation is presumed to be relatively null.

1991, c. 64, a. 1421.

II. — *Effect of nullity*

1422. A contract that is null is deemed never to have existed.

In such a case, each party is bound to restore to the other the prestations he has received.

1991, c. 64, a. 1422.

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III. — *Confirmation of the contract*

1423. The confirmation of a contract results from the express or tacit will to renounce the invocation of its nullity.

The will to confirm must be certain and evident.

1991, c. 64, a. 1423; I.N. 2014-05-01.

1424. Where the nullity of a contract may be invoked by each of the parties or by several of them against a common other contracting party, confirmation by one of them does not prevent the others from invoking nullity.

1991, c. 64, a. 1424; I.N. 2015-11-01.

DIVISION IV

INTERPRETATION OF CONTRACTS

1425. The common intention of the parties rather than adherence to the literal meaning of the words shall be sought in interpreting a contract.

1991, c. 64, a. 1425.

1426. In interpreting a contract, the nature of the contract, the circumstances in which it was formed, the interpretation which has already been given to it by the parties or which it may have received, and usage, are all taken into account.

1991, c. 64, a. 1426.

1427. Each clause of a contract is interpreted in light of the others so that each is given the meaning derived from the contract as a whole.

1991, c. 64, a. 1427.

1428. A clause is given a meaning that gives it some effect rather than one that gives it no effect.

1991, c. 64, a. 1428.

1429. Words susceptible of two meanings shall be given the meaning that best conforms to the subject matter of the contract.

1991, c. 64, a. 1429.

1430. A clause intended to eliminate doubt as to the application of the contract to a specific situation does not restrict the scope of a contract otherwise expressed in general terms.

1991, c. 64, a. 1430.

1431. The clauses of a contract cover only what it appears that the parties intended to include, however general the terms used.

1991, c. 64, a. 1431.

1432. In case of doubt, a contract is interpreted in favour of the person who contracted the obligation and against the person who stipulated it. In all cases, it is interpreted in favour of the adhering party or the consumer.

1991, c. 64, a. 1432.

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DIVISION V

EFFECTS OF CONTRACTS

§ 1. — *Effects of contracts between the parties*

I. — *General provision*

1433. A contract creates obligations and, in certain cases, modifies or extinguishes them.

In some cases, it also has the effect of creating, transferring, modifying or extinguishing real rights.

1991, c. 64, a. 1433; I.N. 2014-05-01.

II. — *Binding force and content of contracts*

1434. A contract validly formed binds the parties who have entered into it not only as to what they have expressed in it but also as to what is incident to it according to its nature and in conformity with usage, equity or law.

1991, c. 64, a. 1434.

1435. An external clause referred to in a contract is binding on the parties.

In a consumer contract or a contract of adhesion, however, an external clause is null if, at the time of formation of the contract, it was not expressly brought to the attention of the consumer or adhering party, unless the other party proves that the consumer or adhering party otherwise knew of it.

1991, c. 64, a. 1435.

1436. In a consumer contract or a contract of adhesion, a clause which is illegible or incomprehensible to a reasonable person is null if the consumer or the adhering party suffers injury therefrom, unless the other party proves that an adequate explanation of the nature and scope of the clause was given to the consumer or adhering party.

1991, c. 64, a. 1436.

1437. An abusive clause in a consumer contract or contract of adhesion is null, or the obligation arising from it may be reduced.

An abusive clause is a clause which is excessively and unreasonably detrimental to the consumer or the adhering party and is therefore contrary to the requirements of good faith; in particular, a clause which so departs from the fundamental obligations arising from the rules normally governing the contract that it changes the nature of the contract is an abusive clause.

1991, c. 64, a. 1437; 2016, c. 4, s. 176.

1438. A clause which is null does not render the contract invalid in other respects, unless it is apparent that the contract may be considered only as an indivisible whole.

The same applies to a clause that is without effect or that is deemed unwritten.

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1439. A contract may not be resolved, resiliated, modified or revoked except on grounds recognized by law or by agreement of the parties.

1991, c. 64, a. 1439.

§ 2. — *Effects of contracts with respect to third persons*

I. — *General provisions*

1440. A contract has effect only between the contracting parties; it does not affect third persons, except where provided by law.

1991, c. 64, a. 1440.

1441. Upon the death of one of the parties, the rights and obligations arising from a contract pass to his heirs, if the nature of the contract permits it.

1991, c. 64, a. 1441.

1442. The rights of the parties to a contract pass to their successors by particular title if the rights are accessory to the property which passes to them or are closely related to it.

1991, c. 64, a. 1442; I.N. 2014-05-01.

II. — *Promise for another*

1443. No person may bind anyone but himself and his heirs by a contract made in his own name, but he may promise in his own name that a third person will undertake to perform an obligation, and in that case he is liable for injury to the other contracting party if the third person does not undertake to perform the obligation as promised.

1991, c. 64, a. 1443; I.N. 2014-05-01.

III. — *Stipulation for another*

1444. A person may, in a contract, stipulate for the benefit of a third person.

The stipulation gives the third person beneficiary the right to exact performance of the promised obligation directly from the promisor.

1991, c. 64, a. 1444; I.N. 2014-05-01.

1445. A third person beneficiary need not exist nor be determinate when the stipulation is made; he need only be determinable at that time and exist when the promisor is to perform the obligation for his benefit.

1991, c. 64, a. 1445.

1446. The stipulation may be revoked as long as the third person beneficiary has not advised the stipulator or the promisor of his will to accept it.

1991, c. 64, a. 1446.

1447. Only the stipulator may revoke a stipulation; neither his heirs nor his creditors may do so.

If the promisor has an interest in maintaining the stipulation, however, the stipulator may not revoke it without his consent.

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1448. Revocation of the stipulation has effect as soon as it is made known to the promisor; if it is made by will, however, it has effect upon the opening of the succession.

Where a new beneficiary is not designated, revocation benefits the stipulator or his heirs.

1991, c. 64, a. 1448.

1449. A third person beneficiary or his heirs may validly accept the stipulation, even after the death of the stipulator or promisor.

1991, c. 64, a. 1449.

1450. A promisor may set up against the third person beneficiary such defenses as he could have set up against the stipulator.

1991, c. 64, a. 1450.

IV. — *Simulation*

1451. Simulation exists where the parties agree to express their true intent, not in an apparent contract, but in a secret contract, also called a counter letter.

Between the parties, a counter letter prevails over an apparent contract.

1991, c. 64, a. 1451.

1452. Third persons in good faith may, according to their interest, avail themselves of the apparent contract or the counter letter; however, where conflicts of interest arise between them, preference is given to the person who avails himself of the apparent contract.

1991, c. 64, a. 1452.

§ 3. — *Special effects of certain contracts*

I. — *Transfer of real rights*

1453. The transfer of a real right in certain and determinate property, or in several properties considered as a universality, vests the acquirer with the right upon the formation of the contract, even though the property is not delivered immediately and an operation may still remain necessary for the price to be determined.

The transfer of a real right in property determined only as to kind vests the acquirer with that right as soon as he is notified that the property is certain and determinate.

1991, c. 64, a. 1453; I.N. 2014-05-01.

1454. If a party transfers the same real right in the same movable property to different acquirers successively, the acquirer in good faith who is first given possession of the property is vested with the real right in that property, even though his title may be later in time.

1991, c. 64, a. 1454.

1455. The transfer of a real right in immovable property may not be set up against third persons except in accordance with the rules concerning the publication of rights.

1991, c. 64, a. 1455; I.N. 2014-05-01.

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II. — *Fruits and revenues and risks incident to property*

1456. The allocation of fruits and revenues and the assumption of risks incident to property forming the object of a real right transferred by contract are principally governed by the Book on Property.

The debtor of the obligation to deliver the property continues, however, to bear the risks attached to the property until it is delivered.

1991, c. 64, a. 1456.

CHAPTER III

CIVIL LIABILITY

DIVISION I

CONDITIONS OF LIABILITY

§ 1. — *General provisions*

1457. Every person has a duty to abide by the rules of conduct incumbent on him, according to the circumstances, usage or law, so as not to cause injury to another.

Where he is endowed with reason and fails in this duty, he is liable for any injury he causes to another by such fault and is bound to make reparation for the injury, whether it be bodily, moral or material in nature.

He is also bound, in certain cases, to make reparation for injury caused to another by the act, omission or fault of another person or by the act of things in his custody.

1991, c. 64, a. 1457; 2002, c. 19, s. 15; I.N. 2014-05-01; 2016, c. 4, s. 177.

1458. Every person has a duty to honour his contractual undertakings.

Where he fails in this duty, he is liable for any bodily, moral or material injury he causes to the other contracting party and is bound to make reparation for the injury; neither he nor the other party may in such a case avoid the rules governing contractual liability by opting for rules that would be more favourable to them.

1991, c. 64, a. 1458; I.N. 2014-05-01.

§ 2. — *Act, omission or fault of another*

2016, c. 4, s. 178.

1459. A person having parental authority is bound to make reparation for injury caused to another by the act, omission or fault of a minor under his authority, unless he proves that he himself did not commit any fault with regard to the custody, supervision or education of the minor.

A person deprived of parental authority is bound in the same manner, if the act, omission or fault of the minor is related to the education he has given to him.

1991, c. 64, a. 1459; I.N. 2014-05-01; I.N. 2015-11-01; 2016, c. 4, s. 179.

1460. A person who, without having parental authority, is entrusted, by delegation or otherwise, with the custody, supervision or education of a minor is bound, in the same manner as the person having parental authority, to make reparation for injury caused by the act, omission or fault of the minor.

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Where he is acting gratuitously or for reward, however, he is not so bound unless it is proved that he has committed a fault.

1991, c. 64, a. 1460; I.N. 2014-05-01; 2016, c. 4, s. 180.

1461. Any person who, as tutor, mandatary or otherwise, assumes custody of a person of full age who is not endowed with reason, is not bound to make reparation for injury caused by an act or omission of the person of full age, except where he has himself committed an intentional or gross fault in exercising custody.

1991, c. 64, a. 1461; I.N. 2014-05-01; 2016, c. 4, s. 181; 2020, c. 11, s. 75.

1462. A person is liable for injury caused to another by an act or omission of a person not endowed with reason only in cases where the conduct of the person not endowed with reason would otherwise have been considered wrongful.

1991, c. 64, a. 1462; I.N. 2014-05-01; I.N. 2015-11-01.

1463. The principal is bound to make reparation for injury caused by the fault of his subordinates in the performance of their duties; nevertheless, he retains his remedies against them.

1991, c. 64, a. 1463; I.N. 2014-05-01; 2016, c. 4, s. 182.

1464. A subordinate of the State or of a legal person established in the public interest does not cease to act in the performance of his duties by the mere fact that he performs an act that is illegal, beyond his authority or unauthorized, or by the fact that he is acting as a peace officer.

1991, c. 64, a. 1464; I.N. 2014-05-01; 2016, c. 4, s. 183.

§ 3. — *Act of a thing*

1465. The custodian of a thing is bound to make reparation for injury resulting from the autonomous act of the thing, unless he proves that he is not at fault.

1991, c. 64, a. 1465; I.N. 2014-05-01.

1466. The owner of an animal is bound to make reparation for injury it has caused, whether the animal was under his custody or that of a third person, or had strayed or escaped.

A person making use of the animal is also, during that time, liable therefor together with the owner.

1991, c. 64, a. 1466; I.N. 2014-05-01.

1467. The owner of an immovable, without prejudice to his liability as custodian, is bound to make reparation for injury caused by its ruin, even partial, whether the ruin has resulted from lack of repair or from a defect in construction.

1991, c. 64, a. 1467; I.N. 2014-05-01.

1468. The manufacturer of a movable thing is bound to make reparation for injury caused to a third person by reason of a safety defect in the thing, even if it is incorporated with or placed in an immovable for the service or operation of the immovable.

The same rule applies to a person who distributes the thing under his name or as his own and to any supplier of the thing, whether a wholesaler or a retailer and whether or not he imported the thing.

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1469. A thing has a safety defect where, having regard to all the circumstances, it does not afford the safety which a person is normally entitled to expect, particularly by reason of a defect in design or manufacture, poor preservation or presentation, or the lack of sufficient indications as to the risks and dangers it involves or as to the means to avoid them.

1991, c. 64, a. 1469; I.N. 2014-05-01.

DIVISION II

CERTAIN CASES OF EXEMPTION FROM LIABILITY

1470. A person may free himself from his liability for injury caused to another by proving that the injury results from superior force, unless he has undertaken to make reparation for it.

Superior force is an unforeseeable and irresistible event, including external causes with the same characteristics.

1991, c. 64, a. 1470; I.N. 2014-05-01.

1471. Where a person comes to the assistance of another or, for an unselfish motive, gratuitously disposes of property for the benefit of another, he is exempt from all liability for injury that may result, unless the injury is due to his intentional or gross fault.

1991, c. 64, a. 1471; I.N. 2014-05-01.

1472. A person may free himself from his liability for injury caused to another as a result of the disclosure of a trade secret by proving that considerations of general interest prevailed over keeping the secret and, particularly, that its disclosure was justified for reasons of public health or safety.

1991, c. 64, a. 1472.

1473. The manufacturer, distributor or supplier of a movable thing is not bound to make reparation for injury caused by a safety defect in the thing if he proves that the victim knew or could have known of the defect, or could have foreseen the injury.

Nor is he bound to make reparation if he proves that, according to the state of knowledge at the time that he manufactured, distributed or supplied the thing, the existence of the defect could not have been known, and that he was not neglectful of his duty to provide information when he became aware of the defect.

1991, c. 64, a. 1473; 2002, c. 19, s. 15; I.N. 2014-05-01; I.N. 2015-11-01.

1474. A person may not exclude or limit his liability for material injury caused to another through an intentional or gross fault; a gross fault is a fault which shows gross recklessness, gross carelessness or gross negligence.

He may not in any way exclude or limit his liability for bodily or moral injury caused to another.

1991, c. 64, a. 1474.

1475. A notice, whether posted or not, stipulating the exclusion or limitation of the obligation to make reparation for injury resulting from the nonperformance of a contractual obligation has effect, with respect to the creditor, only if the party who invokes the notice proves that the other party was aware of its existence at the time the contract was formed.

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1476. A person may not by way of a notice exclude or limit his obligation to make reparation with respect to third persons; such a notice may, however, constitute disclosure of a danger.

1991, c. 64, a. 1476; I.N. 2014-05-01.

1477. The assumption of risk by the victim, although it may be considered imprudent having regard to the circumstances, does not entail renunciation of his remedy against the author of the injury.

1991, c. 64, a. 1477; I.N. 2014-05-01.

DIVISION III

APPORTIONMENT OF LIABILITY

1478. Where an injury has been caused by several persons, liability is shared between them in proportion to the seriousness of the fault of each.

The victim is included in the apportionment when the injury is partly the effect of his own fault.

1991, c. 64, a. 1478; I.N. 2014-05-01.

1479. A person who is bound to make reparation for an injury is not liable for any aggravation of the injury that the victim could have avoided.

1991, c. 64, a. 1479; I.N. 2014-05-01.

1480. Where several persons have jointly participated in a wrongful act or omission which has resulted in injury or have committed separate faults each of which may have caused the injury, and where it is impossible to determine, in either case, which of them actually caused the injury, they are solidarily bound to make reparation therefor.

1991, c. 64, a. 1480; I.N. 2014-05-01; I.N. 2015-11-01; 2016, c. 4, s. 184.

1481. Where an injury has been caused by several persons and one of them is exempted from all liability by an express provision of a special Act, the share of the liability which would have been his is assumed equally by the other persons liable for the injury.

1991, c. 64, a. 1481.

CHAPTER IV

CERTAIN OTHER SOURCES OF OBLIGATIONS

DIVISION I

MANAGEMENT OF THE BUSINESS OF ANOTHER

1482. Management of the business of another exists where a person, the manager, spontaneously and under no obligation to act, voluntarily and opportunely undertakes to manage the business of another, the principal, without his knowledge, or with his knowledge if he was unable to appoint a mandatary or otherwise provide for it.

1991, c. 64, a. 1482.

1483. The manager shall as soon as possible inform the principal of the management he has undertaken.

1991, c. 64, a. 1483.

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1484. The manager is bound to continue the management undertaken until he can withdraw without risk of loss or until the principal, or his tutor, mandatary or temporary representative, or the liquidator of the succession, as the case may be, is able to provide for it.

The manager is, in all other aspects of his management, subject to the general obligations of an administrator of the property of another charged with simple administration, insofar as the obligations are not incompatible, having regard to the circumstances.

1991, c. 64, a. 1484; I.N. 2014-05-01; I.N. 2015-11-01; 2020, c. 11, s. 76.

1485. The liquidator of the succession of the manager who is aware of the management is bound to do only what is necessary to avoid loss in matters already begun; he shall immediately account to the principal.

1991, c. 64, a. 1485; I.N. 2014-05-01.

1486. When the conditions of management of the business of another are fulfilled, even if the desired result has not been attained, the principal shall reimburse the manager for all the necessary or useful expenses he has incurred and indemnify him for any injury he has suffered by reason of his management and not through his own fault.

The principal shall also fulfil any necessary or useful obligations that the manager has contracted with third persons in his name or for his benefit.

1991, c. 64, a. 1486.

1487. Expenses or obligations are assessed as to their necessity or usefulness at the time they were incurred or contracted by the manager.

1991, c. 64, a. 1487.

1488. Disbursements made by the manager with respect to an immovable belonging to the principal are treated as provided in the rules established for disbursements made by a possessor in good faith.

1991, c. 64, a. 1488; I.N. 2014-05-01.

1489. A manager acting in his own name is bound towards third persons with whom he contracts, without prejudice to his or their remedies against the principal.

A manager acting in the name of the principal is bound towards third persons with whom he contracts only if the principal is not bound towards them.

1991, c. 64, a. 1489; I.N. 2014-05-01.

1490. Management inopportunely undertaken by a manager is binding on the principal only to the extent of his enrichment.

1991, c. 64, a. 1490.

DIVISION II

RECEIPT OF A PAYMENT NOT DUE

1991, c. 64, Div. II; I.N. 2014-05-01.

1491. A payment made in error, or merely to avoid injury to the person making it while protesting that he owes nothing, obliges the person who receives it to make restitution.

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However, a person who receives the payment in good faith is not obliged to make restitution where, in consequence of the payment, the person's claim is prescribed or the person has destroyed his title or relinquished a security, saving the remedy of the person having made the payment against the true debtor.

1991, c. 64, a. 1491; 2016, c. 4, s. 185.

1492. Restitution of payments not due is made according to the rules for the restitution of prestations.

1991, c. 64, a. 1492; I.N. 2014-05-01.

DIVISION III

UNJUST ENRICHMENT

1493. A person who is enriched at the expense of another shall, to the extent of his enrichment, indemnify the other for the latter's correlative impoverishment, if there is no justification for the enrichment or the impoverishment.

1991, c. 64, a. 1493; I.N. 2014-05-01.

1494. Enrichment or impoverishment is justified where it results from the performance of an obligation, from the failure of the person impoverished to exercise a right of which he may avail himself or could have availed himself against the person enriched, or from an act performed by the person impoverished for his personal and exclusive interest or at his own risk and peril, or with a consistent liberal intention.

1991, c. 64, a. 1494; I.N. 2014-05-01.

1495. The indemnity is due only if the enrichment continues to exist on the day of the demand.

Both the enrichment and the impoverishment are assessed on the day of the demand; however, where the circumstances indicate the bad faith of the person enriched, the enrichment may be assessed as at the time he benefited therefrom.

1991, c. 64, a. 1495; I.N. 2014-05-01.

1496. Where the person enriched disposes of his enrichment gratuitously, with no intention of defrauding the person impoverished, the action of the person impoverished may be taken against the third person beneficiary if the latter could have known of the impoverishment.

1991, c. 64, a. 1496.

CHAPTER V

MODALITIES OF OBLIGATIONS

DIVISION I

SIMPLE MODALITIES

§ 1. — *Conditional obligations*

1497. An obligation is conditional where it is made to depend upon a future and uncertain event, either by suspending it until the event occurs or is certain not to occur, or by making its extinction dependent on whether or not the event occurs.

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1498. An obligation is not conditional if it or its extinction depends on an event that, unknown to the parties, had already occurred at the time that the debtor obligated himself conditionally.

1991, c. 64, a. 1498.

1499. A condition upon which an obligation depends is one that is possible and neither unlawful nor contrary to public order; otherwise, it is null and renders null the obligation that depends upon it.

1991, c. 64, a. 1499.

1500. An obligation that depends upon a condition that is at the sole discretion of the debtor is null; however, if the condition consists in doing or not doing something, the obligation is valid, even where the act is at the discretion of the debtor.

1991, c. 64, a. 1500.

1501. If no time has been fixed for fulfillment of a condition, the condition may be fulfilled at any time; the condition fails, however, if it becomes certain that it will not be fulfilled.

1991, c. 64, a. 1501.

1502. Where an obligation is dependent on the condition that an event will not occur within a given time, the condition is considered fulfilled once the time has elapsed without the event having occurred, and also when, before the time has elapsed, it becomes certain that the event will not occur.

Where no time has been fixed, the condition is not considered fulfilled until it becomes certain that the event will not occur.

1991, c. 64, a. 1502.

1503. A conditional obligation becomes absolute when the debtor whose obligation is subject to the condition prevents it from being fulfilled.

1991, c. 64, a. 1503.

1504. The creditor, pending fulfillment of the condition, may take any useful measures to preserve his rights.

1991, c. 64, a. 1504.

1505. The conditional nature of an obligation does not prevent it from being transferable or transmissible.

1991, c. 64, a. 1505.

1506. The fulfillment of a condition has a retroactive effect, between the parties and with respect to third persons, to the day on which the debtor obligated himself conditionally.

1991, c. 64, a. 1506.

1507. The fulfillment of a suspensive condition obliges the debtor to perform the obligation, as though it had existed from the day on which he obligated himself under that condition.

The fulfillment of a resolutory condition obliges each party to return to the other the prestations he has received pursuant to the obligation, as though the obligation had never existed.

1991, c. 64, a. 1507.

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§ 2. — *Obligations with a term*

1508. An obligation with a suspensive term is an existing obligation that does not become exigible until the occurrence of a future and certain event.

1991, c. 64, a. 1508.

1509. Where the obligation does not become exigible until the expiry of a period of time but no specific date is mentioned, the first day of the period is not counted, but the day of its expiry is counted.

1991, c. 64, a. 1509.

1510. If an event that was considered certain does not occur, the obligation is exigible from the day on which the event normally should have occurred.

1991, c. 64, a. 1510.

1511. A term is for the benefit of the debtor, unless it is apparent from the law, the intent of the parties or the circumstances that it has been stipulated for the benefit of the creditor or both parties.

The party for whose exclusive benefit a term has been stipulated may renounce it, without the consent of the other party.

1991, c. 64, a. 1511.

1512. Where the parties have agreed to delay the determination of the term or to leave it to one of them to make such determination and where, after a reasonable time, no term has been determined, the court may, upon the application of one of the parties, fix the term according to the nature of the obligation, the situation of the parties and any appropriate circumstances.

The court may also fix the term where a term is required by the nature of the obligation and there is no agreement as to how it may be determined.

1991, c. 64, a. 1512; 2016, c. 4, s. 186.

1513. What is due with a term may not be exacted before the term expires, but anything performed freely and without error before the expiry of the term may not be recovered.

1991, c. 64, a. 1513.

1514. A debtor loses the benefit of the term if he becomes insolvent, is declared bankrupt, or, by his own act or omission and without the consent of the creditor, reduces the security he has given to him.

He also loses the benefit of the term if he fails to meet the conditions in consideration of which it was granted to him.

1991, c. 64, a. 1514; 2016, c. 4, s. 187.

1515. Renunciation of the benefit of the term or forfeiture of the term renders the obligation exigible immediately.

1991, c. 64, a. 1515.

1516. Forfeiture of the term incurred by one of the debtors, even a solidary debtor, may not be set up against the other co-debtors.

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1517. An obligation with an extinctive term is an obligation which has a duration fixed by law or by the parties and which is extinguished by expiry of the term.

1991, c. 64, a. 1517.

DIVISION II

COMPLEX MODALITIES

§ 1. — *Obligations with multiple persons*

I. — *Joint, divisible and indivisible obligations*

1518. An obligation is joint between two or more debtors where they are obligated to the creditor for the same thing but in such a way that each debtor may only be compelled to perform the obligation separately and only up to his share of the debt.

An obligation is joint between two or more creditors where each creditor may only exact the performance of his share of the claim from the common debtor.

1991, c. 64, a. 1518.

1519. An obligation is divisible by operation of law, unless it is expressly stipulated that it is indivisible or unless the object of the obligation, owing to its nature, is not susceptible of division either materially or intellectually.

1991, c. 64, a. 1519.

1520. An indivisible obligation may not be divided, either between the creditors or the debtors or between their heirs.

Each debtor or each of his heirs may separately be compelled to perform the whole obligation and, conversely, each creditor or each of his heirs may exact the performance of the whole obligation, even though the obligation is not solidary.

1991, c. 64, a. 1520; I.N. 2014-05-01.

1521. A stipulation of solidarity does not, in itself, make an obligation indivisible.

1991, c. 64, a. 1521; 2016, c. 4, s. 188.

1522. A divisible obligation binding only one debtor and one creditor must be performed between them as if it were indivisible, but it remains divisible between their heirs.

1991, c. 64, a. 1522; I.N. 2014-05-01.

II. — *Solidary obligations*

1. — *Solidarity between debtors*

1523. An obligation is solidary between the debtors where they are obligated to the creditor for the same thing in such a way that each of them may be compelled separately to perform the whole obligation and where performance by a single debtor releases the others towards the creditor.

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1524. An obligation may be solidary even though one of the co-debtors is obliged differently from the others to perform the same thing, such as where one is conditionally bound while the obligation of the other is not conditional, or where one is allowed a term which is not granted to the other.

1991, c. 64, a. 1524.

1525. Solidarity between debtors is not presumed; it exists only where it is expressly stipulated by the parties or provided for by law.

Solidarity between debtors is presumed, however, where an obligation is contracted for the service or operation of an enterprise.

The carrying on by one or more persons of an organized economic activity, whether or not it is commercial in nature, consisting of producing, administering or alienating property, or providing a service, constitutes the operation of an enterprise.

1991, c. 64, a. 1525; I.N. 2014-05-01; I.N. 2015-11-01.

1526. The obligation to make reparation for injury caused to another through the fault of two or more persons is solidary where the obligation is extra-contractual.

1991, c. 64, a. 1526.

1527. Where specific performance of an obligation has become impossible through the fault of one or more of the solidary debtors, or at a time when one or more of the solidary debtors are in default, the other co-debtors are not discharged from their obligation to make an equivalent payment to the creditor, but they are not liable for additional damages which may be owed to him.

The creditor may not claim additional damages except from those co-debtors through whose fault the obligation became impossible to perform, and from those who were then in default for failing to perform it.

1991, c. 64, a. 1527; I.N. 2014-05-01; I.N. 2015-11-01.

1528. The creditor of a solidary obligation may apply for payment to any one of the co-debtors at his option, without such debtor having a right to plead the benefit of division.

1991, c. 64, a. 1528.

1529. An action instituted against one of the solidary debtors does not deprive the creditor of his remedy against the others, but the debtor sued may implead the other solidary debtors.

1991, c. 64, a. 1529; 2014, c. 1, s. 789.

1530. A solidary debtor who is sued by his creditor may set up all the defenses that are personal to the debtor, as well as those that are common to all the co-debtors, but he may not set up defenses that are purely personal to one or several of the other co-debtors.

1991, c. 64, a. 1530; I.N. 2014-05-01.

1531. Where, through the act or omission of the creditor, a solidary debtor is deprived of a security or of a right which he could have set up by subrogation, he is released to the extent of the value of the security or right of which he is deprived.

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1532. A creditor who renounces solidarity with regard to one of the debtors retains his solidary remedy against the other debtors for the whole debt.

1991, c. 64, a. 1532; I.N. 2014-05-01.

1533. A creditor who receives separately and without reserve the share of one of the solidary debtors and specifies in the acquittance that it applies to that share renounces solidarity with regard to that debtor alone.

1991, c. 64, a. 1533; I.N. 2014-05-01.

1534. Where a creditor receives separately and without reserve the share of one of the debtors in the periodic payments or interest on the debt and specifies in the acquittance that it applies to his share, he loses his solidary remedy against that debtor for the periodic payments or interest due, but not for any that may become due in the future, nor for the capital, unless separate payment is continued for three consecutive years.

1991, c. 64, a. 1534.

1535. A creditor who sues a solidary debtor for his share loses his solidary remedy against him if the debtor acquiesces in the demand or is condemned by judgment.

1991, c. 64, a. 1535.

1536. A solidary debtor who has performed the obligation may not recover from his co-debtors more than their respective shares, although he is subrogated to the rights of the creditor.

1991, c. 64, a. 1536.

1537. Contribution to the payment of a solidary obligation is made by equal shares among the solidary debtors, unless their interests in the debt, including their shares of the obligation to make reparation for injury caused to another, are unequal, in which case their contributions are proportional to the interest of each in the debt.

However, if the obligation was contracted in the exclusive interest of one of the debtors or if it is due to the fault of one co-debtor alone, he is liable for the whole debt to the other co-debtors, who are then considered, in his regard, as his sureties.

1991, c. 64, a. 1537.

1538. A loss arising from the insolvency of a solidary debtor is equally divided between the other co-debtors, unless their interests in the debt are unequal.

A creditor who has renounced solidarity with regard to one debtor, however, bears the share of that debtor in the contribution.

1991, c. 64, a. 1538; I.N. 2014-05-01.

1539. A solidary debtor sued for reimbursement by the co-debtor who has performed the obligation may raise any common defenses that have not been set up by the co-debtor against the creditor. He may also set up defenses which are personal to himself, but not those which are purely personal to one or several of the other co-debtors.

1991, c. 64, a. 1539.

1540. The obligation of a solidary debtor is divided by operation of law between his heirs, except where it is indivisible.

1991, c. 64, a. 1540.

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2. — *Solidarity between creditors*

1541. Solidarity between creditors exists only where it has been expressly stipulated.

It entitles each of them to exact the whole performance of the obligation from the debtor and to give a full acquittance for it.

1991, c. 64, a. 1541.

1542. Performance of an obligation in favour of one of the solidary creditors releases the debtor towards the other creditors.

1991, c. 64, a. 1542.

1543. A debtor has the option of performing the obligation in favour of any of the solidary creditors, provided he has not been sued by any of them.

A release from the obligation granted by one of the solidary creditors releases the debtor, but only for the portion of that creditor. The same rule applies to all cases in which the obligation is extinguished otherwise than by payment thereof.

1991, c. 64, a. 1543.

1544. An obligation for the benefit of a solidary creditor is divided by operation of law between his heirs.

1991, c. 64, a. 1544.

§ 2. — *Obligations with multiple objects*

I. — *Alternative obligations*

1545. An alternative obligation is one which has two principal prestations as its object, the performance of either of which releases the debtor for the whole.

An obligation is not considered to be alternative if, when it arose, one of the prestations could not be the object of the obligation.

1991, c. 64, a. 1545.

1546. The choice of the prestation belongs to the debtor, unless it has been expressly granted to the creditor.

Where the party who has the choice of the prestation fails to exercise that choice, after receiving a demand requiring him to do so, within the time alloted to him, the choice of the prestation passes to the other party.

1991, c. 64, a. 1546; I.N. 2015-11-01.

1547. A debtor may neither perform nor be compelled to perform part of one prestation and part of the other.

1991, c. 64, a. 1547.

1548. Where the debtor has the choice of the prestation and one of the prestations becomes impossible to perform, even through his own fault, he shall perform the one that remains.

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If, in the same case, both prestations become impossible to perform and the impossibility of performing either of them is due to the fault of the debtor, he is liable to the creditor to the extent of the value of the last prestation remaining.

1991, c. 64, a. 1548; I.N. 2014-05-01.

1549. Where the creditor has the choice of the prestation, he shall, if one of the prestations becomes impossible to perform, accept the remaining prestation unless the impossibility of performing it is due to the fault of the debtor, in which case the creditor has the right to exact specific performance of the remaining prestation, or reparation, by equivalence, for the injury resulting from the nonperformance of the prestation that has become impossible.

If, in the same case, the prestations become impossible to perform and the impossibility of performing them is due to the fault of the debtor, the creditor may exact reparation, by equivalence, for the injury resulting from the nonperformance of either of the prestations.

1991, c. 64, a. 1549; I.N. 2014-05-01.

1550. Where all the prestations become impossible to perform through no fault of the debtor, the obligation is extinguished.

1991, c. 64, a. 1550.

1551. The obligation is an alternative obligation even where it has more than two principal prestations as its object, and the rules of this subdivision apply, adapted as required, to all such obligations.

1991, c. 64, a. 1551.

II. — *Facultative obligations*

1552. A facultative obligation is an obligation which has only one principal prestation as its object but from which the debtor may release himself by performing another prestation.

The debtor is released if the principal prestation, through no fault on his part, becomes impossible to perform.

1991, c. 64, a. 1552.

CHAPTER VI

PERFORMANCE OF OBLIGATIONS

DIVISION I

PAYMENT

§ 1. — *Payment in general*

1553. Payment means not only the turning over of a sum of money in satisfaction of an obligation, but also the actual performance of whatever forms the object of the obligation.

1991, c. 64, a. 1553.

1554. Every payment presupposes an obligation; what has been paid where there is no obligation may be recovered.

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Recovery is not admitted, however, in the case of natural obligations that have been voluntarily paid.

1991, c. 64, a. 1554.

1555. Payment may be made by any person, even if he is a third person with respect to the obligation; the creditor may be put in default by the offer of a third person to perform the obligation in the name of the debtor, provided the offer is made for the benefit of the debtor and not merely to change creditors.

A creditor may not be compelled to take payment from a third person, however, if he has an interest in the payment being made by the debtor personally.

1991, c. 64, a. 1555; I.N. 2014-05-01.

1556. A valid payment may only be made by a person having a right in the thing due which entitles him to give it in payment.

However, payment of a sum of money or of any other thing due that is consumed by use may not be recovered against a creditor who has used it in good faith, even though it was made by a person who was not authorized to make it.

1991, c. 64, a. 1556.

1557. Payment shall be made to the creditor or to a person authorized to receive it for him.

Payment made to a third person is valid if the creditor ratifies it; if it is not ratified, the payment is valid only to the extent of the benefit that the creditor derives from it.

1991, c. 64, a. 1557; I.N. 2014-05-01.

1558. Payment made to a creditor without capacity to receive it is valid only to the extent of the benefit he derives from it.

1991, c. 64, a. 1558.

1559. Payment made in good faith to the apparent creditor is valid, even though it is subsequently established that he is not the rightful creditor.

1991, c. 64, a. 1559.

1560. Payment made by a debtor to his creditor to the detriment of a seizing creditor is not valid against the seizing creditor who, according to his rights, may compel the debtor to pay again; in that case, the debtor has a remedy against the creditor so paid.

1991, c. 64, a. 1560.

1561. A creditor may not be compelled to accept anything other than what is due to him, even though what is offered is of greater value.

Nor may he be compelled to accept partial payment of an obligation unless the obligation is disputed in part. In that case, if the debtor offers to pay the undisputed part, the creditor may not refuse to accept payment of it, but he retains his right to claim the other part of the obligation.

1991, c. 64, a. 1561; I.N. 2014-05-01; 2016, c. 4, s. 190.

1562. A debtor of certain and determinate property is released by the handing over of the property in its actual condition at the time of payment, provided that the deterioration it has suffered is not due to his act, omission or fault and did not occur after he was in default for the payment.

1991, c. 64, a. 1562; I.N. 2014-05-01; 2016, c. 4, s. 191.

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1563. Where the property is determinate as to its kind only, the debtor need not give the best quality, but he may not offer the worst quality.

1991, c. 64, a. 1563; I.N. 2014-05-01.

1564. Where the debt consists of a sum of money, the debtor is released by paying the nominal amount due in money which is legal tender at the time of payment.

He is also released by remitting the amount due by money order, by cheque made to the order of the creditor and certified by a financial institution carrying on business in Québec, or by any other instrument of payment offering the same guarantees to the creditor, or, if the creditor is in a position to accept it, by means of a credit card or a transfer of funds to an account of the creditor in a financial institution.

1991, c. 64, a. 1564.

1565. Interest is paid at the agreed rate or, if none, at the legal rate.

1991, c. 64, a. 1565.

1566. Payment is made at the place expressly or impliedly indicated by the parties.

If no place is indicated by the parties, payment is made at the domicile of the debtor, unless what is due is certain and determinate property, in which case payment is made at the place where the property was when the obligation arose.

1991, c. 64, a. 1566; I.N. 2014-05-01.

1567. The expenses attending payment are borne by the debtor.

1991, c. 64, a. 1567.

1568. A debtor who pays his debt is entitled to an acquittance and to the turning over of the original title of the obligation.

1991, c. 64, a. 1568.

§ 2. — *Imputation of payment*

1569. When making payment, a debtor who owes several debts has the right to impute payment to the debt he intends to pay.

He may not, however, without the consent of the creditor, impute payment to a debt not yet due in preference to a debt which has become due, unless it was agreed that payment may be made by anticipation.

1991, c. 64, a. 1569.

1570. A debtor who owes a debt that bears interest or yields periodic payments may not, without the consent of the creditor, impute a payment to the capital in preference to the interest or periodic payments.

Any partial payment made on the principal and interest is imputed first to the interest.

1991, c. 64, a. 1570.

1571. Where a debtor who owes several debts has accepted an acquittance by which the creditor, at the time of payment, imputed payment to one specific debt, he may not subsequently require that it be imputed to a different debt, except upon grounds for which contracts may be annulled.

1991, c. 64, a. 1571.

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1572. In the absence of imputation by the parties, payment is imputed first to the debt that is due.

Where several debts are due, payment is imputed to the debt which the debtor has the greatest interest in paying.

Where the debtor has the same interest in paying several debts, payment is imputed to the debt that became due first; if all of the debts became due at the same time, however, payment is imputed proportionately.

1991, c. 64, a. 1572.

§ 3. — *Tender and deposit*

1573. Where a creditor refuses or neglects to accept payment, the debtor may make a tender.

A tender consists in placing the property that is due at the disposal of the creditor at the place and time that payment is due. In addition to the property due, with the interest and periodic payments it has yielded, a reasonable amount to cover unliquidated expenses owed by the debtor shall be included, saving the right to make up any deficiency in that amount.

1991, c. 64, a. 1573; I.N. 2014-05-01.

1574. Where the object tendered is a sum of money, it may be tendered in currency which is legal tender at the time of payment or by cheque made to the order of the creditor and certified by a financial institution carrying on business in Québec.

Tender may also be made by way of an irrevocable and unconditional undertaking, for an indefinite term, by a financial institution carrying on business in Québec, to pay to the creditor the amount tendered if the creditor accepts the tender or if the court declares it valid.

1991, c. 64, a. 1574.

1575. Tender may be made by notarial act *en minute* or by a judicial declaration which is recorded; it may also be made by any other writing or in any other manner, provided it is proved.

Where tender is made by notarial act, the notary records the answer of the creditor in the act and, in case of refusal, the reasons given by him.

1991, c. 64, a. 1575; 1992, c. 57, s. 716; 2016, c. 4, s. 192.

1576. The tender of a sum of money or securities made by a judicial declaration shall be completed by deposit of the sum or the securities, in accordance with the rules of the Code of Civil Procedure (chapter C-25.01).

1991, c. 64, a. 1576; I.N. 2014-05-01; I.N. 2016-01-01 (NCCP); 2016, c. 4, s. 193.

1577. Where payment or delivery of the property is to be made at the domicile of the debtor or at the place where the property is located, a written notice given to the creditor by the debtor that he is ready to perform the obligation there has the same effect as a tender.

Where payment or delivery of the property need not be so made and it is difficult to transport the property to the place where it is to be made, the debtor may, in writing, require the creditor to advise him of his willingness to accept the property if he has reason to believe that the creditor will refuse it; if the creditor fails to advise the debtor of his willingness in due time, the debtor need not transport the property to the place where it is to be paid or delivered and his notice to the creditor has the same effect as a tender.

1991, c. 64, a. 1577; 2002, c. 19, s. 15; I.N. 2014-05-01.

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1578. Where the property which is due is a sum of money or securities, a written notice given by the debtor to the creditor that the sum of money or the securities are deposited has the same effect as a tender.

1991, c. 64, a. 1578; I.N. 2014-05-01.

1579. In every tender, or notice having the same effect, the nature of the debt, the title under which it was created and the name of the creditor or the persons to whom payment is to be made shall be indicated; in addition, a description of the property tendered shall be included with, in the case of a sum of money in cash, an enumeration of each denomination.

1991, c. 64, a. 1579; I.N. 2014-05-01.

1580. A creditor is in default by operation of law for not receiving payment where, without justification, he refuses a valid tender, where he refuses to act on the notice having the same effect, or where he clearly expresses his intention to refuse any tender that the debtor might wish to make; in this last case, the debtor need not make any tender or give any notice having the same effect.

A creditor is also in default by operation of law where the debtor, despite his diligence, cannot find him.

1991, c. 64, a. 1580; I.N. 2014-05-01; I.N. 2015-11-01.

1581. Where the creditor is in default for not receiving payment, the debtor may take any measures necessary or useful for the preservation of the property which he owes and, in particular, entrust it to a third person for storage or custody.

In the same case, if the property is perishable, likely to depreciate rapidly or expensive to preserve, the debtor may cause it to be sold and deposit the proceeds.

1991, c. 64, a. 1581; I.N. 2014-05-01; I.N. 2015-11-01.

1582. A creditor who is in default for not receiving payment bears the reasonable costs of preservation of the property, as well as any costs that may be incurred for the sale of the property and the deposit of the proceeds.

He also bears the risks of loss of the property by superior force.

1991, c. 64, a. 1582; I.N. 2014-05-01; I.N. 2015-11-01.

1583. Deposit by the debtor of the sum of money or the securities which he owes is made in the general deposit office for Québec or any trust company authorized under the Trust Companies and Savings Companies Act (chapter S-29.02) or, during judicial proceedings, in accordance with the rules of the Code of Civil Procedure (chapter C-25.01).

Deposit may be made not only where the creditor refuses to accept the money or securities owed by the debtor, but also, among other cases, where the claim is in dispute between several persons or where the debtor is prevented from making payment by reason of the fact that the creditor cannot be found at the place where the payment is to be made.

1991, c. 64, a. 1583; I.N. 2014-05-01; I.N. 2015-11-01; I.N. 2016-01-01 (NCCP); 2018, c. 23, s. 714.

1584. A debtor may withdraw a sum of money or securities which he has deposited, so long as the deposit has not been accepted by the creditor; if he withdraws it, neither his co-debtors nor his sureties are released.

No withdrawal may be made during judicial proceedings, however, except by authorization of the court.

1991, c. 64, a. 1584; I.N. 2014-05-01.

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1585. Where the deposit of a sum of money or of securities is declared valid by the court, the debtor may not withdraw the deposit except with the consent of the creditor.

Such a withdrawal may not, however, impair the rights of third persons or prevent the release of the co-debtors or the sureties of the debtor.

1991, c. 64, a. 1585; I.N. 2014-05-01.

1586. A deposit made according to the conditions set forth in the preceding articles releases the debtor, for the future, from the payment of interest or income yielded.

1991, c. 64, a. 1586.

1587. Interest or income yielded from the date of deposit belongs to the creditor. Nevertheless, where the deposit is made to obtain the performance of an obligation of the creditor that is correlative to the obligation the debtor intends to perform by the deposit, the interest or income belongs to the debtor until the deposit is accepted by the creditor.

1991, c. 64, a. 1587.

1588. A tender accepted by the creditor or declared valid by the court is equivalent, with respect to the debtor, to payment made on the day of the tender or of the notice having the same effect, provided the debtor has always been willing to pay from that time.

1991, c. 64, a. 1588; I.N. 2014-05-01.

1589. Where tender and deposit are accepted or declared valid by the court, the expenses related to them are borne by the creditor.

1991, c. 64, a. 1589.

DIVISION II

RIGHT TO ENFORCE PERFORMANCE

§ 1. — *General provision*

1590. An obligation confers on the creditor the right to demand that the obligation be performed in full, properly and without delay.

Where the debtor fails to perform his obligation without justification on his part and he is in default, the creditor may, without prejudice to his right to the performance of the obligation in whole or in part by equivalence,

(1) force specific performance of the obligation;

(2) obtain, in the case of a contractual obligation, the resolution or resiliation of the contract or the reduction of his own correlative obligation;

(3) take any other measure provided by law to enforce his right to the performance of the obligation.

1991, c. 64, a. 1590.

§ 2. — *Exception for nonperformance and right of retention*

1591. Where the obligations arising from a synallagmatic contract are exigible and one of the parties fails to perform his obligation to a substantial degree or does not offer to perform it, the other party may refuse to

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perform his correlative obligation to a corresponding degree, unless he is bound by law, the will of the parties or usage to perform first.

1991, c. 64, a. 1591.

1592. A party who, with the consent of the other contracting party, has detention of property belonging to the latter has a right to retain it pending full payment of his claim against him, if the claim is exigible and is closely related to the property of which he has detention.

1991, c. 64, a. 1592; I.N. 2014-05-01; I.N. 2015-11-01.

1593. The right of retention may be set up against anyone.

Involuntary dispossession does not extinguish a right of retention; the party exercising the right may revendicate the property, subject to the rules on prescription.

1991, c. 64, a. 1593.

§ 3. — *Default*

1594. A debtor may be in default for failing to perform the obligation owing to the terms of the contract itself, when it contains a stipulation that the mere lapse of time for performing it will have that effect.

A debtor may also be put in default by an extrajudicial demand to perform the obligation addressed to him by his creditor, a judicial application filed against him or the sole operation of law.

1991, c. 64, a. 1594; I.N. 2015-11-01.

1595. An extrajudicial demand by which a creditor puts his debtor in default must be made in writing.

The demand must allow the debtor sufficient time for performance, having regard to the nature of the obligation and the circumstances; otherwise the debtor may perform the obligation within a reasonable time after the demand.

1991, c. 64, a. 1595; I.N. 2014-05-01; I.N. 2015-11-01.

1596. Where a creditor files a judicial application against the debtor without his otherwise being in default, the debtor is entitled to perform the obligation within a reasonable time after the demand. If the obligation is performed within a reasonable time, the costs of the demand are borne by the creditor.

1991, c. 64, a. 1596; I.N. 2015-11-01.

1597. A debtor is in default by the sole operation of law where the performance of the obligation would have been useful only within a certain time which he allowed to expire or where he failed to perform the obligation immediately despite the urgency that he do so.

A debtor is also in default by operation of law where he has violated an obligation not to do, or where specific performance of the obligation has become impossible through his fault, and also where he has made clear to the creditor his intention not to perform the obligation or where, in the case of an obligation of successive performance, he has repeatedly refused or neglected to perform it.

1991, c. 64, a. 1597.

1598. The creditor shall prove the occurrence of one of the cases of default by operation of law notwithstanding any statement or stipulation to the contrary.

1991, c. 64, a. 1598.

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1599. An extrajudicial demand by which the creditor puts one of the solidary debtors in default has effect with respect to the other debtors.

Similarly, an extrajudicial demand made by one of the solidary creditors has effect with respect to the other creditors.

1991, c. 64, a. 1599.

1600. Where the subject of the obligation is a sum of money, the debtor, although he may be granted a period of grace, is liable for injury resulting from delay in the performance of the obligation from the moment he is in default.

The debtor in such a case is also liable from the same moment for any loss resulting from superior force, unless he is released thereby from his obligation.

1991, c. 64, a. 1600; I.N. 2014-05-01; I.N. 2015-11-01.

§ 4. — *Specific performance*

1601. A creditor may, in cases which admit of it, demand that the debtor be forced to make specific performance of the obligation.

1991, c. 64, a. 1601.

1602. Where the debtor is in default, the creditor may perform the obligation or cause it to be performed at the expense of the debtor.

A creditor wishing to avail himself of this right shall so notify the debtor in the judicial application or the extrajudicial demand by which he puts him in default, except in cases where the debtor is in default by operation of law or by the terms of the contract itself.

1991, c. 64, a. 1602; I.N. 2014-05-01; I.N. 2015-11-01.

1603. The creditor may be authorized to destroy or remove, at the expense of the debtor, what has been done by the debtor in violation of an obligation not to do.

1991, c. 64, a. 1603; I.N. 2014-05-01.

§ 5. — *Resolution or resiliation of contracts and reduction of obligations*

1604. Where the creditor does not avail himself of the right to force the specific performance of the contractual obligation of the debtor in cases which admit of it, he is entitled either to the resolution of the contract, or to its resiliation in the case of a contract of successive performance.

However and notwithstanding any stipulation to the contrary, he is not entitled to resolution or resiliation of the contract if the default of the debtor is of minor importance, unless, in the case of an obligation of successive performance, the default occurs repeatedly, but he is then entitled to a proportional reduction of his correlative obligation.

All the relevant circumstances are taken into consideration in assessing the proportional reduction of the correlative obligation. If the obligation cannot be reduced, the creditor is entitled to damages only.

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1605. A contract may be resolved or resiliated without judicial action where the debtor is in default by operation of law for failing to perform his obligation or where he has failed to perform it within the time set in the demand putting him in default.

1991, c. 64, a. 1605; I.N. 2014-05-01; I.N. 2015-11-01; 2014, c. 1, s. 790.

1606. A contract which is resolved is deemed never to have existed; each party is, in such a case, bound to restore to the other the prestations he has already received.

A contract which is resiliated ceases to exist, but only for the future.

1991, c. 64, a. 1606.

§ 6. — *Performance by equivalence*

I. — *General provisions*

1607. The creditor is entitled to damages for bodily, moral or material injury which is an immediate and direct consequence of the debtor's default.

1991, c. 64, a. 1607.

1608. The obligation of the debtor to pay damages to the creditor is neither reduced nor altered by the fact that the creditor receives a benefit from a third person, as a result of the injury he has suffered, except so far as the third person is subrogated to the rights of the creditor.

1991, c. 64, a. 1608; I.N. 2014-05-01.

1609. Acquittances, transactions or statements which the debtor, an insurer or their representatives obtain from the creditor, and which relate to the bodily or moral injury the creditor has suffered, are without effect if they are damaging to the creditor and were obtained within 30 days of the act or omission which caused the injury.

1991, c. 64, a. 1609; 2016, c. 4, s. 194.

1610. The right of a creditor to damages, including punitive damages, may be assigned or transmitted.

This rule does not apply where the right of the creditor results from the infringement of a personality right; in such a case, the right of the creditor to damages may not be assigned, and may be transmitted only to his heirs.

1991, c. 64, a. 1610; I.N. 2014-05-01.

II. — *Assessment of damages*

1. — *Assessment in general*

1611. The damages due to the creditor compensate for the amount of the loss he has sustained and the profit of which he has been deprived.

Future injury which is certain and assessable is taken into account in awarding damages.

1991, c. 64, a. 1611; I.N. 2014-05-01.

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1612. The loss sustained by the owner of a trade secret includes the investment expenses incurred for its acquisition, perfection and use; the profit of which he is deprived may be compensated for through payment of royalties.

1991, c. 64, a. 1612; 2002, c. 19, s. 15.

1613. In contractual matters, the debtor is liable only for damages that were foreseen or foreseeable at the time the obligation was contracted, where the failure to perform the obligation does not proceed from intentional or gross fault on his part; even then, the damages include only what is an immediate and direct consequence of the nonperformance.

1991, c. 64, a. 1613.

1614. Damages owed to the creditor for bodily injury he suffers are measured as to the future aspects of the injury according to the discount rates set by regulation of the Government, from the time such rates are set.

1991, c. 64, a. 1614; I.N. 2014-05-01.

1615. The court, in awarding damages for bodily injury, may, for a period of not more than three years, reserve the right of the creditor to apply for additional damages, if the course of his physical condition cannot be determined with sufficient precision at the time of the judgment.

1991, c. 64, a. 1615; I.N. 2014-05-01.

1616. Damages awarded for injury are exigible in the form of capital payable all at once, unless otherwise agreed by the parties.

Where the injury suffered is bodily injury and where the creditor is a minor, however, the court may order payment, in whole or in part, in the form of an annuity or by periodic instalments, on the terms and conditions it fixes, which may include indexation according to a fixed rate. Within three months after the date on which the creditor attains full age, he may demand immediate and discounted payment of any amount still receivable.

1991, c. 64, a. 1616; I.N. 2014-05-01; 2016, c. 4, s. 195.

1617. Damages which result from delay in the performance of an obligation to pay a sum of money consist of interest at the agreed rate or, in the absence of any agreement, at the legal rate.

The creditor is entitled to the damages from the date of default without having to prove that he has suffered any injury.

A creditor may stipulate, however, that he will be entitled to additional damages, provided he justifies them.

1991, c. 64, a. 1617; I.N. 2014-05-01.

1618. Damages other than those resulting from delay in the performance of an obligation to pay a sum of money bear interest at the rate agreed by the parties, or, in the absence of agreement, at the legal rate, from the date of default or from any other later date which the court considers appropriate, having regard to the nature of the injury and the circumstances.

1991, c. 64, a. 1618.

1619. An indemnity may be added to the amount of damages awarded for any reason, which is fixed by applying to the amount of the damages, from either of the dates used in computing the interest on them, a percentage equal to the excess of the rate of interest fixed for claims of the State under section 28 of the Tax

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Administration Act (chapter A-6.002) over the rate of interest agreed by the parties or, in the absence of agreement, over the legal rate.

1991, c. 64, a. 1619; 2010, c. 31, s. 175.

1620. Interest accrued on principal does not itself bear interest except where that is provided by agreement or by law or where additional interest is expressly demanded in a suit.

1991, c. 64, a. 1620.

1621. Where the awarding of punitive damages is provided for by law, the amount of such damages may not exceed what is sufficient to fulfil their preventive purpose.

Punitive damages are assessed in the light of all the appropriate circumstances, in particular the gravity of the debtor's fault, his patrimonial situation, the extent of the reparation for which he is already liable to the creditor and, where such is the case, the fact that the payment of the reparatory damages is wholly or partly assumed by a third person.

1991, c. 64, a. 1621; I.N. 2015-11-01.

2. — *Advance assessment of damages*

1991, c. 64, Sd. 2; I.N. 2014-05-01.

1622. A penal clause is one by which the parties assess the damages in advance, stipulating that the debtor will suffer a penalty if he fails to perform his obligation.

A creditor has the right to avail himself of a penal clause instead of enforcing, in cases which admit of it, the specific performance of the obligation; but in no case may he exact both the performance and the penalty, unless the penalty has been stipulated for mere delay in the performance of the obligation.

1991, c. 64, a. 1622; I.N. 2014-05-01.

1623. A creditor who avails himself of a penal clause is entitled to the amount of the stipulated penalty without having to prove the injury he has suffered.

However, the amount of the stipulated penalty may be reduced if the creditor has benefited from partial performance of the obligation or if the clause is abusive.

1991, c. 64, a. 1623.

1624. Where an obligation with a penal clause is indivisible without being solidary and its nonperformance is due to the act or omission of only one of the co-debtors, the penalty may be exacted in full against him or against each of the co-debtors for his share, but, in the latter case, without prejudice to their remedy against the co-debtor who caused the penalty to be incurred.

1991, c. 64, a. 1624; 2002, c. 19, s. 15.

1625. Where an obligation with a penal clause is divisible, the penalty also is divisible and is incurred only by that debtor who fails to perform the obligation, and only for that share of the obligation for which he is bound, without there being any action against those who have performed it.

This rule does not apply where the obligation is solidary, nor where the penal clause was stipulated to prevent partial payment and one of the co-debtors has prevented the performance of the obligation for the whole; in this case, that co-debtor is liable for the whole penalty and the others are liable for their respective shares only, without prejudice to their remedy against him.

1991, c. 64, a. 1625; I.N. 2014-05-01.

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DIVISION III

PROTECTION OF THE RIGHT TO PERFORMANCE OF OBLIGATIONS

§ 1. — *Conservatory measures*

1626. A creditor may take all necessary or useful measures to preserve his rights.

1991, c. 64, a. 1626.

§ 2. — *Oblique action*

1627. A creditor whose claim is certain, liquid and exigible may, in the debtor's name, exercise the rights and actions of the debtor where the debtor, to the prejudice of the creditor, refuses or neglects to exercise them.

However, he may not exercise rights and actions which are strictly personal to the debtor.

1991, c. 64, a. 1627; I.N. 2014-05-01.

1628. It is not necessary for the claim to be liquid and exigible at the time the action is instituted, but it is necessary that it be so at the time judgment is rendered.

1991, c. 64, a. 1628.

1629. The person against whom an oblique action is brought may set up against the creditor all the defenses he could have set up against his own creditor.

1991, c. 64, a. 1629.

1630. Property recovered by a creditor in the name of the debtor falls into the patrimony of the debtor and benefits all his creditors.

1991, c. 64, a. 1630.

§ 3. — *Paulian action*

1631. A creditor who suffers injury through a juridical act made by his debtor in fraud of his rights, in particular an act by which the debtor renders or seeks to render himself insolvent, or by which, being insolvent, he grants preference to another creditor, may obtain a declaration that the act may not be set up against him.

1991, c. 64, a. 1631; I.N. 2014-05-01.

1632. An onerous contract or a payment made in performance of such a contract is deemed to be made with fraudulent intent if the other contracting party or the creditor knew the debtor to be insolvent or knew that the debtor, by the juridical act, was rendering himself or was seeking to render himself insolvent.

1991, c. 64, a. 1632; I.N. 2014-05-01.

1633. A gratuitous contract or a payment made in performance of such a contract is deemed to be made with fraudulent intent, even if the other contracting party or the creditor was unaware of the facts, where the debtor is or becomes insolvent at the time the contract is formed or the payment is made.

1991, c. 64, a. 1633; I.N. 2014-05-01.

1634. The claim must be certain at the time the action is instituted, and must be liquid and exigible at the time the judgment is rendered.

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The claim must exist prior to the juridical act which is attacked, unless that act was made for the purpose of defrauding a subsequent creditor.

1991, c. 64, a. 1634; I.N. 2014-05-01; 2016, c. 4, s. 196.

1635. The action is forfeited unless it is brought within one year from the day on which the creditor learned of the injury resulting from the act which is attacked, or, where the action is brought by a trustee in bankruptcy on behalf of all the creditors, from the date of appointment of the trustee.

1991, c. 64, a. 1635.

1636. Where it is declared that a juridical act may not be set up against the creditor, it may not be set up against any other creditors who were entitled to institute the action and who intervened in it to protect their rights; all may have the property forming the subject of the juridical act seized and sold and may be paid in proportion to their claims, subject to the rights of prior or hypothecary creditors.

1991, c. 64, a. 1636; I.N. 2014-05-01; 2016, c. 4, s. 197.

CHAPTER VII

TRANSFER AND ALTERATION OF OBLIGATIONS

DIVISION I

ASSIGNMENT OF CLAIMS

§ 1. — *Assignment of claims in general*

1637. A creditor may assign to a third person all or part of a claim or a right of action which he has against his debtor.

He may not, however, make an assignment that is injurious to the rights of the debtor or that renders his obligation more onerous.

1991, c. 64, a. 1637.

1638. The assignment of a claim includes its accessories.

1991, c. 64, a. 1638.

1639. Where the assignment is by onerous title, the assignor warrants that the claim exists and is owed to him, even if the assignment is made without warranty, unless the assignee has acquired it at his own risk or knew of the uncertain nature of the claim at the time of the assignment.

1991, c. 64, a. 1639; I.N. 2014-05-01.

1640. Where the assignor by onerous title guarantees the solvency of the debtor by a simple clause of warranty, he is liable for the solvency only at the time of the assignment and to the extent of the price he received.

1991, c. 64, a. 1640.

1641. An assignment may be set up against the debtor and third persons as soon as the debtor has acquiesced in it or received a copy or a pertinent extract of the act of assignment or any other evidence of the assignment which may be set up against the assignor.

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If the debtor cannot be found in Québec, the assignment may be set up against the debtor and third persons upon the publication of a notice in accordance with the rules of the Code of Civil Procedure (chapter C-25.01) for notification by public notice.

1991, c. 64, a. 1641; 1992, c. 57, s. 716; I.N. 2014-05-01; 2014, c. 1, s. 791.

1642. The assignment of a universality of claims, present or future, may be set up against debtors and third persons by the registration of the assignment in the register of personal and movable real rights, provided, however, that the other formalities whereby the assignment may be set up against the debtors who have not acquiesced in it have been observed.

1991, c. 64, a. 1642; I.N. 2015-11-01.

1643. A debtor may set up against the assignee any payment made to the assignor before the assignment could be set up against him, as well as any other cause of extinction of the obligation that occurred before that time.

A debtor may also set up any payment made in good faith by himself or his surety to an apparent creditor, even if the required formalities whereby the assignment may be set up against the debtor and third persons have been observed.

1991, c. 64, a. 1643; I.N. 2015-11-01.

1644. Where a copy or an extract of the act of assignment or any other evidence of the assignment which may be set up against an assignor is handed over to the debtor at the time of service of an action brought against the debtor, no legal costs may be exacted from the debtor if he pays within the time fixed for answering the summons, unless he was already in default for failing to perform the obligation.

1991, c. 64, a. 1644; 1992, c. 57, s. 716; I.N. 2014-05-01; I.N. 2015-11-01; 2014, c. 1, s. 792.

1645. The assignment may not be set up against the surety unless the prescribed formalities for the setting up of the assignment against the debtor have been observed with respect to the surety himself.

1991, c. 64, a. 1645; I.N. 2014-05-01; I.N. 2015-11-01.

1646. The assignees of the same claim, and the assignor with respect to any remainder due to him, are paid in proportion to the value of their claims.

However, persons having obtained an assignment with a warranty of payment are paid in preference to all other assignees and to the assignor, and, among themselves, in the order of the dates on which their respective assignments could be set up against the debtor.

1991, c. 64, a. 1646; I.N. 2014-05-01.

§ 2. — *Assignment of claims attested by bearer instrument*

1647. It is of the essence of a claim attested by a bearer instrument issued by a debtor that it may be assigned by mere delivery, to another bearer, of the instrument attesting it.

1991, c. 64, a. 1647.

1648. A debtor who has issued a bearer instrument is bound to pay the debt attested thereby to any bearer who hands over the instrument to him, except where he has received notification of a judgment ordering him to withhold payment thereof.

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He may not set up any defenses against the bearer other than defenses concerning the nullity of or a defect in the instrument, those founded on an express stipulation in the instrument or such defenses as he may raise against the bearer personally.

1991, c. 64, a. 1648; I.N. 2014-05-01; 2016, c. 4, s. 198.

1649. A debtor who has issued a bearer instrument remains bound towards every bearer in good faith, even if the debtor shows that the instrument was negotiated against his will.

1991, c. 64, a. 1649.

1650. A person who has been unjustly dispossessed of a bearer instrument may not prevent the debtor from paying the claim to the person who presents the instrument except on notification of an order of the court.

1991, c. 64, a. 1650; 2016, c. 4, s. 199.

DIVISION II

SUBROGATION

1651. A person who pays in the place of a debtor may be subrogated to the rights of the creditor.

He does not have more rights than the subrogating creditor.

1991, c. 64, a. 1651.

1652. Subrogation may be conventional or legal.

1991, c. 64, a. 1652.

1653. Conventional subrogation may be made by the creditor or the debtor, but it must be made expressly and in writing.

1991, c. 64, a. 1653; I.N. 2014-05-01.

1654. Subrogation may be made by the creditor only at the same time as he receives payment. It takes effect without the consent of the debtor, notwithstanding any stipulation to the contrary.

1991, c. 64, a. 1654.

1655. Subrogation may not be made by a debtor in favour of anyone except his lender and it takes effect without the consent of the creditor.

In order for subrogation to be valid in this case, the loan instrument and the acquittance shall each be made in the form of a notarial act *en minute* or by a private writing drawn up before two witnesses who sign it. In addition, a statement shall be made in the loan instrument that the loan is granted for the purpose of paying the debt, and, in the acquittance, that the debt is paid out of the loan.

1991, c. 64, a. 1655.

1656. Subrogation takes place by the sole operation of law

(1) in favour of a creditor who pays another creditor whose claim is preferred to his because of a prior claim or a hypothec;

(2) in favour of the acquirer of property who pays a creditor whose claim is secured by a hypothec on the property;

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(3) in favour of a person who pays a debt to which he is bound with others or for others and which he has an interest in paying;

(4) in favour of an heir who pays with his own funds a debt of the succession for which he was not bound;

(5) in any other case provided by law.

1991, c. 64, a. 1656; I.N. 2014-05-01.

1657. Subrogation has effect against the principal debtor and his warrantors, who may set up against the person subrogated the defenses they had against the original creditor.

1991, c. 64, a. 1657.

1658. A creditor who has been only partly paid may exercise his rights with respect to the balance of his claim in preference to the person subrogated from whom he has received only part of his claim.

However, if the creditor has obligated himself to the person subrogated to guarantee payment of the amount for which the subrogation is acquired, the person subrogated has preference.

1991, c. 64, a. 1658; I.N. 2014-05-01.

1659. Except where there is agreement to the contrary, persons who are subrogated to the rights of the same creditor are paid in proportion to their share in the subrogated payment.

1991, c. 64, a. 1659; I.N. 2014-05-01.

DIVISION III

NOVATION

1660. Novation is effected where the debtor contracts towards his creditor a new debt which is substituted for the former debt, which is extinguished, or where a new debtor is substituted for the former debtor, who is discharged by the creditor; in such a case, novation may be effected without the consent of the former debtor.

Novation is also effected where, by the effect of a new contract, a new creditor is substituted for the former creditor, towards whom the debtor is discharged.

1991, c. 64, a. 1660; I.N. 2014-05-01.

1661. Novation is not presumed; the intention to effect it must be evident.

1991, c. 64, a. 1661; I.N. 2014-05-01.

1662. Hypothecs attached to the former claim are not transferred to the claim substituted for it, unless they are expressly reserved by the creditor.

1991, c. 64, a. 1662; I.N. 2014-05-01.

1663. Where novation is effected by substitution of a new debtor, the new debtor may not set up against the creditor the defenses which he could have raised against the former debtor, nor the defenses which the former debtor had against the creditor, unless, in the latter case, he may invoke the nullity of the act that bound them.

Furthermore, hypothecs attached to the former claim may not be transferred to the property of the new debtor; nor may they be reserved upon the property of the former debtor without his consent. However, they

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may be transferred to property acquired from the former debtor by the new debtor, if the new debtor consents thereto.

1991, c. 64, a. 1663; I.N. 2014-05-01.

1664. Where novation is effected between the creditor and one of the solidary debtors, hypothecs attached to the former claim may only be reserved upon the property of the co-debtor who contracts the new debt.

1991, c. 64, a. 1664; I.N. 2014-05-01.

1665. Novation effected between the creditor and one of the solidary debtors releases the other co-debtors with respect to the creditor; novation effected with respect to the principal debtor releases the sureties.

However, where the creditor has required the accession of the co-debtors, in the first case, or of the sureties, in the second case, the creditor's former claim subsists if the co-debtors or the sureties refuse to accede to the new contract.

1991, c. 64, a. 1665; I.N. 2014-05-01; I.N. 2015-11-01.

1666. Novation which has been agreed to by one of the solidary creditors may not be set up against the other co-creditors, except for his share in the solidary claim.

1991, c. 64, a. 1666; I.N. 2014-05-01.

DIVISION IV

DELEGATION

1667. Designation by a debtor of a person who is to pay in his place constitutes a delegation of payment only when the delegate obligates himself personally to the delegatee to make the payment; otherwise, it merely constitutes an indication of payment.

1991, c. 64, a. 1667.

1668. Where the delegatee accepts the delegation, he retains his rights against the delegator, unless it is evident that the delegatee intends to discharge him.

1991, c. 64, a. 1668; I.N. 2014-05-01; 2016, c. 4, s. 200.

1669. The delegate may not set up against the delegatee the defenses he could have raised against the delegator, even though he did not know of their existence at the time of the delegation.

This rule does not apply if, at the time of the delegation, nothing is due to the delegatee, nor does it prejudice the remedy of the delegate against the delegator.

1991, c. 64, a. 1669.

1670. The delegate may set up against the delegatee all such defenses as the delegator could have set up against the delegatee.

The delegate may not set up compensation, however, for what the delegator owes to the delegatee or for what the delegatee owes to the delegator.

1991, c. 64, a. 1670.

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CHAPTER VIII

EXTINCTION OF OBLIGATIONS

DIVISION I

GENERAL PROVISION

1671. Obligations are extinguished not only by the causes of extinction contemplated in other provisions of this Code, such as payment, the expiry of an extinctive term, novation or prescription, but also by compensation, confusion, release, impossibility of performance or discharge of the debtor.

1991, c. 64, a. 1671.

DIVISION II

COMPENSATION

1672. Where two persons are reciprocally debtor and creditor of each other, the debts for which they are liable are extinguished by compensation, up to the amount of the lesser debt.

Compensation may not be claimed from the State, but the State may claim it.

1991, c. 64, a. 1672.

1673. Compensation is effected by operation of law upon the coexistence of debts that are certain, liquid and exigible and both of whose subject is a sum of money or a certain quantity of fungible property identical in kind.

A party may apply for judicial liquidation of a debt in order to set it up for compensation.

1991, c. 64, a. 1673; I.N. 2014-05-01; I.N. 2015-11-01.

1674. Compensation is effected even though the debts are not payable at the same place, provided allowance is made for the expenses of delivery, if any.

1991, c. 64, a. 1674.

1675. A period of grace granted for payment of one of the debts does not prevent compensation.

1991, c. 64, a. 1675.

1676. Compensation is effected regardless of the cause of the obligation that has given rise to the debt.

Compensation does not take place, however, if the claim results from an act performed with intention to harm or if the subject of the debt is property which is exempt from seizure.

1991, c. 64, a. 1676; I.N. 2015-11-01.

1677. Where several debts subject to compensation are owed by the same debtor, the rules for imputation of payment apply.

1991, c. 64, a. 1677; I.N. 2014-05-01.

1678. One of the solidary debtors may not set up compensation for what the creditor owes to his co-debtor, except for the share of that co-debtor in the solidary debt.

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A debtor, whether solidary or not, may not set up compensation against one of the solidary creditors for what a co-creditor owes him, except for the share of that co-creditor in the solidary claim.

1991, c. 64, a. 1678; I.N. 2014-05-01.

1679. A surety may set up compensation for what the creditor owes to the principal debtor, but the principal debtor may not set up compensation for what the creditor owes to the surety.

1991, c. 64, a. 1679.

1680. A debtor who has acquiesced unconditionally in the assignment or hypothecating of claims by his creditor to a third person may not afterwards set up against the third person any compensation that he could have set up against the original creditor before he acquiesced.

An assignment or hypothec in which a debtor has not acquiesced, but which from a certain time may be set up against him, prevents compensation only for debts of the original creditor which arise after that time.

1991, c. 64, a. 1680; I.N. 2014-05-01.

1681. Compensation may neither be effected nor be renounced to the prejudice of the acquired rights of a third person.

1991, c. 64, a. 1681.

1682. A debtor who could have set up compensation and has nevertheless paid his debt may not afterwards avail himself, to the prejudice of third persons, of any priority or hypothec attached to his claim.

1991, c. 64, a. 1682; 2002, c. 19, s. 15.

DIVISION III

CONFUSION

1683. Where the qualities of creditor and debtor are united in the same person, confusion is effected, extinguishing the obligation. Nevertheless, in certain cases where confusion ceases to exist, the effects cease also.

1991, c. 64, a. 1683.

1684. Confusion of the qualities of creditor and debtor in the same person avails the sureties. Confusion of the qualities of surety and creditor or of surety and principal debtor does not extinguish the primary obligation.

1991, c. 64, a. 1684.

1685. Confusion of the qualities of creditor and solidary co-debtor or of debtor and solidary co-creditor extinguishes the obligation only to the extent of the share of that co-debtor or co-creditor.

1991, c. 64, a. 1685.

1686. A hypothec is extinguished by confusion of the qualities of hypothecary creditor and owner of the hypothecated property.

However, if the creditor is evicted for a cause which is not attributable to him, the hypothec revives.

1991, c. 64, a. 1686.

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DIVISION IV

RELEASE

1687. Release takes place where the creditor releases his debtor from his obligation.

Release is complete, unless it is stipulated to be partial.

1991, c. 64, a. 1687.

1688. Release is either express or tacit.

Release is either onerous or gratuitous, according to the nature of the act from which it derives.

1991, c. 64, a. 1688.

1689. A creditor who voluntarily surrenders the original title of an obligation to his debtor is presumed to grant him a release of the debt, unless the circumstances indicate that the debtor has paid the debt.

Similarly, a creditor who voluntarily surrenders the original title of an obligation to one of the solidary debtors is presumed to grant a release of the debt in favour of all the debtors.

1991, c. 64, a. 1689.

1690. Express release granted to one of the solidary debtors releases the other co-debtors only for the share of the co-debtor who has been discharged; if one or several of the other co-debtors become insolvent, the shares of the insolvents are apportioned rateably between all the other co-debtors, except the co-debtor to whom the release was granted, whose share is borne by the creditor.

Express release granted by one of the solidary creditors releases the debtor only to the extent of the share of that creditor.

1991, c. 64, a. 1690; I.N. 2014-05-01.

1691. Express renunciation of a priority or a hypothec by a creditor does not give rise to a presumption of release of the secured debt.

1991, c. 64, a. 1691.

1692. Express release granted to one of the sureties releases the other sureties to the extent of the remedy they would have had against the released surety.

Nevertheless, no payment received by the creditor from the surety for his release may be imputed to the discharge of the principal debtor or of the other sureties, except, as regards the sureties, where they have a remedy against the released surety and to the extent of that remedy.

1991, c. 64, a. 1692.

DIVISION V

IMPOSSIBILITY OF PERFORMANCE

1693. Where an obligation can no longer be performed by the debtor, by reason of superior force and before he is in default, the debtor is released from the obligation; he is also released from it, even though he was in default, where the creditor could not, in any case, have benefited from the performance of the obligation by reason of that superior force, unless, in either case, the debtor has expressly assumed the risk of superior force.

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The burden of proof of superior force is on the debtor.

1991, c. 64, a. 1693; I.N. 2014-05-01.

1694. A debtor released by impossibility of performance may not exact performance of the correlative obligation of the creditor; if the performance has already been rendered, restitution is owed.

Where the debtor has performed part of his obligation, the creditor remains bound to perform his own obligation to the extent of his enrichment.

1991, c. 64, a. 1694.

DIVISION VI

RELEASE OF THE DEBTOR

1991, c. 64, Div. VI; I.N. 2014-05-01.

1695. Where a prior or hypothecary creditor acquires the property on which he has a claim, as a result of a sale by the creditor or a sale under judicial authority, the debtor is released from his debt to the creditor up to the market value of the property as at the time of acquisition, less any claims ranking ahead of the acquirer's claim.

The debtor is also released where, within three years from the sale, the creditor who acquired the property receives, by resale of all or part of the property or by any other dealings with respect to it, value equal to or greater than the amount of his claim, including capital, interest and costs, the amount of the disbursements he has made on the property, with interest, and the amount of the other prior or hypothecary claims ranking ahead of his own.

1991, c. 64, a. 1695; I.N. 2014-05-01; I.N. 2015-11-01; I.N. 2016-01-01 (NCCP).

1696. The creditor is presumed to have acquired the property if it is sold to a person in connivance with or related to the creditor, in particular a spouse, a relative or a person connected by marriage or a civil union up to the second degree, a person living with the creditor, a partner or a legal person of which the creditor is a director or that is controlled by the creditor.

1991, c. 64, a. 1696; 1992, c. 57, s. 716; 2002, c. 6, s. 49; I.N. 2014-05-01; I.N. 2015-11-01; 2016, c. 4, s. 202.

1697. A debtor who is released is entitled to an acquittance from his creditor.

If the creditor refuses to grant the acquittance, the debtor may ask the court to declare that he is released. The judgment attesting the release is equivalent to an acquittance with respect to the creditor.

1991, c. 64, a. 1697; I.N. 2014-05-01.

1698. Release of the principal debtor entails release of his sureties and other warrantors, who may exercise the same rights as the principal debtor, even independently of him.

1991, c. 64, a. 1698.

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CHAPTER IX

RESTITUTION OF PRESTATIONS

DIVISION I

CIRCUMSTANCES IN WHICH RESTITUTION TAKES PLACE

1699. Restitution of prestations takes place where a person is bound by law to return to another person the property he has received, either without right or in error, or under a juridical act which is subsequently annulled with retroactive effect or whose obligations become impossible to perform by reason of superior force.

The court may, exceptionally, refuse restitution where it would have the effect of according an undue advantage to one party, whether the debtor or the creditor, unless it considers it sufficient, in that case, to modify the scope or modalities of the restitution instead.

1991, c. 64, a. 1699; I.N. 2014-05-01; I.N. 2015-11-01; 2016, c. 4, s. 203.

DIVISION II

MODALITIES OF RESTITUTION

I.N. 2015-11-01.

1700. Restitution of prestations is made in kind, but, if this is impossible or cannot be done without serious inconvenience, it may be made by equivalence.

Equivalence is assessed as at the time when the debtor received what he is liable to restore.

1991, c. 64, a. 1700; I.N. 2014-05-01.

1701. In the case of total loss or alienation of property subject to restitution, the person obligated to make the restitution is bound to return the value of the property, considered when it was received, as at the time of its loss or alienation, or as at the time of the restitution, whichever value is the lowest; but if the person is in bad faith or the cause of the restitution is due to his fault, the restitution is made according to whichever value is the highest.

If the property has perished by superior force, however, the debtor is exempt from making restitution, but he shall then transfer to the creditor, where applicable, the indemnity he has received for the loss of the property or, if he has not already received it, the right to the indemnity. If the debtor is in bad faith or the cause of the restitution is due to his fault, he is not exempt from making restitution unless the property would also have perished if it had been in the hands of the creditor.

1991, c. 64, a. 1701; I.N. 2014-05-01; 2016, c. 4, s. 204.

1702. Where the property he returns has suffered partial loss, for example a deterioration or any other depreciation in value, the person who is obligated to make restitution is bound to indemnify the creditor for such loss, unless it results from normal use of the property.

1991, c. 64, a. 1702; I.N. 2014-05-01.

1703. The right to reimbursement for disbursements made with respect to property subject to restitution is governed by the provisions of the Book on Property, applicable to a possessor in good faith or, in case of bad

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faith or if the cause of the restitution is due to the fault of the person who is bound to make restitution, by those applicable to possessors in bad faith.

1991, c. 64, a. 1703; I.N. 2014-05-01; 2016, c. 4, s. 205.

1704. The fruits and revenues of the property being returned belong to the person who is bound to make restitution, and he bears the costs he has incurred to produce them. He owes no indemnity for enjoyment of the property unless that was the primary object of the prestation or unless the property was subject to rapid depreciation.

If the person who is bound to make restitution is in bad faith or if the cause of the restitution is due to his fault, he is bound, after compensating for the costs, to return the fruits and revenues and indemnify the creditor for any enjoyment he has derived from the property.

1991, c. 64, a. 1704; I.N. 2015-11-01; 2016, c. 4, s. 206.

1705. Costs of restitution are borne by the parties, in proportion, where applicable, to the value of the prestations mutually restored.

Where one party is in bad faith, however, or where the cause of the restitution is due to his fault, the costs are borne by that party alone.

1991, c. 64, a. 1705; 2016, c. 4, s. 207.

1706. Minors and persons of full age under tutorship or under a protection mandate are bound to make restitution of prestations only to the extent of the enrichment they retain from them; proof of such enrichment is borne by the person claiming restitution.

They may, however, be bound to make full restitution where restitution has become impossible through their intentional or gross fault.

1991, c. 64, a. 1706; I.N. 2014-05-01; 2016, c. 4, s. 208; 2020, c. 11, s. 77.

DIVISION III

EFFECTS OF RESTITUTION ON THIRD PERSONS

1707. Acts of alienation by onerous title performed by a person who is bound to make restitution, if made in favour of a third person in good faith, may be set up against the person to whom restitution is owed. Acts of alienation by gratuitous title may not be set up, subject to the rules on prescription.

Any other acts performed in favour of a third person in good faith may be set up against the person to whom restitution is owed.

1991, c. 64, a. 1707.

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TITLE TWO

NOMINATE CONTRACTS

CHAPTER I

SALE

DIVISION I

SALE IN GENERAL

§ 1. — *General provisions*

1708. Sale is a contract by which a person, the seller, transfers ownership of property to another person, the buyer, for a price in money which the latter obligates himself to pay.

A dismemberment of the right of ownership, or any other right held by a person, may also be transferred by sale.

1991, c. 64, a. 1708; I.N. 2014-05-01.

1709. A person charged with the sale of property of another may not acquire such property, even through an intermediary; the same applies to a person charged with administration of property of another or with supervision of its administration, subject, however, as regards the administrator, to article 1312.

Nor may such a person sell his own property for a price paid out of the property or patrimony which he administers or of which he supervises the administration.

In no case may such persons apply for annulment of the sale.

1991, c. 64, a. 1709; I.N. 2014-05-01.

§ 2. — *Promise*

1710. The promise of sale with delivery and actual possession is equivalent to sale.

1991, c. 64, a. 1710.

1711. Any amount paid on the occasion of a promise of sale is presumed to be a partial payment on account of the price unless otherwise stipulated in the contract.

1991, c. 64, a. 1711; I.N. 2014-05-01; 2016, c. 4, s. 209.

1712. Failure by the promisor, whether seller or buyer, to execute title entitles the beneficiary of the promise to obtain a judgment in lieu thereof.

1991, c. 64, a. 1712; I.N. 2014-05-01; 2016, c. 4, s. 210.

§ 3. — *Sale of property of another*

1713. The sale of property by a person other than the owner or other than a person charged with its sale or authorized to sell it may be declared null.

The sale may not be declared null, however, if the seller becomes the owner of the property.

1991, c. 64, a. 1713; I.N. 2014-05-01; I.N. 2015-11-01.

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1714. The true owner may apply for the annulment of the sale and revendicate the sold property from the buyer unless the sale was made under judicial authority or unless the buyer can set up acquisitive prescription.

If the property is a movable sold in the ordinary course of business of an enterprise, the owner is bound to reimburse the buyer in good faith for the price he has paid.

1991, c. 64, a. 1714; I.N. 2014-05-01.

1715. The buyer as well may apply for the annulment of the sale.

He may not do so, however, where the owner himself is not entitled to revendicate the property.

1991, c. 64, a. 1715.

§ 4. — *Obligations of the seller*

1716. The seller is bound to deliver the property and to warrant the ownership and quality of the property.

These warranties exist by operation of law, whether or not they are stipulated in the contract of sale.

1991, c. 64, a. 1716; I.N. 2014-05-01.

I. — *Delivery*

1717. The obligation to deliver the property is fulfilled when the seller puts the buyer in possession of the property or consents to his taking possession of it and all hindrances are removed.

1991, c. 64, a. 1717.

1718. The seller is bound to deliver the property in the condition it is in at the time of the sale, with all its accessories.

1991, c. 64, a. 1718; I.N. 2014-05-01.

1719. The seller is bound to hand over to the buyer the titles of ownership in his possession and, in the case of the sale of an immovable, a copy of the act of acquisition of the immovable, of any previous titles and of any location certificate in his possession.

1991, c. 64, a. 1719; I.N. 2014-05-01.

1720. The seller is bound to deliver the area, volume or quantity specified in the contract, whether the sale was made for a price based on measurements or for a flat price, unless it is obvious that the certain and determinate property was sold without regard to such area, volume or quantity.

1991, c. 64, a. 1720; I.N. 2014-05-01.

1721. A seller having granted a term for payment is not bound to deliver the property if the buyer has become insolvent since the sale.

1991, c. 64, a. 1721.

1722. Delivery expenses are assumed by the seller and removal expenses, by the buyer.

1991, c. 64, a. 1722.

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II. — *Warranty of ownership*

1723. The seller is bound to warrant the buyer that the property is free of all rights except those he has declared at the time of the sale.

The seller is bound to discharge the property of all hypothecs, even declared or registered, unless the buyer has assumed the debt so secured.

1991, c. 64, a. 1723.

1724. The seller warrants the buyer against any encroachment on his part unless he has declared it at the time of the sale.

The seller also warrants against any encroachment commenced with his knowledge by a third person before the sale.

1991, c. 64, a. 1724; I.N. 2014-05-01.

1725. The seller of an immovable warrants the buyer against any violation of public law restrictions affecting the property which are exceptions to the ordinary law of ownership.

The seller is not bound to that warranty where he has given notice of these restrictions to the buyer at the time of the sale, where a prudent and diligent buyer could have discovered them by reason of the nature, location and use of the premises or where such restrictions have been registered at the Land Registry Office.

1991, c. 64, a. 1725; I.N. 2014-05-01; 2020, c. 17, s. 27.

III. — *Warranty of quality*

1726. The seller is bound to warrant the buyer that the property and its accessories are, at the time of the sale, free of latent defects which render it unfit for the use for which it was intended or which so diminish its usefulness that the buyer would not have bought it or paid so high a price if he had been aware of them.

The seller is not bound, however, to warrant against any latent defect known to the buyer or any apparent defect; an apparent defect is a defect that can be perceived by a prudent and diligent buyer without the need to resort to an expert.

1991, c. 64, a. 1726; I.N. 2014-05-01.

1727. If the property perishes by reason of a latent defect that existed at the time of the sale, the loss is borne by the seller, who is bound to restore the price; if the loss results from superior force or is due to the fault of the buyer, the buyer shall deduct from his claim the value of the property in the condition it was in at the time of the loss.

1991, c. 64, a. 1727; I.N. 2014-05-01.

1728. If the seller was aware or could not have been unaware of the latent defect, he is bound not only to restore the price, but also to make reparation for the injury suffered by the buyer.

1991, c. 64, a. 1728; I.N. 2014-05-01.

1729. In a sale by a professional seller, a defect is presumed to have existed at the time of the sale if the property malfunctions or deteriorates prematurely in comparison with identical property or property of the same type; such a presumption is rebutted if the defect is due to improper use of the property by the buyer.

1991, c. 64, a. 1729; I.N. 2014-05-01.

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1730. The manufacturer, any person who distributes the property under his name or as his own, and any supplier of the property, in particular the wholesaler and the importer, are also bound to a seller's warranty.

1991, c. 64, a. 1730; 2016, c. 4, s. 211.

1731. Sale under judicial authority does not give rise to any obligation of warranty of the quality of the sold property.

1991, c. 64, a. 1731.

IV. — *Conventional warranty*

1732. The parties may, in their contract, add to the obligations of legal warranty, diminish its effects or exclude it altogether but in no case may the seller exempt himself from liability for his personal acts or omissions.

1991, c. 64, a. 1732; I.N. 2014-05-01; 2016, c. 4, s. 212.

1733. A seller may not exclude or limit his liability unless he has disclosed the defects of which he was aware or could not have been unaware and which affect the right of ownership or the quality of the property.

An exception may be made to this rule where a buyer buys property at his own risk from a seller who is not a professional seller.

1991, c. 64, a. 1733.

§ 5. — *Obligations of the buyer*

1734. The buyer is bound to take delivery of the property sold, and to pay the price thereof at the time and place of delivery. He is also bound to pay any expenses related to the act of sale.

1991, c. 64, a. 1734; I.N. 2014-05-01.

1735. The buyer owes interest on the sale price from the time of delivery of the property or the expiry of the period agreed by the parties.

1991, c. 64, a. 1735.

§ 6. — *Special rules regarding the exercise of the rights of the parties*

I. — *Rights of the buyer*

1736. The buyer of movable property may, if the seller fails to deliver it, consider the sale resolved if the seller is in default by operation of law or if he fails to perform his obligation within the time allowed in the demand putting him in default.

1991, c. 64, a. 1736; I.N. 2015-11-01.

1737. Where the seller is bound to deliver the area, volume or quantity specified in the contract and is unable to do so, the buyer may obtain a reduction of the price or, if the difference causes him serious injury, resolution of the sale.

However, where the area, volume or quantity exceeds that specified in the contract, the buyer is bound to pay for the excess or to restore it to the seller.

1991, c. 64, a. 1737; I.N. 2014-05-01.

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1738. A buyer who discovers a risk of infringement of his right of ownership shall, within a reasonable time after discovering it, give notice to the seller, in writing, of the right or claim of the third person, specifying its nature.

The seller may not, however, invoke the tardiness of a notice from the buyer if he was aware of the right or claim or could not have been unaware of it.

1991, c. 64, a. 1738; I.N. 2014-05-01.

1739. A buyer who ascertains that the property is defective shall give notice in writing of the defect to the seller within a reasonable time after discovering it. Where the defect appears gradually, the time begins to run on the day that the buyer could suspect the seriousness and extent of the defect.

The seller may not invoke the tardiness of a notice from the buyer if he was aware of the defect or could not have been unaware of it.

1991, c. 64, a. 1739; I.N. 2014-05-01; I.N. 2015-11-01.

II. — *Rights of the seller*

1740. The seller of movable property may, if the buyer fails to pay the sale price and to accept delivery of it, consider the sale resolved if the buyer is in default by operation of law or if he fails to perform his obligations within the time allowed in the demand putting him in default.

The seller may also, where it appears that the buyer will not perform a substantial part of his obligations, stop delivery of the property in transit.

1991, c. 64, a. 1740; I.N. 2015-11-01.

1741. Where the sale of movable property was made without a term, the seller may, within 30 days of delivery, consider the sale resolved and revendicate the property if the buyer, being in default, has failed to pay the price and the property is still entire and in the same condition, not having passed into the hands of a third person who has paid the price thereof or of a hypothecary creditor who has obtained surrender thereof.

Where the buyer is in default for failing to pay the price and the property meets the conditions prescribed for resolution of the sale, the seizure of the property by a third person is no hindrance to the rights of the seller.

1991, c. 64, a. 1741; I.N. 2014-05-01; I.N. 2015-11-01.

1742. The seller of immovable property may not apply for resolution of the sale for failure by the buyer to perform one of his obligations unless the contract specifically stipulates that right.

If the seller meets the conditions for applying for resolution, he is bound to exercise his right within five years after the sale.

1991, c. 64, a. 1742; I.N. 2014-05-01.

1743. A seller of immovable property wishing to avail himself of a resolutory clause shall make a demand to the buyer and, where applicable, any subsequent acquirer, requiring him to remedy the default within 60 days after the demand is registered in the land register; the rules pertaining to taking in payment set out in the Book on Prior Claims and Hypothecs and the measures to be taken prior to the exercise of that right apply, adapted as required, to the resolution of the sale.

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A seller who takes back property by exercising a resolutory clause takes it back free of any charges which the buyer may have placed on it after the seller registered his rights.

1991, c. 64, a. 1743; I.N. 2014-05-01; I.N. 2015-11-01.

§ 7. — *Various modalities of sale*

1991, c. 64, Sd. 7; I.N. 2014-05-01.

I. — *Trial sales*

1744. The sale of property on trial is presumed to be made under a suspensive condition.

Where the trial period is not stipulated, the condition is fulfilled upon the buyer's failure to inform the seller of his refusal within 30 days after delivery of the property.

1991, c. 64, a. 1744.

II. — *Instalment sales*

1745. An instalment sale is a sale with a term by which the seller reserves ownership of the property until full payment of the sale price.

A reservation of ownership with respect to a road vehicle or other movable property determined by regulation, or with respect to any movable property acquired for the service or operation of an enterprise, may be set up against third persons only if it has been published; the reservation may be set up against third persons from the date of the sale provided the reservation of ownership is published within seven days. As well, the transfer of such a reservation may be set up against third persons only if it has been published.

1991, c. 64, a. 1745; 1998, c. 5, s. 2; I.N. 2014-05-01; 2023, c. 24, s. 165; Erratum (2024) 156 G.O. 2, 755.

1746. An instalment sale transfers to the buyer the risks of loss of the property, except in the case of a consumer contract or where the parties have stipulated otherwise.

1991, c. 64, a. 1746.

1747. The balance owing by the buyer becomes due where the property is sold under judicial authority or where the buyer assigns his right in the property to a third person without the consent of the seller.

1991, c. 64, a. 1747; I.N. 2014-05-01.

1748. Where the buyer fails to pay the sale price in accordance with the terms and conditions of the contract, the seller may exact immediate payment of the instalments due or take back the sold property; if the contract contains a clause of forfeiture of benefit of the term, the seller may instead exact payment of the balance of the sale price.

1991, c. 64, a. 1748.

1749. A seller or transferee who, upon the default of the buyer, elects to take back the property sold is governed by the rules regarding the exercise of hypothecary rights set out in the Book on Prior Claims and Hypothecs; however, in the case of a consumer contract, only the rules contained in the Consumer Protection Act (chapter P-40.1) are applicable to the exercise by the seller or transferee of the right of repossession.

If the reservation of ownership required publication but was not published, the seller or transferee may take the property back only if it is in the hands of the immediate buyer; the seller or transferee takes the property back in its existing condition and subject to the rights and charges with which the buyer may have encumbered it.

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If the reservation of ownership required publication but was published late, the seller or transferee may likewise take the property back only if it is in the hands of the immediate buyer, unless the reservation was published before the sale of the property by that buyer, in which case the seller or transferee may also take the property back if it is in the hands of a subsequent acquirer; in all cases, the seller or transferee takes the property back in its existing condition, but subject only to such rights and charges with which the immediate buyer may have encumbered it at the time of the publication of the reservation of ownership and which had already been published.

1991, c. 64, a. 1749; 1998, c. 5, s. 3; 2016, c. 4, s. 213.

III. — *Sales with right of redemption*

1750. A sale with a right of redemption is a sale under a resolutory condition by which the seller transfers ownership of property to the buyer while reserving the right to redeem it.

A right of redemption with respect to a road vehicle or other movable property determined by regulation, or with respect to any movable property acquired for the service or operation of an enterprise, may be set up against third persons only if it has been published; the right of redemption may be set up against third persons from the date of the sale provided the right is published within seven days. As well, the transfer of such a right of redemption may be set up against third persons only if it has been published.

1991, c. 64, a. 1750; 1998, c. 5, s. 4; I.N. 2014-05-01; 2023, c. 24, s. 166; Erratum (2024) 156 G.O. 2, 755.

1751. A seller wishing to exercise his right of redemption and take back property shall give notice of his intention to the buyer and, if the right of redemption has been published, to any subsequent acquirer against whom he intends to exercise his right. If the right of redemption has been published, the notice must also be published; in that case, the notice is of 20 days in the case of movable property and 60 days in the case of an immovable. In the case of a consumer contract, the 20 days' notice is increased to 30 days.

1991, c. 64, a. 1751; 1998, c. 5, s. 5.

1752. Where the seller exercises his right of redemption, he takes back the property free of any charges which the buyer may have encumbered it with, provided the seller's right, if it required publication, was published in due time and in accordance with the rules regarding the publication of rights.

1991, c. 64, a. 1752; 1998, c. 5, s. 6.

1753. The right of redemption may not be stipulated for a term exceeding five years. If the term exceeds five years, it is reduced to five years.

1991, c. 64, a. 1753.

1754. If the buyer of an undivided share of property subject to a right of redemption acquires the whole property through the effect of a partition, he may oblige the seller, if the seller wishes to exercise his right, to take back the whole property.

1991, c. 64, a. 1754; I.N. 2014-05-01.

1755. Where a sale is made by several persons jointly by way of a single contract or where the seller has left several heirs, the buyer may object to the taking back of a part of the property and require the co-seller or coheir to take back the whole property.

In other respects, the rules pertaining to joint or divisible obligations, adapted as required, apply to the exercise of the right of redemption existing for the benefit of several sellers, against several buyers, or between their heirs.

1991, c. 64, a. 1755; I.N. 2014-05-01.

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1756. Where the object of the right of redemption is to secure a loan, the seller is deemed to be a borrower and the acquirer is deemed to be a hypothecary creditor. The seller does not, however, lose the right to exercise his right of redemption unless the acquirer follows the rules for the exercise of hypothecary rights set out in the Book on Prior Claims and Hypothecs.

1991, c. 64, a. 1756; I.N. 2014-05-01.

IV. — *Auction sales*

1757. An auction sale is a sale by which property is offered for sale to several persons through the intermediary of a third person, the auctioneer, and declared sold to the last and highest bidder.

1991, c. 64, a. 1757.

1758. An auction sale under judicial authority by the bailiff is conducted in accordance with the rules of the Code of Civil Procedure (chapter C-25.01) and this subheading and, so far as they are consistent, the particulars specified in the notice of sale published by the bailiff.

1991, c. 64, a. 1758; 2014, c. 1, s. 793.

1759. The seller may fix a reserve price or any other conditions of sale. The conditions of sale may not be set up against the successful bidder unless the auctioneer communicates them to the persons present before receiving bids.

1991, c. 64, a. 1759.

1760. The seller may refuse to disclose his identity at the auction but, if his identity is not disclosed to the successful bidder, the auctioneer becomes personally bound by all the obligations of the seller.

1991, c. 64, a. 1760.

1761. At no time may a bidder withdraw his bid.

1991, c. 64, a. 1761.

1762. An auction sale is perfected when the auctioneer declares the property sold to the last bidder. Entry of the name and bid of the successful bidder in the auctioneer's register makes proof of the sale; failing such entry, proof by testimony is admissible.

1991, c. 64, a. 1762; I.N. 2014-05-01.

1763. The seller of an immovable and the successful bidder shall execute the act of sale within 10 days after either party so requests.

1991, c. 64, a. 1763; I.N. 2014-05-01.

1764. *(Repealed).*

1991, c. 64, a. 1764; 2002, c. 19, s. 8.

1765. If the buyer fails to pay the price in accordance with the conditions of the sale, the auctioneer may, in addition to the ordinary remedies of a seller, resell the property for false bidding, according to usage and after sufficient notice.

A false bidder may not bid again at the resale. He is bound to pay the difference between the price at which the property was sold to him and the resale price, if lesser, but is not entitled to claim any excess amount. He

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is also, in the case of a forced sale, liable to the seller, the person from whom the property was seized and the creditors having obtained the judgment, for all interest, costs and damages arising from his default.

1991, c. 64, a. 1765; I.N. 2014-05-01.

1766. A successful bidder whose right of ownership of property acquired at an auction sale is infringed as a result of seizure of the property by a creditor of the seller may recover the price paid, with interest and costs, from the seller. He may also recover the price, with interest, from the creditors of the seller to whom it has been remitted, but they may set up the benefit of discussion against him.

He may claim from the seizing creditor damages resulting from any irregularity in the seizure or sale.

1991, c. 64, a. 1766; I.N. 2014-05-01; I.N. 2015-11-01.

§ 8. —

Repealed, 2002, c. 19, s. 8.

2002, c. 19, s. 8.

1767. *(Repealed).*

1991, c. 64, a. 1767; 2002, c. 19, s. 8.

1768. *(Repealed).*

1991, c. 64, a. 1768; 2002, c. 19, s. 8.

1769. *(Repealed).*

1991, c. 64, a. 1769; 2002, c. 19, s. 8.

1770. *(Repealed).*

1991, c. 64, a. 1770; 2002, c. 19, s. 8.

1771. *(Repealed).*

1991, c. 64, a. 1771; 2002, c. 19, s. 8.

1772. *(Repealed).*

1991, c. 64, a. 1772; 2002, c. 19, s. 8.

1773. *(Repealed).*

1991, c. 64, a. 1773; 2002, c. 19, s. 8.

1774. *(Repealed).*

1991, c. 64, a. 1774; 2002, c. 19, s. 8.

1775. *(Repealed).*

1991, c. 64, a. 1775; 2002, c. 19, s. 8.

1776. *(Repealed).*

1991, c. 64, a. 1776; 2002, c. 19, s. 8.

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1777. *(Repealed).*

1991, c. 64, a. 1777; 2002, c. 19, s. 8.

1778. *(Repealed).*

1991, c. 64, a. 1778; 2002, c. 19, s. 8.

§ 9. — *Sale of certain incorporeal property*

I. — *Sale of rights in a succession*

2016, c. 4, s. 214.

1779. The seller of rights in a succession, if he does not specify in detail the property subject to the rights, warrants only his quality as an heir.

1991, c. 64, a. 1779; I.N. 2014-05-01; 2016, c. 4, s. 215.

1780. The seller is bound to hand over the fruits and revenues he has received to the buyer, together with the capital of any claim due and the price of any property he has sold which formed part of the succession.

1991, c. 64, a. 1780.

1781. The buyer is bound to reimburse the seller for the debts and liquidation expenses of the succession that he has paid and all amounts owed to him by the succession.

The buyer shall also pay the debts of the succession for which the seller is liable.

1991, c. 64, a. 1781.

II. — *Sale of litigious rights*

1782. A right is litigious when it is uncertain, contested or contestable by the debtor, whether an action is pending or there is reason to presume that it will become necessary.

1991, c. 64, a. 1782.

1783. No judge, advocate, notary or officer of justice may acquire litigious rights, on pain of absolute nullity of the sale.

1991, c. 64, a. 1783.

1784. Where litigious rights are sold, the person from whom they are claimed is fully discharged by paying to the buyer the sale price, the costs and the interest on the price computed from the day payment was made.

This right of withdrawal may not be exercised where the sale is made to a creditor in payment of what is due to him, to a coheir or co-owner of the rights sold or to the possessor of the property subject to the right. Nor may it be exercised where a court has rendered a judgment affirming the rights sold or where the rights have been established and the case is ready for judgment.

1991, c. 64, a. 1784; I.N. 2014-05-01.

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DIVISION II

SPECIAL RULES REGARDING SALE OF RESIDENTIAL IMMOVABLES

1785. The sale of an existing or planned residential immovable by the builder or a developer to a natural person who acquires it to occupy it shall be preceded by a preliminary contract by which a person promises to buy the immovable, whether or not the sale includes the transfer to him of the seller's rights over the land.

The preliminary contract shall include a stipulation that the promisor may withdraw his promise within 10 days after signing it. Where a memorandum must be given, the preliminary contract shall also include a stipulation that the promisor may, if the seller fails to give the memorandum to the promisor at the time the preliminary contract is signed, withdraw his promise until he receives the memorandum or within 10 days after receiving it.

1991, c. 64, a. 1785; I.N. 2014-05-01; 2019, c. 28, s. 61.

1786. In addition to the name and address of the seller and of the promisor, the work to be performed, the sale price, the date of delivery and the real rights charging the immovable, the preliminary contract shall contain any useful information pertaining to the characteristics of the immovable and, where the sale price is subject to review, the terms and conditions of review.

A government regulation may determine other information that must be included in the preliminary contract.

Where the preliminary contract provides for an indemnity in case of exercise of the right of withdrawal, the indemnity may not exceed 0.5% of the agreed sale price.

1991, c. 64, a. 1786; I.N. 2014-05-01; 2019, c. 28, s. 62.

1787. Where a fraction of an immovable under divided co-ownership or an undivided share of a residential immovable is sold, the seller shall give the promisor a memorandum at the time the preliminary contract is signed; he shall also furnish the memorandum where a residence forming part of a residential development having common facilities is sold.

A memorandum shall also be given where the same fraction of an immovable under co-ownership is sold to several persons who thereby acquire a periodic and successive right of enjoyment in the fraction.

1991, c. 64, a. 1787; I.N. 2014-05-01; 2019, c. 28, s. 63.

1788. The memorandum complements the preliminary contract. In addition to the information prescribed by government regulation, it contains the names of the architects, engineers, builders and developers, a plan of the overall property development project and, where applicable, the general development plan of the project and a summary of the descriptive specifications. It also contains the budget forecast, indicates the common facilities and contains information on the management of the immovable and, where applicable, on the rights of emphyteusis or superficies to which the immovable is subject. It also indicates, where applicable, that the immovable is covered by a guarantee plan, and the manner in which the promisor can consult that plan.

A copy or summary of the declaration of co-ownership or indivision agreement and of the by-laws of the immovable shall be appended to the memorandum even if they are draft documents.

1991, c. 64, a. 1788; I.N. 2014-05-01; 2019, c. 28, s. 64.

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1789. Where a fraction of an immovable under divided co-ownership is sold, the memorandum contains a statement of the leases granted by the developer or the builder on the private or common portions of the immovable and indicates the maximum number of fractions intended for lease by the developer or builder.

1991, c. 64, a. 1789; I.N. 2014-05-01.

1790. Where the developer or builder grants a lease in excess of the maximum number indicated in the memorandum, the syndicate of co-owners, after notifying the lessor and the lessee, may demand the resiliation of the lease. If there are several leases in excess of the maximum number, the most recent leases shall be resiliated first.

1991, c. 64, a. 1790; I.N. 2014-05-01.

1791. The budget forecast shall be prepared on the basis of one year of full occupancy of the immovable; in the case of an immovable under divided co-ownership, it is prepared for a period beginning on the date of registration of the declaration of co-ownership.

A budget includes, in particular, a statement of debts and claims, revenues and expenditures and common expenses. It also indicates, for each fraction, the likely amount of property taxes, the rate of such taxes and the annual amount of contributions to the common expenses. The part of that amount intended for the contingency fund must correspond either to 0.5% of the reconstruction cost of the immovable or to the recommendations made in a contingency fund study.

Where the amounts provided in the budget forecast prepared by the developer for the fiscal years during which the developer controls the syndicate are more than 10% below the amounts the syndicate had to incur for the first full fiscal year after the developer lost control of the syndicate, the developer shall reimburse to the syndicate the difference between the amounts provided in the forecast and the amounts actually incurred. However, the developer is not bound to do so to the extent that the difference is attributable to decisions made by the syndicate on or after the day a new board of directors was appointed following the loss of such control.

1991, c. 64, a. 1791; I.N. 2014-05-01; 2019, c. 28, s. 65.

1791.1. Notwithstanding any agreement to the contrary, any deposit paid to a builder or a developer toward the purchase of a fraction of an immovable under divided co-ownership must be fully protected by one or more of the following means: a guarantee plan, insurance, a suretyship or a deposit in a trust account of a member of a professional order according to the terms and conditions determined by government regulation.

The deposit may also be protected by another means prescribed by government regulation, in accordance with the terms and conditions it determines.

The deposit is returned to the person who paid it if the fraction of the immovable under co-ownership is not delivered on the date agreed upon in accordance with the terms and conditions determined by government regulation.

2019, c. 28, s. 66; 2021, c. 7, s. 1.

1792. The sale of a fraction of an immovable under co-ownership may be resolved without formality where the declaration of co-ownership is not registered within 30 days after the date on which it may be registered pursuant to the Book on Publication of Rights.

1991, c. 64, a. 1792; I.N. 2014-05-01.

1793. Where the sale of a residential immovable is not preceded by the preliminary contract or the memorandum, the buyer may, if he suffers serious injury therefrom, apply for the annulment of the sale and for damages. If the buyer prefers that the contract be maintained, he may apply for a reduction of his obligation equivalent to the damages he would be justified to claim. The action must be brought within 90

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days after the sale, that is, within 90 days following the special meeting provided for in article 1104 of this Code.

The same applies where the preliminary contract or the memorandum contains errors or deficiencies.

1991, c. 64, a. 1793; I.N. 2014-05-01; 2019, c. 28, s. 67.

1794. The sale by a contractor of land belonging to him, along with an existing or planned residential immovable, is subject to the rules pertaining to warranties in contracts of enterprise or for services, adapted as required. Those rules also apply to sales by a property developer.

1991, c. 64, a. 1794; I.N. 2014-05-01.

DIVISION III

VARIOUS CONTRACTS SIMILAR TO SALE

§ 1. — *Exchange*

1795. Exchange is a contract by which the parties transfer ownership of property other than money to each other.

1991, c. 64, a. 1795.

1796. Where one of the parties proves, even after having received the property transferred to him in exchange, that the other party was not the owner of the property, he may not be compelled to deliver the property he had promised in exchange, but only to return the property he has received.

1991, c. 64, a. 1796.

1797. A party who is evicted of the property he has received in exchange may claim damages or recover the property he has transferred.

1991, c. 64, a. 1797.

1798. In all other respects, the rules pertaining to contracts of sale apply to contracts of exchange.

1991, c. 64, a. 1798.

§ 2. — *Giving in payment*

1799. Giving in payment is a contract by which a debtor transfers ownership of property to his creditor, who agrees to take it in place and payment of a sum of money or some other property due to him.

1991, c. 64, a. 1799; I.N. 2014-05-01.

1800. Giving in payment is subject to the rules pertaining to contracts of sale and the person who so transfers property is bound to the same warranties as a seller.

Giving in payment is perfected only by delivery of the property.

1991, c. 64, a. 1800.

1801. Any clause by which a creditor, with a view to securing the performance of the obligation of his debtor, reserves the right to become the irrevocable owner of the property or to dispose of it is deemed not written.

1991, c. 64, a. 1801.

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§ 3. — *Alienation for rent*

1802. Alienation for rent is a contract by which the lessor transfers the ownership of an immovable to a lessee in return for a ground rent which the latter obligates himself to pay.

The rent is payable in money or in kind, at the end of each year, from the date of constitution of the rent.

1991, c. 64, a. 1802.

1803. The lessee may free himself at any time from the annual payments of rent by offering to reimburse the capital value of the rent and renouncing the recovery of the payments made, but he may not substitute an insurer to make the payments in his place.

1991, c. 64, a. 1803.

1804. The lessee is personally liable to the lessor for the rent. He is not discharged from his obligation by his abandonment of the immovable or its destruction by superior force.

1991, c. 64, a. 1804; I.N. 2014-05-01.

1805. In all other respects, the rules pertaining to contracts of sale and to annuities apply to contracts of alienation for rent.

1991, c. 64, a. 1805.

CHAPTER II

GIFTS

DIVISION I

NATURE AND SCOPE OF GIFTS

1806. Gift is a contract by which a person, the donor, transfers ownership of the property by gratuitous title to another person, the donee; a dismemberment of the right of ownership, or any other right held by a person, may also be transferred by gift.

Gifts may be *inter vivos* or *mortis causa*.

1991, c. 64, a. 1806; I.N. 2014-05-01.

1807. A gift *inter vivos* is one whereby there is actual divesting of the donor, in the sense that the donor actually becomes the debtor of the donee.

The divesting of the donor is not prevented from being actual by the fact that the transfer or delivery of the property is subject to a term or that the transfer is with respect to certain and determinate property which the donor undertakes to acquire or property determinate only as to kind which the donor undertakes to deliver.

1991, c. 64, a. 1807; I.N. 2014-05-01.

1808. A gift *mortis causa* is one whereby the divesting of the donor remains conditional upon his death and takes place only at that time.

1991, c. 64, a. 1808; I.N. 2014-05-01.

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1809. An act by which a person renounces a right that he has not yet acquired or unconditionally renounces a succession or legacy does not constitute a gift.

1991, c. 64, a. 1809.

1810. A remunerative gift or a gift with a charge constitutes a gift only for the value in excess of that of the remuneration or charge.

1991, c. 64, a. 1810.

1811. Indirect gifts and disguised gifts are governed by the provisions of this chapter, except as to their form.

1991, c. 64, a. 1811; I.N. 2014-05-01.

1812. The promise of a gift does not constitute a gift but only confers on the beneficiary of the promise the right to claim from the promisor, on the latter's failure to fulfil his promise, damages equivalent to the benefits which the beneficiary has granted and the expenses he has incurred in consideration of the promise.

1991, c. 64, a. 1812; I.N. 2014-05-01.

DIVISION II

CERTAIN CONDITIONS PERTAINING TO GIFTS

§ 1. — *Capacity to make and receive gifts*

1813. A minor or a person of full age under tutorship or under a protection mandate, even represented by his tutor or mandatary, may make gifts only of property of little value or customary presents, subject to the stipulations in the protection mandate and the rules pertaining to marriage or civil union contracts.

1991, c. 64, a. 1813; 2002, c. 6, s. 50; I.N. 2014-05-01; 2020, c. 11, s. 78.

1814. The father and mother, the parents or the tutor may accept gifts made to a minor or, provided he is born alive and viable, to a child conceived but yet unborn.

Only the tutor or mandatary may accept gifts made to a person of full age under tutorship or under a protection mandate. Nevertheless, a minor or a person of full age who has a tutor or mandatary may, acting alone, accept gifts of property of little value or customary presents.

1991, c. 64, a. 1814; I.N. 2014-05-01; I.N. 2015-11-01; 2022, c. 22, s. 118; 2020, c. 11, s. 79.

1815. *(Repealed).*

1991, c. 64, a. 1815; I.N. 2014-05-01; 2020, c. 11, s. 80.

§ 2. — *Certain rules governing the validity of gifts*

1816. The gift of property by a person who does not own it or who is not charged with giving it or authorized to give it is null, unless the donor has expressly undertaken to acquire the property.

1991, c. 64, a. 1816.

1817. A gift made to the owner, a director, an operator, a person responsible or an employee of an institution, of another lodging facility or of a residence within the meaning of the laws relating to health and social services, or to a person who carries on remunerated or non-remunerated activities there, is without effect if it was made while the donor was receiving care or services there, unless the donee is also the spouse or a close relative of the donor.

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A gift made to a member of a foster family while the donor was residing with that family is also null.

1991, c. 64, a. 1817; 2023, c. 34, s. 834.

1818. Gifts *inter vivos* are valid only as to present property.

The gift of future property is deemed to be *mortis causa*, but the gift of both present and future property is deemed to be *mortis causa* only with respect to the future property.

1991, c. 64, a. 1818.

1819. A gift *mortis causa* is null unless it is made by marriage or civil union contract or unless it may be upheld as a legacy.

1991, c. 64, a. 1819; 2002, c. 6, s. 50.

1820. A gift made during the deemed mortal illness of the donor is null as having been made *mortis causa*, whether or not death follows, unless circumstances tend to render it valid.

Nevertheless, if the donor recovers and leaves the donee in peaceable possession for three years, the nullity is covered.

1991, c. 64, a. 1820; I.N. 2014-05-01.

1821. A gift *inter vivos* which imposes on the donee the obligation to pay debts or charges other than those existing at the time of the gift is null, unless the nature and amount of those other debts or charges are specified in the contract.

1991, c. 64, a. 1821.

1822. A gift *inter vivos* stipulated to be revocable at the sole discretion of the donor is null, even if it is made by marriage or civil union contract.

1991, c. 64, a. 1822; 2002, c. 6, s. 50.

1823. A gift *inter vivos* may only be made by particular title; otherwise, it is absolutely null.

1991, c. 64, a. 1823; I.N. 2014-05-01.

§ 3. — *Form and publication of gifts*

1824. The gift of movable or immovable property is made, on pain of absolute nullity, by notarial act *en minute*, and shall be published.

These rules do not apply where, in the case of the gift of movable property, the consent of the parties is accompanied by delivery and immediate possession of the property.

1991, c. 64, a. 1824.

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DIVISION III

RIGHTS AND OBLIGATIONS OF THE PARTIES

§ 1. — *General provisions*

1825. The donor delivers the property by putting the donee in possession of it or allowing him to take possession of it, all hindrances being removed.

1991, c. 64, a. 1825.

1826. The donor is bound to transfer only the rights he holds in the property given.

1991, c. 64, a. 1826.

1827. The donee may recover from the donor a payment he has made to free the property of a right vested in a third person or to execute a charge, only to the extent the payment exceeds the benefit he derives from the gift.

The evicted donee may, however, recover from the donor the expenses paid in connection with the gift in excess of the benefit he derives from it if the eviction, whether total or partial, results from a defect in the transferred right which the donor was aware of but failed to disclose at the time of the gift.

1991, c. 64, a. 1827; I.N. 2014-05-01.

1828. The donor is not liable for latent defects in the property given.

However, he is bound to make reparation for injury caused to the donee as a result of a defect which impairs his physical integrity, if he was aware of the defect but failed to disclose it at the time of the gift.

1991, c. 64, a. 1828; I.N. 2014-05-01.

1829. The donor pays the expenses for the contract and the donee pays those for the removal of the property.

1991, c. 64, a. 1829; I.N. 2014-05-01.

§ 2. — *Debts of the donor*

1830. Unless otherwise provided in the contract or by law, the donee is only liable for debts of the donor connected with a universality of assets and liabilities he receives.

1991, c. 64, a. 1830.

§ 3. — *Charges stipulated in favour of third persons*

1831. A gift may be made with a charge or a stipulation in favour of a third person.

1991, c. 64, a. 1831.

1832. A charge stipulated in favour of several persons with no determination of their respective shares entails, upon the death of one of them, the accretion of his share in favour of the surviving co-beneficiaries.

However, where the respective shares of the beneficiaries are determined, the death of one of them does not entail accretion.

1991, c. 64, a. 1832; I.N. 2014-05-01.

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1833. The donee is personally liable for charges on the property given.

1991, c. 64, a. 1833.

1834. A charge which, owing to circumstances unforeseeable at the time of the acceptance of the gift, becomes impossible or too burdensome for the donee may be varied or revoked by the court, taking account of the value of the gift, the intention of the donor and the circumstances.

1991, c. 64, a. 1834.

1835. The revocation or lapse of a charge stipulated in favour of a third person benefits the donee, unless another beneficiary is designated.

1991, c. 64, a. 1835.

DIVISION IV

REVOCATION OF GIFTS ON ACCOUNT OF INGRATITUDE

1836. Gifts *inter vivos* may be revoked on account of ingratitude.

Ingratitude is a ground of revocation where the donee has behaved in a seriously reprehensible manner towards the donor, having regard to the nature of the gift, the faculties of the parties and the circumstances.

1991, c. 64, a. 1836.

1837. The action in revocation may be brought only during the lifetime of the donee and within one year after the ingratitude became a ground or the day the donor became aware of it.

The death of the donor within the time for bringing an action does not extinguish the right of action, but the heirs of the donor may act only within one year after his death.

1991, c. 64, a. 1837.

1838. The revocation of a gift obliges the donee to restore to the donor what he has received under the contract, in accordance with the rules of this Book pertaining to the restitution of prestations.

The revocation extinguishes, for the future, the charges stipulated in the contract.

1991, c. 64, a. 1838.

DIVISION V

GIFTS MADE BY MARRIAGE OR CIVIL UNION CONTRACT

2002, c. 6, s. 50.

1839. Gifts made by marriage or civil union contract may be *inter vivos* or *mortis causa*.

They are valid only if the contract takes effect.

1991, c. 64, a. 1839; 2002, c. 6, s. 50.

1840. Any person may make a gift *inter vivos* by marriage or civil union contract but only the future spouses, the spouses, their respective children and their common children born or yet unborn, if they are born alive and viable, may be donees.

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The only persons between whom gifts *mortis causa* may be made are those entitled to be beneficiaries of gifts *inter vivos* made by marriage or civil union contract.

1991, c. 64, a. 1840; 2002, c. 6, s. 51.

1841. Gifts *mortis causa*, even those made by particular title, are revocable.

However, if a donor has stipulated that a gift is irrevocable, he may not dispose of the property gratuitously by an act *inter vivos* or by will without the consent of the donee and of all other interested persons, unless the gift consists of property of little value or customary presents. The donor continues nonetheless to hold his rights in the property given and he remains free to alienate it by onerous title.

1991, c. 64, a. 1841; I.N. 2014-05-01.

CHAPTER III

LEASING

1842. Leasing is a contract by which a person, the lessor, puts movable property at the disposal of another person, the lessee, for a fixed term and for consideration.

The lessor acquires the property that is the subject of the leasing from a third person, at the request and in accordance with the instructions of the lessee.

Leasing may be entered into only for enterprise purposes.

1991, c. 64, a. 1842; I.N. 2014-05-01; I.N. 2015-11-01; 2016, c. 4, s. 216.

1843. Property that is the subject of a leasing, even if attached or joined to an immovable, retains its movable nature for as long as the contract lasts, provided it does not lose its individuality.

1991, c. 64, a. 1843.

1844. The lessor shall disclose the contract of leasing in the act of purchase.

1991, c. 64, a. 1844; I.N. 2014-05-01.

1845. The seller of the property is directly bound towards the lessee by the legal and conventional warranties inherent in the contract of sale.

1991, c. 64, a. 1845.

1846. The lessee assumes all risks of loss of the property, even by superior force, from the time he takes possession of it.

He likewise assumes all maintenance and repair expenses.

1991, c. 64, a. 1846.

1847. The rights of ownership of the lessor may be set up against third persons only if they have been published; the rights may be set up against third persons from the date of the leasing contract provided the rights are published within seven days.

As well, the transfer of the lessor's rights of ownership may be set up against third persons only if it has been published.

1991, c. 64, a. 1847; 1998, c. 5, s. 7; I.N. 2014-05-01; 2023, c. 24, s. 167; Erratum (2024) 156 G.O. 2, 755.

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1848. Once the lessor is in default, the lessee may consider the contract of leasing resolved if the property is not delivered to the lessee within a reasonable time after the formation of the contract or within the time fixed in the demand for delivery.

1991, c. 64, a. 1848; I.N. 2014-05-01; I.N. 2015-11-01.

1849. Where the contract of leasing is resolved and the lessee has derived a benefit from the contract, the lessor, when returning the prestations he has received from the lessee, may deduct a reasonable sum to take account of such benefit.

1991, c. 64, a. 1849.

1850. Upon termination of the contract of leasing, the lessee is bound to return the property to the lessor unless, where applicable, he has availed himself of the option to acquire it given to him by the contract.

1991, c. 64, a. 1850.

CHAPTER IV

LEASE

DIVISION I

NATURE OF LEASE

1851. Lease is a contract by which a person, the lessor, undertakes to provide another person, the lessee, in return for a rent, with the enjoyment of movable or immovable property for a certain time.

The term of a lease is fixed or indeterminate.

1991, c. 64, a. 1851; I.N. 2014-05-01.

1852. The rights resulting from the lease may be published.

Publication is required, however, in the case of rights resulting from a lease, with a term of more than one year, of a road vehicle or other movable property determined by regulation, or of any movable property required for the service or operation of an enterprise, subject, in the latter case, to the exclusions provided by regulation; the rights may be set up against third persons from the date of the lease provided they are published within seven days. A lease with a term of one year or less is deemed to have a term of more than one year if, by the operation of a renewal clause or other covenant to the same effect, the term of the lease may be increased to more than one year.

The transfer of rights under a lease requires or is open to publication, according to whether the rights themselves require or are open to publication.

1991, c. 64, a. 1852; 1998, c. 5, s. 8; I.N. 2014-05-01; 2023, c. 24, s. 168; Erratum (2024) 156 G.O. 2, 755.

1853. The lease of movable property is not presumed; a person using the property by sufferance of the owner is presumed to have borrowed it by virtue of a loan for use.

The lease of immovable property is presumed where a person occupies the premises by sufferance of the owner. The term of the lease is indeterminate; the lease takes effect upon occupancy and entails the obligation to pay a rent corresponding to the rental value.

1991, c. 64, a. 1853.

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DIVISION II

RIGHTS AND OBLIGATIONS RESULTING FROM LEASE

§ 1. — *General provisions*

1854. The lessor is bound to deliver the leased property to the lessee in a good state of repair in all respects and to provide him with peaceable enjoyment of the property throughout the term of the lease.

He is also bound to warrant the lessee that the property may be used for the purpose for which it was leased and to maintain the property for that purpose throughout the term of the lease.

1991, c. 64, a. 1854.

1855. The lessee is bound to pay the agreed rent and to use the property with prudence and diligence during the term of the lease.

1991, c. 64, a. 1855.

1856. Neither the lessor nor the lessee may change the form or destination of the leased property during the term of the lease.

1991, c. 64, a. 1856.

1857. The lessor has the right to ascertain the condition of the leased property, to carry out work thereon and, in the case of an immovable, to have it visited by a prospective lessee or acquirer; he is, however, bound to exercise his right in a reasonable manner.

1991, c. 64, a. 1857; I.N. 2014-05-01.

1858. The lessor is bound to warrant the lessee against legal disturbances to enjoyment of the leased property.

Before pursuing his remedies, the lessee shall notify the lessor of the disturbance.

1991, c. 64, a. 1858; I.N. 2014-05-01.

1859. The lessor is not bound to make reparation for injury resulting from disturbance to enjoyment of the property caused by the act or omission of a third person; he may be so bound where the third person is also a lessee of that property or is a person the lessee allows to use or to have access to the property.

However, if the enjoyment of the property is diminished by the disturbance, the lessee retains his other remedies against the lessor.

1991, c. 64, a. 1859; I.N. 2014-05-01; 2016, c. 4, s. 217.

1860. A lessee is bound to act in such a way as not to disturb the normal enjoyment of the other lessees.

He is bound, towards the lessor and the other lessees, to make reparation for injury that results from a violation of that obligation, whether the violation is due to his own act or omission or to the act or omission of persons he allows to use or to have access to the property.

In case of violation of this obligation, the lessor may apply for resiliation of the lease.

1991, c. 64, a. 1860; I.N. 2014-05-01; 2016, c. 4, s. 218.

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1861. A lessee who is disturbed by another lessee or by persons whom another lessee allows to use or to have access to the property may obtain, according to the circumstances, a reduction of rent or the resiliation of the lease, if he notified the common lessor of the disturbance and if the disturbance persists.

He may also recover damages from the common lessor unless the lessor proves that he acted with prudence and diligence; the lessor has a recourse against the lessee at fault to be indemnified for the injury suffered by him.

1991, c. 64, a. 1861; I.N. 2014-05-01.

1862. The lessee is bound to make reparation for injury suffered by the lessor by reason of any loss sustained by the leased property, unless he proves that the loss is not due to his fault or that of persons he allows to use or to have access to the property.

Where the leased property is an immovable, the lessee is not bound for injury resulting from a fire unless it is proved that the fire was due to his fault or that of persons he allowed to have access to the immovable.

1991, c. 64, a. 1862; 2002, c. 19, s. 15; I.N. 2014-05-01; I.N. 2015-11-01.

1863. The nonperformance of an obligation by one of the parties entitles the other party to apply for, in addition to damages, specific performance of the obligation in cases which admit of it. He may apply for the resiliation of the lease where the nonperformance causes serious injury to him or, in the case of the lease of an immovable, to the other occupants.

The nonperformance also entitles the lessee to apply for a reduction of rent; where the court grants it, the lessor, upon remedying his default, is nonetheless entitled to the re-establishment of the rent for the future.

1991, c. 64, a. 1863; I.N. 2014-05-01; I.N. 2015-11-01.

§ 2. — *Repairs*

1864. The lessor is bound, during the term of the lease, to make all necessary repairs to the leased property other than minor maintenance repairs, which are assumed by the lessee unless they result from the age of the property or superior force.

1991, c. 64, a. 1864; I.N. 2014-05-01; 2016, c. 4, s. 219.

1865. The lessee shall allow urgent and necessary repairs to be made to ensure the preservation or enjoyment of the leased property.

A lessor who makes such repairs may require the lessee to vacate or be dispossessed of the property temporarily but, if the repairs are not urgent, he shall first obtain the authorization of the court, which also fixes the conditions required to protect the rights of the lessee.

The lessee retains, according to the circumstances, the right to obtain a reduction of rent, to apply for the resiliation of the lease or, if he vacates or is dispossessed of the property temporarily, to demand an indemnity.

1991, c. 64, a. 1865; I.N. 2014-05-01.

1866. A lessee who becomes aware of a serious defect or deterioration of the leased property is bound to inform the lessor within a reasonable time.

1991, c. 64, a. 1866.

1867. Where a lessor fails to make the repairs or improvements he is bound to make under the lease or by law, the lessee may apply to the court for authorization to carry them out himself.

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If the court grants authorization to make the repairs or improvements, it determines their amount and fixes the conditions to be complied with in carrying them out. The lessee may then withhold from his rent the amount of the expenses incurred to carry out the authorized work, up to the amount fixed by the court.

1991, c. 64, a. 1867; I.N. 2014-05-01.

1868. After the lessee has attempted to inform the lessor, or has informed him and the lessor fails to act in due time, the lessee may undertake repairs or incur expenses, even without the authorization of the court, provided they are urgent and necessary to ensure the preservation or enjoyment of the leased property. The lessor may intervene at any time, however, to pursue the work.

The lessee is entitled to reimbursement of the reasonable expenses he incurred for that purpose; he may, if necessary, withhold the amount of such expenses from his rent.

1991, c. 64, a. 1868; I.N. 2014-05-01.

1869. The lessee is bound to render an account to the lessor of the repairs or improvements made to the property and the expenses incurred and to hand over to him the vouchers for such expenses and, in the case of movable property, the replaced parts.

The lessor is bound to reimburse the lessee for any amount in excess of the rent withheld, but not in excess of the amount the lessee was authorized to disburse, where that is the case.

1991, c. 64, a. 1869; I.N. 2014-05-01.

§ 3. — *Sublease of property and assignment of lease*

1870. A lessee may sublease all or part of the leased property or assign the lease. In either case, he is bound to give the lessor notice of his intention and the name and address of the intended sublessee or assignee and to obtain the lessor's consent to the sublease or assignment.

1991, c. 64, a. 1870; I.N. 2014-05-01.

1871. The lessor may not refuse to consent to the sublease of the property or the assignment of the lease without a serious reason.

If he refuses, he is bound to inform the lessee of his reasons for refusing within 15 days after receiving the notice; otherwise, he is deemed to have consented.

1991, c. 64, a. 1871; I.N. 2014-05-01.

1872. A lessor who consents to the sublease of the property or the assignment of the lease may not exact any payment other than the reimbursement of any reasonable expenses resulting from the sublease or assignment.

1991, c. 64, a. 1872.

1873. The assignment of a lease discharges the former lessee of his obligations, unless, where the lease is not a lease of a dwelling, the parties agree otherwise.

1991, c. 64, a. 1873; I.N. 2015-11-01.

1874. Where the lessor brings an action against the lessee, the sublessee is not bound towards the lessor for any amount except the rent for the sublease which he owes to the lessee; the sublessee may not set up advance payments.

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Payments made by the sublessee either under a stipulation that is included in his lease and has been made known to the lessor, or in accordance with the usage of the place, are not considered to be advance payments.

1991, c. 64, a. 1874; I.N. 2014-05-01; I.N. 2015-11-01.

1875. Where the nonperformance of an obligation by a sublessee causes serious injury to the lessor or the other lessees or occupants, the lessor may apply for the resiliation of the sublease.

1991, c. 64, a. 1875; I.N. 2014-05-01.

1876. Where a lessor fails to perform his obligations, the sublessee may exercise the rights and remedies of the lessee to have them performed.

1991, c. 64, a. 1876.

DIVISION III

TERMINATION OF THE LEASE

1877. A lease with a fixed term terminates by operation of law upon expiry of the term. A lease with an indeterminate term terminates upon resiliation by one of the parties.

1991, c. 64, a. 1877; I.N. 2014-05-01.

1878. A lease with a fixed term may be renewed. The renewal must be express, unless the lease is of an immovable, in which case the renewal may be tacit.

1991, c. 64, a. 1878; I.N. 2014-05-01.

1879. A lease is renewed tacitly where the lessee continues to occupy the premises for more than 10 days after the expiry of the lease without opposition from the lessor.

In that case, the lease is renewed for one year or for the term of the initial lease, if that was less than one year, on the same conditions. The renewed lease is also subject to renewal.

1991, c. 64, a. 1879.

1880. The term of a lease may not exceed 100 years. If it exceeds 100 years, it is reduced to that term.

1991, c. 64, a. 1880.

1881. Security given by a third person to secure the performance of the obligations of the lessee does not extend to a renewed lease.

1991, c. 64, a. 1881.

1882. A party who intends to resiliate a lease with an indeterminate term shall give the other party notice to that effect.

The time for giving the notice is the same as the rent payment period, or three months if the rent payment period exceeds three months. However, if the leased property is a movable, the time for giving the notice is 10 days, regardless of the rent payment period.

1991, c. 64, a. 1882; I.N. 2014-05-01; I.N. 2015-11-01.

1883. A lessee against whom proceedings for resiliation of a lease are brought for non-payment of the rent may avoid the resiliation by paying, before judgment, in addition to the rent due and costs, interest at the rate

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fixed in accordance with section 28 of the Tax Administration Act (chapter A-6.002) or at any other lower rate agreed with the lessor.

1991, c. 64, a. 1883; 2010, c. 31, s. 175.

1884. A lease is not resiliated by the death of either party.

1991, c. 64, a. 1884.

1885. Where the lease of an immovable is for a fixed term, the lessee shall allow the premises to be visited and signs to be posted, for leasing purposes, during the three months preceding the expiry of the lease, or during the month preceding it if the lease is for less than one year.

Where the lease is for an indeterminate term, the lessee is bound to allow such activities from the date of the notice of resiliation.

1991, c. 64, a. 1885.

1886. Voluntary or forced alienation of leased property or extinction of the lessor's title for any other reason does not terminate the lease by operation of law.

1991, c. 64, a. 1886; I.N. 2014-05-01.

1887. The acquirer or the person who benefits from the extinction of title may resiliate the lease, if it is a lease with an indeterminate term, in accordance with the ordinary rules pertaining to resiliation contained in this section.

In the case of the lease of an immovable with a fixed term and if more than 12 months remain from the date of alienation or extinction of title, he may resiliate it upon expiry of the 12 months by giving the lessee written notice of six months. He may not resiliate the lease if it was registered at the registry office before the act of alienation or the act by which the title is extinguished was so registered.

In the case of the lease of a movable with a fixed term, notice is of one month.

1991, c. 64, a. 1887; I.N. 2014-05-01.

1888. The total expropriation of leased property terminates the lease from the date on which the expropriating party is allowed to take possession of the property in accordance with the Act respecting expropriation (chapter E-25).

In the case of partial expropriation, the lessee may, according to the circumstances, obtain a reduction of rent or the resiliation of the lease.

1991, c. 64, a. 1888; I.N. 2014-05-01; 2023, c. 27, s. 240.

1889. The lessor of an immovable may obtain the eviction of a lessee who continues to occupy the leased premises after the expiry of the lease or after the date for the handing over of the premises agreed upon during the term of the lease; the lessor of a movable may, in the same circumstances, obtain the handing over of the property.

1991, c. 64, a. 1889; I.N. 2014-05-01.

1890. Upon termination of the lease, the lessee is bound to hand over the property in the condition in which he received it but he is not liable for changes resulting from aging or fair wear and tear of the property or superior force.

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The condition of the property may be established by the description made or the photographs taken by the parties; if it is not so established, the lessee is presumed to have received the property in good condition at the beginning of the lease.

1991, c. 64, a. 1890; I.N. 2014-05-01.

1891. Upon termination of the lease, the lessee is bound to remove all the constructions, works or plantations he has made.

If they cannot be removed without deteriorating the property, the lessor may retain them by paying their value to the lessee or compel the lessee to remove them and to restore the property to the condition in which it was when he received it.

If the property cannot be restored to its original condition, the lessor may retain the constructions, works or plantations without indemnity.

1991, c. 64, a. 1891; I.N. 2014-05-01.

DIVISION IV

SPECIAL RULES FOR LEASES OF DWELLINGS

1991, c. 64, Div. IV; I.N. 2014-05-01.

§ 1. — *Application*

1892. The lease of a room, of a mobile home placed on a chassis, with or without a permanent foundation, or of land intended for the emplacement of a mobile home is considered to be the lease of a dwelling.

The provisions of this section also govern leases relating to the services, accessories and dependencies attached to a dwelling, a room, a mobile home or land, and to services of a personal nature provided by the lessor to the lessee.

The provisions of this section do not apply to

(1) the lease of a dwelling leased as a vacation resort;

(2) the lease of a dwelling in which over one-third of the total floor area is used for purposes other than residential purposes;

(3) the lease of a room situated in a hotel establishment;

(4) the lease of a room situated in the principal residence of the lessor, if not more than two rooms are rented or offered for rent and if the room has neither a separate entrance from the outside nor sanitary facilities separate from those used by the lessor;

(5) the lease of a room situated in a health or social services institution, except pursuant to article 1974.

1991, c. 64, a. 1892; 2011, c. 29, s. 1; I.N. 2014-05-01.

1892.1. The services listed in the form reproduced in Schedule 6 to the Regulation respecting mandatory lease forms and the particulars of a notice to a new lessee (chapter R-8.1, r. 3) are services of a personal nature provided to the lessee.

2011, c. 29, s. 2.

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1893. A clause in a lease of a dwelling which is inconsistent with the provisions of this section, the second paragraph of article 1854 or articles 1856 to 1858, 1860 to 1863, 1865, 1866, 1868 to 1872, 1875, 1876 and 1883 is without effect.

1991, c. 64, a. 1893; I.N. 2014-05-01.

§ 2. — *Lease*

1894. Before entering into a lease, the lessor is bound to give the lessee, where applicable, a copy of the by-laws of the immovable which contain the rules for the enjoyment, use and maintenance of the dwellings and of the common premises.

The by-laws form part of the lease.

1991, c. 64, a. 1894; I.N. 2014-05-01; I.N. 2015-11-01.

1895. Within 10 days after entering into the lease, the lessor is bound to give the lessee a copy of the lease or, in the case of an oral lease, a writing setting forth the name and address of the lessor, the name of the lessee, the rent and the address of the leased property, and containing the text of the particulars prescribed by the regulations of the Government. The writing forms part of the lease. The lease or writing shall be made on the form the use of which is made mandatory by the regulations of the Government.

Where the lease is renewed and the parties agree to modify it, the lessor is bound to give a writing evidencing the modifications to the initial lease to the lessee before the beginning of the renewal.

However, the lessee may not apply for resiliation of the lease on the ground that the lessor has failed to comply with those requirements.

1991, c. 64, a. 1895; 1995, c. 61, s. 2; I.N. 2014-05-01.

1895.1. If the lease includes services of a personal nature to be provided to the lessee, the lessor must specify, in the relevant schedule to the mandatory form, the part of the rent that relates to the cost of each of those services.

2011, c. 29, s. 3.

1896. At the time of entering into a lease, the lessor shall give a notice to the new lessee, indicating the lowest rent paid in the 12 months preceding the beginning of the lease or the rent fixed by the court during the same period, as the case may be, and containing any other particular prescribed by the regulations of the Government. Where no rent has been paid in the 12 months preceding the beginning of the lease, the notice shall indicate the last rent paid and the date of the payment. If the notice contains a misrepresentation or the lessor knowingly fails to give notice, the lessee may demand that the lessor be condemned to pay punitive damages.

The lessor is not bound to give the notice in the case of the lease of an immovable referred to in articles 1955 to 1956.

1991, c. 64, a. 1896; 2019, c. 28, s. 148; 2022, c. 25, s. 1; 2024, c. 2, s. 3.

1897. The lease and the by-laws of the immovable shall be drawn up in French. They may, however, be drawn up in another language at the express wish of the parties.

1991, c. 64, a. 1897.

1898. Every notice relating to a lease, except notice given by the lessor with a view to having access to the dwelling, shall be given in writing at the address indicated in the lease or, after the lease has been entered into,

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at the new address of the party, if the other party has been informed of it; the notice shall be drawn up in the same language as the lease and conform to the rules prescribed by regulation.

A notice that does not conform to the prescribed requirements may not be set up against the addressee unless the person who gave it proves to the court that the addressee has not suffered any injury as a consequence.

1991, c. 64, a. 1898; I.N. 2014-05-01.

1899. A lessor may not refuse to enter into a lease with a person or to maintain the person in his or her rights, or impose more onerous conditions on the person for the sole reason that the person is pregnant or has one or several children, unless the refusal is warranted by the size of the dwelling; nor can he so act for the sole reason that the person has exercised his or her rights under this chapter or the Act respecting the Administrative Housing Tribunal (chapter T-15.01).

Punitive damages may be awarded in cases where this provision is violated.

1991, c. 64, a. 1899; 2019, c. 28, s. 158.

1900. A clause which limits the liability of the lessor or exempts him from liability or renders the lessee liable for injury caused without his fault is without effect.

A clause to modify the rights of a lessee by reason of an increase in the number of occupants, unless the size of the dwelling warrants it, or to limit the right of a lessee to purchase property or obtain services from such persons as he chooses, and on such terms and conditions as he sees fit, is also without effect.

1991, c. 64, a. 1900; I.N. 2014-05-01.

1901. A clause stipulating a penalty of an amount exceeding the value of the injury actually suffered by the lessor, or imposing an obligation on the lessee which is unreasonable in the circumstances, is an abusive clause.

Such a clause is null or any obligation arising from it may be reduced.

1991, c. 64, a. 1901; I.N. 2014-05-01.

1902. Neither the lessor nor any other person may harass a lessee in such a manner as to limit his right to peaceable enjoyment of the premises or to induce him to leave the dwelling.

A lessee who suffers harassment may demand that the lessor or any other person who has harassed him be condemned to pay punitive damages.

1991, c. 64, a. 1902.

§ 3. — *Rent*

1903. The rent agreed upon shall be indicated in the lease.

It is payable in equal instalments, except for the last, which may be less; it is payable on the first day of each payment period, unless otherwise agreed.

1991, c. 64, a. 1903; I.N. 2014-05-01.

1904. The lessor may not exact any instalment in excess of one month's rent; he may not exact payment of rent in advance for more than the first payment period or, if that period exceeds one month, payment of more than one month's rent.

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Nor may he exact any amount of money other than the rent, in the form of a deposit or otherwise, or demand that payment be made by postdated cheque or any other postdated instrument.

1991, c. 64, a. 1904.

1905. A clause in a lease stipulating that the full amount of the rent will be payable in the event of the failure by the lessee to pay an instalment is without effect.

1991, c. 64, a. 1905; I.N. 2014-05-01.

1906. A clause in a lease with a fixed term of 12 months or less providing for an adjustment of the rent during the term of the lease is without effect.

A clause in a lease with a term of more than 12 months providing for an adjustment of the rent during the first 12 months of the lease or more than once during each 12 month period is also without effect.

1991, c. 64, a. 1906.

1907. Where the lessor fails to perform his obligations, the lessee may apply to the court for authorization to perform them himself. The parties are then subject to the provisions of articles 1867 and 1869.

The lessee may also deposit his rent in the office of the court, if he gives the lessor prior 10 days' notice indicating the grounds for depositing it and if the court, considering that the grounds are serious, authorizes the deposit and fixes its amount and conditions.

1991, c. 64, a. 1907; I.N. 2014-05-01; I.N. 2015-11-01.

1908. Where, following the alienation of an immovable, the registration of a hypothec against the rent or an assignment of claim, the lessee is not personally informed of the name and address of the new lessor or of the person to whom he owes payment of the rent, he may, with the authorization of the court, deposit his rent in the office of the court.

Deposit may also be authorized where, for any other serious reason, the lessee is not certain of the identity of the person to whom he owes payment of the rent, where the lessor cannot be found or where he refuses payment of the rent.

1991, c. 64, a. 1908.

1909. The court authorizes the remittance of the deposit where the person to whom the lessee owes payment of the rent is identified or has been found or where the lessor performs his obligations; otherwise, it may permit the lessee to continue to deposit his rent until the identification is made or until the lessor performs his obligations. The court may also authorize the remittance of the deposit to the lessee to enable him to perform the obligations of the lessor.

1991, c. 64, a. 1909.

§ 4. — *Condition of dwelling*

1910. A lessor is bound to deliver a dwelling in good habitable condition; he is bound to maintain it in that condition throughout the term of the lease.

A stipulation whereby a lessee acknowledges that the dwelling is in good habitable condition is without effect.

1991, c. 64, a. 1910.

1911. The lessor is bound to deliver the dwelling in clean condition and the lessee is bound to keep it so.

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Where the lessor carries out work in the dwelling, he shall restore it to clean condition.

1991, c. 64, a. 1911.

1912. The following give rise to the same remedies as failure to perform an obligation under the lease:

(1) failure on the part of the lessor or the lessee to comply with an obligation imposed by law with respect to the safety and sanitation of dwellings;

(2) failure on the part of the lessor to comply with the minimum requirements fixed by law with respect to the maintenance, habitability, safety and sanitation of immovables comprising a dwelling.

1991, c. 64, a. 1912.

1913. The lessor may not offer for rent or deliver a dwelling that is unfit for habitation.

A dwelling is unfit for habitation if it is in such a condition as to be a serious danger to the health or safety of its occupants or the public, or if it has been declared so by the court or by a competent authority.

1991, c. 64, a. 1913.

1914. A lessee may refuse to take possession of a dwelling delivered to him if it is unfit for habitation; in such a case, the lease is resiliated by operation of law.

1991, c. 64, a. 1914; I.N. 2014-05-01.

1915. A lessee may abandon his dwelling if it becomes unfit for habitation, but he is bound to inform the lessor of the condition of the dwelling before abandoning it or within the following 10 days.

A lessee who gives such a notice to the lessor is exempt from rent for the period during which the dwelling is unfit for habitation, unless the condition of the dwelling is the result of his own fault.

1991, c. 64, a. 1915.

1916. As soon as the dwelling becomes fit for habitation again, the lessor is bound to inform the lessee, if the lessee has given him his new address; the lessee is then bound to notify the lessor within the following 10 days as to whether or not he intends to return to the dwelling.

Where the lessee has not given the lessor his new address or fails to notify him that he intends to return to the dwelling, the lease is resiliated by operation of law and the lessor may enter into a lease with a new lessee.

1991, c. 64, a. 1916; I.N. 2014-05-01.

1917. The court, when seized of any dispute in connection with a lease, may, even of its own motion, declare that the dwelling is unfit for habitation; it may then rule on the rent, fix the conditions necessary for the protection of the rights of the lessee and, where applicable, order that the dwelling be made fit for habitation again.

It may also, at the request of the lessee, award punitive damages if the dwelling has become unfit for habitation as a result of negligence on the part of the lessor.

1991, c. 64, a. 1917; I.N. 2015-11-01; 2024, c. 2, s. 4.

1918. The lessee may apply to the court for an order enjoining the lessor to perform his obligations regarding the condition of the dwelling, where their nonperformance threatens to make the dwelling unfit for habitation.

1991, c. 64, a. 1918.

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1919. The lessee may not, without the consent of the lessor, use or keep in a dwelling a substance which constitutes a risk of fire or explosion and which would lead to an increase in the insurance premiums of the lessor.

1991, c. 64, a. 1919.

1920. The occupants of a dwelling shall be of such a number as to allow each of them to live in normal conditions of comfort and sanitation.

1991, c. 64, a. 1920.

1921. Where a handicapped person significantly limited in his mobility occupies a dwelling, whether or not that person is the lessee, the lessor is bound, at the request of the lessee, to identify the dwelling in accordance with the Act to secure handicapped persons in the exercise of their rights with a view to achieving social, school and workplace integration (chapter E-20.1).

1991, c. 64, a. 1921; 2004, c. 31, s. 71; I.N. 2014-05-01.

§ 5. — *Certain changes to dwelling*

1922. No major improvements or major repairs, other than urgent repairs, may be made in a dwelling without prior notice from the lessor to the lessee and, if it is necessary for the lessee to vacate temporarily, until the lessor has offered him an indemnity equal to the reasonable expenses he will have to incur by reason of the vacation.

1991, c. 64, a. 1922; I.N. 2014-05-01.

1923. The notice given to the lessee indicates the nature of the work, the date on which it is to begin and an estimate of its duration and, where required, the necessary period of vacancy; it also specifies the amount of the indemnity offered, where applicable, and any other conditions under which the work will be carried out, if they are of such a nature as to cause a substantial reduction of the enjoyment of the premises.

The notice shall be given at least 10 days before the date on which the work is to begin or, if a period of vacation of more than one week is necessary, at least three months before that date.

1991, c. 64, a. 1923; I.N. 2014-05-01; I.N. 2015-11-01.

1924. The indemnity due to a lessee by reason of temporary vacation is payable on the date he vacates.

If the indemnity proves inadequate, the lessee may be reimbursed for any reasonable expenses incurred beyond the amount of the indemnity.

The lessee may also, depending on the circumstances, obtain a reduction of rent or resiliation of the lease.

1991, c. 64, a. 1924; I.N. 2015-11-01.

1925. If the notice of the lessor provides for temporary vacation, the lessee shall notify the lessor within 10 days after receiving it that he intends or does not intend to comply with it; otherwise, he is deemed to have refused to vacate the premises.

If the lessee refuses to vacate, the lessor may apply to the court within 10 days after the refusal for a ruling on the expediency of the vacation.

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1926. Where temporary vacation is not required or the lessee agrees to vacate, the lessee, within 10 days after receiving the notice, may apply to the court for the modification or suppression of any abusive condition.

1991, c. 64, a. 1926; I.N. 2015-11-01.

1927. The application of the lessor or of the lessee is heard and decided by preference. It suspends the carrying out of the work unless the court orders otherwise.

The court may impose such conditions as it considers just and reasonable.

1991, c. 64, a. 1927.

1928. Where the court is adjudicating upon an application regarding the conditions under which work is to be carried out, it is for the lessor to show that such work and conditions are reasonable and that the vacancy is necessary.

1991, c. 64, a. 1928; I.N. 2014-05-01.

1929. No notice is required and no contestation is allowed where the alterations made have been the subject of an agreement between the lessor and the lessee within the scope of a public housing preservation and restoration program.

1991, c. 64, a. 1929.

§ 6. — *Access to and visit of dwelling*

1930. Where a lessee gives notice of non-renewal or resiliation of the lease to the lessor, he is bound to allow the dwelling to be visited and signs to be posted from the time he gives the notice.

1991, c. 64, a. 1930.

1931. The lessor is bound, except in case of emergency, to give the lessee a prior notice of 24 hours of his intention to ascertain the condition of the dwelling, to carry out work in the dwelling or to have it visited by a prospective acquirer.

1991, c. 64, a. 1931.

1932. The lessee may, except in case of emergency, refuse to allow the dwelling to be visited by a prospective lessee or acquirer before 9 a.m. or after 9 p.m.; the same rule applies where the lessor wishes to ascertain the condition of the dwelling.

The lessee may, in all cases, refuse to allow the dwelling to be visited if the lessor is unable to be present.

1991, c. 64, a. 1932; I.N. 2014-05-01.

1933. The lessee may not refuse to allow the lessor to have access to the dwelling to carry out work.

He may deny him access before 7 a.m. and after 7 p.m., however, unless the work is urgent.

1991, c. 64, a. 1933.

1934. No lock or other device restricting access to a dwelling may be installed or changed without the consent of the lessor and the lessee.

If either party fails to comply with his obligation, the court may order him to allow the other party to have access to the dwelling.

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1935. The lessor may not prohibit a candidate in a provincial, federal, municipal or school election, an official delegate appointed by a national committee or the authorized representative of either from having access to the immovable or dwelling for the purpose of election campaigning or a referendum under an Act.

1991, c. 64, a. 1935; I.N. 2014-05-01.

§ 7. — *Right to maintain occupancy*

I. — *Beneficiaries of the right*

1991, c. 64, Sd. I; I.N. 2014-05-01.

1936. Every lessee has a personal right to maintain occupancy; he may not be evicted from the leased dwelling, except in the cases provided for by law.

1991, c. 64, a. 1936.

1937. The voluntary or forced alienation of an immovable comprising a dwelling or the extinction of the title of the lessor does not permit the new lessor to resiliate the lease, which is continued and may be renewed in the same manner as any other lease.

The new lessor has, towards the lessee, the rights and obligations resulting from the lease.

1991, c. 64, a. 1937.

1938. The married, civil union or parental union spouse of a lessee, or a person who has been living with the lessee for at least six months, being the *de facto* spouse of the lessee, a relative or a person connected to the lessee by marriage or a civil union, is entitled to maintain occupancy and becomes the lessee if he or she continues to occupy the dwelling after the cessation of cohabitation and gives notice to that effect to the lessor within two months after the cessation of cohabitation.

A person living with the lessee at the time of death of the lessee has the same right and becomes the lessee if he or she continues to occupy the dwelling and gives notice to that effect to the lessor within two months after the death. If the person does not avail himself or herself of this right, the liquidator of the succession or, failing him or her, an heir may, in the month which follows the expiry of the period of two months, resiliate the lease by giving notice of one month to that effect to the lessor. In all cases, if part of the rent covers services of a personal nature provided to the lessee, the person living with the lessee at the time of the lessee's death, the liquidator of the succession or the heir is only required to pay that part of the rent that relates to the services which were provided during the lifetime of the lessee. The same applies to the cost of such services if they are provided by the lessor under a contract separate from the lease.

1991, c. 64, a. 1938; 2002, c. 6, s. 52; 2011, c. 29, s. 4; I.N. 2014-05-01; 2016, c. 4, s. 220; 2024, c. 22, s. 15.

1939. If no one is living with the lessee at the time of his or her death, the liquidator of the succession or, if there is no liquidator, an heir may resiliate the lease by giving the lessor two months' notice within six months after the death. The resiliation takes effect before the two-month period expires if the liquidator or the heir and the lessor so agree or when the dwelling is re-leased by the lessor during that same period.

If part of the rent covers the cost of services of a personal nature provided to the lessee, the liquidator or the heir is only required to pay that part of the rent that relates to the services which were provided during the lifetime of the lessee. The same applies to the cost of such services if they are provided by the lessor under a contract separate from the lease.

1991, c. 64, a. 1939; 2011, c. 29, s. 5.

1940. The sublessee of a dwelling is not entitled to maintain occupancy.

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The sublease terminates not later than the date on which the lease of the dwelling terminates; however, the sublessee is not bound to vacate the premises before receiving 10 days' notice to that effect from the sublessor or, failing him, from the principal lessor.

1991, c. 64, a. 1940; I.N. 2014-05-01; I.N. 2015-11-01.

II. — *Renewal and modification of lease*

1941. A lessee entitled to maintain occupancy and having a lease with a fixed term is entitled by operation of law to its renewal at term.

The lease is renewed at term on the same conditions and for the same term or, if the term of the initial lease exceeds 12 months, for a term of 12 months. The parties may, however, agree on a different renewal term.

1991, c. 64, a. 1941; I.N. 2014-05-01.

1942. At the renewal of the lease, the lessor may modify its conditions, particularly the term or the rent, but only if he gives notice of the modification to the lessee not less than three months nor more than six months before term. If the term of the lease is less than 12 months, the notice shall be given not less than one month nor more than two months before term.

A lessor may not modify a lease with an indeterminate term unless he gives the lessee a notice of not less than one month nor more than two months.

The notice is of not less than 10 days nor more than 20 days in the case of the lease of a room.

1991, c. 64, a. 1942; I.N. 2014-05-01; I.N. 2015-11-01.

1943. Every notice of modification shall inform the lessee of his rights and remedies set out in articles 1945 and 1947 and shall contain any particular prescribed by regulation.

A notice to modify the term of the lease shall indicate the proposed term.

In every notice increasing the rent, an indication shall be made of the proposed new rent in dollars or of the increase expressed in dollars or as a percentage of the current rent. The increase may be expressed as a percentage of the rent that will be determined by the court, where an application to have the rent fixed or reviewed has already been filed.

1991, c. 64, a. 1943; I.N. 2014-05-01; I.N. 2015-11-01; 2024, c. 23, s. 4.

1944. The lessor may avoid the renewal of the lease where the lessee has subleased the dwelling for more than 12 months by giving notice, within the same time as for modification of the lease, of his intention to terminate it to the lessee and to the sublessee.

The lessor may similarly avoid the renewal of the lease where the lessee has died and no one was living with him at the time of the death, by giving the notice to the heir or to the liquidator of the succession.

1991, c. 64, a. 1944.

1944.1. Within one month after receiving the notice referred to in article 1944, the lessee of a dwelling subleased for more than 12 months is bound to notify the lessor that he refuses to terminate the lease or that he is vacating the dwelling; otherwise, he is deemed to have refused to vacate the dwelling.

2024, c. 2, s. 6.

1945. A lessee who objects to the modification proposed by the lessor is bound to notify the lessor, within one month after receiving the notice of modification of the lease, that he objects or that he is vacating the

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dwelling; otherwise, he is deemed to have agreed to the renewal of the lease on the conditions proposed by the lessor.

In the case of a lease of a dwelling described in article 1955, however, the lessee shall vacate the dwelling upon termination of the lease if he objects to the proposed modification.

1991, c. 64, a. 1945.

1946. A lessee who has not received a notice of modification of the conditions of the lease from the lessor may avoid the renewal of a lease with a fixed term or terminate a lease with an indeterminate term by giving notice of non-renewal or resiliation of the lease to the lessor, within the same time as a lessor giving notice of modification.

1991, c. 64, a. 1946.

III. — *Fixing conditions of lease*

1947. Where a lessee objects to the proposed modification, the lessor may apply to the court, within one month after receiving the notice of objection, to have the rent fixed or for a ruling on any other modification of the lease, as the case may be. Where a lessee who has subleased his dwelling for more than 12 months refuses to vacate the premises, the lessor may also apply to the court to terminate the lease.

If the lessor fails to file an application within one month after the objection or the refusal, the lease is renewed by operation of law on the same conditions.

If the court dismisses the application to terminate the lease but its decision is rendered after the expiry of the time for giving notice of modification of the lease, the lease is renewed but the lessor may, within one month after the final judgment, apply to the court to have a new rent fixed.

1991, c. 64, a. 1947; I.N. 2014-05-01; 2024, c. 2, s. 7; I.N. 2026-03-31.

1948. An heir or the liquidator of the succession of a lessee who has died may, within one month after receiving notice of the intention of the lessor to avoid the renewal of the lease, contest the notice on its merits before the court; otherwise, he is deemed to have agreed to terminate the lease.

Where the court grants the application after the expiry of the time for giving notice of modification of the lease, the lease is renewed but the lessor may, within one month after the final judgment, apply to the court for the fixing of a new rent.

1991, c. 64, a. 1948; 2024, c. 2, s. 8.

1949. Where the lease provides for the adjustment of the rent, the parties may apply to the court to contest the excessive or inadequate nature of the proposed or agreed adjustment and for the fixing of the rent.

The application shall be made within one month from the date on which the adjustment is to take effect.

1991, c. 64, a. 1949.

1950. A new lessee or a sublessee may apply to the court to have the rent fixed if his rent is higher than the lowest rent paid during the 12 months preceding the beginning of the lease or sublease, as the case may be, unless that rent has already been fixed by the court.

He may apply only within 10 days after the lease or sublease has been entered into. If at the time the lease or sublease is entered into he has not received the notice from the lessor indicating the lowest rent paid in the preceding year, he may apply not later than two months after the beginning of the lease or sublease; where the

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lessor has given a notice containing a misrepresentation, the new lessee or sublessee may apply not later than two months after becoming aware of that fact.

1991, c. 64, a. 1950; I.N. 2014-05-01; I.N. 2015-11-01.

1951. A person entitled by law to maintain occupancy and to become lessee upon the cessation of cohabitation with the lessee or the death of the lessee is not considered to be a new lessee.

1991, c. 64, a. 1951.

1952. Where the court authorizes the modification of a condition of a lease, it fixes the rent payable for the dwelling, taking into consideration the relative value of the modification in relation to the rent for the dwelling.

1991, c. 64, a. 1952.

1953. Where the court has an application before it for the fixing or adjustment of rent, it takes into consideration the standards prescribed by regulation.

The rent fixed by the court is in force for the term of the renewed lease or for such term, not in excess of 12 months, as it determines.

If the court grants an increase of rent, it may spread the payment of the arrears over a period not exceeding the term of the renewed lease.

1991, c. 64, a. 1953.

1954. Where the court fixes the rent on the application of a new lessee, it does so for the term of the lease.

Where the term of the lease exceeds 12 months, the lessor may nevertheless have the rent fixed annually. The application must be made not later than three months before the expiry of each period of 12 months from the date on which the fixed rent took effect.

1991, c. 64, a. 1954; I.N. 2014-05-01.

1955. Neither the lessor nor the lessee of a dwelling leased by a housing cooperative may apply to the court to have the rent fixed or any other condition of the lease modified.

Similarly, the lessor or the lessee of a dwelling situated in a recently erected immovable or an immovable used for rental as a result of a recent change of destination may not pursue such a remedy within five years after the date on which the immovable is ready for its intended use.

Those restrictions may not be set up by the lessor against the lessee unless they are set out in the lease and, in the case of a dwelling referred to in the second paragraph, unless the lease indicates the maximum rent that the lessor may impose in the five years after the date on which the immovable is ready for its intended use.

The above rules do not apply in the case of a dwelling that has been the subject of a change of destination referred to in article 1955.1.

1991, c. 64, a. 1955; I.N. 2014-05-01; 2022, c. 25, s. 2; 2024, c. 2, s. 9; 2026, c. 1, s. 152.

1955.1. Where a dwelling situated in a private seniors' residence or in another lodging facility where services of a personal nature provided to the lessee are provided to seniors is the subject of a change of destination while remaining offered for dwelling purposes, the rent stipulated in the first lease entered into following the change must correspond to the rent that was charged under the previous lease, less the part of the rent relating to the cost of the services, including services of a personal nature provided to the lessee, accessories, dependencies and other benefits that will no longer be provided under the new lease. The lessor

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may nevertheless adjust the rent according to the criteria prescribed by the regulations concerning the fixing of rent.

The lessor must, upon entering into the first lease following the change of destination, give a new lessee a notice indicating the rent charged under the previous lease and the services, accessories, dependencies and other benefits provided under the previous lease that will no longer be provided, as well as the cost of each of them.

A new lessee who considers that the rent charged does not comply with the provisions of the first paragraph may, within one month after entering into the lease, file an application to have the rent fixed by the court. Such an application must be filed within two months after the beginning of the lease if the lessee did not receive the notice referred to in the second paragraph; if the lessor gave a notice containing a misrepresentation, the lessee must file the application within two months after becoming aware of that fact.

2022, c. 25, s. 3.

1956. The lessor or lessee of a dwelling in low-rental housing may not apply for the fixing of the rent or for the modification of any other condition of the lease except in accordance with the provisions specific to that type of lease.

1991, c. 64, a. 1956.

IV. — *Repossession of a dwelling and eviction*

1957. The lessor of a dwelling who is the owner of the dwelling may repossess it as a residence for himself or herself or for ascendants or descendants in the first degree or for any other relative or person connected by marriage or a civil union of whom the lessor is the main support.

The lessor may also repossess the dwelling as a residence for a spouse of whom the lessor remains the main support after a separation from bed and board or divorce or the dissolution of a civil union.

1991, c. 64, a. 1957; 2002, c. 6, s. 53.

1958. The owner of an undivided share of an immovable may not repossess any dwelling in the immovable unless the only other owner is his or her spouse.

1991, c. 64, a. 1958; 2002, c. 6, s. 54.

1959. The lessor of a dwelling may evict the lessee to subdivide the dwelling, enlarge it substantially or change its destination.

1991, c. 64, a. 1959; I.N. 2014-05-01.

1959.1. The lessor may not repossess a dwelling or evict a lessee if the lessee or the lessee's spouse, at the time of repossession or eviction, is 65 years of age or over, has occupied the dwelling for at least 10 years and has income equal to or less than 125% of the maximum income qualifying the lessee or spouse for a dwelling in low-rental housing according to the By-law respecting the allocation of dwellings in low rental housing (chapter S-8, r. 1).

However, the lessor may repossess the dwelling if

(1) the lessor is 65 years of age or over and wishes to repossess the dwelling as a residence for himself;

(2) the beneficiary of the repossession is 65 years of age or over;

(3) the lessor is an owner-occupant 65 years of age or over and wishes to have a beneficiary less than 65 years of age reside in the same immovable as himself.

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The Société d'habitation du Québec shall publish the maximum income thresholds qualifying a lessee for a dwelling in low-rental housing on its website.

2016, c. 21, s. 1; 2024, c. 23, s. 5.

1959.2. A lessor may not evict a lessee solely because of a change of destination referred to in article 1955.1, unless the lessor offered, not later than one month before sending the notice of eviction, to resiliate the lease and to enter into a new lease, without interruption and in accordance with the first paragraph of that article, and the lessee has refused that offer. The offer must indicate, in particular, the services, accessories, dependencies and other benefits provided under the previous lease that will no longer be provided, as well as the cost of each of them. It must also reproduce the content of article 1955.1 and of this article.

Within one month after receiving the lessor's offer, the lessee is bound to inform the lessor of whether or not the lessee accepts the offer; the proposal is deemed to have been refused if the lessee fails to respond.

A lessee who accepts such an offer may nevertheless, within one month after entering into the lease, apply to the court to have the rent fixed in accordance with the first paragraph of article 1955.1 or, as applicable, for a ruling on any other modification in comparison with the resiliated lease.

2022, c. 25, s. 4.

1960. A lessor wishing to repossess a dwelling or to evict a lessee shall notify him at least six months before the expiry of the lease in the case of a lease with a fixed term; if the term of the lease is six months or less, the notice is of one month.

In the case of a lease with an indeterminate term, the notice shall be given six months before the date of repossession or eviction.

1991, c. 64, a. 1960.

1961. In a notice of repossession, the date fixed for the dwelling to be repossessed, the name of the beneficiary and, where applicable, the degree of relationship or the bond between the beneficiary and the lessor shall be indicated.

In a notice of eviction, the reason for and the date of eviction shall be indicated.

These notices shall reproduce the content of article 1959.1. In the case of a notice of eviction that concerns a dwelling situated in a private seniors' residence or in another lodging facility where services of a personal nature provided to the lessee are provided to seniors, the notice must also reproduce the content of articles 1955.1 and 1959.2.

Repossession or eviction may take effect after the date set forth in the notice, upon application by the lessee and with the authorization of the court.

1991, c. 64, a. 1961; 2016, c. 21, s. 2; 2022, c. 25, s. 5.

1962. Within one month after receiving a notice of repossession or of eviction, the lessee is bound to notify the lessor as to whether or not he intends to comply with the notice; otherwise, he is deemed to have refused to vacate the dwelling.

1991, c. 64, a. 1962; I.N. 2014-05-01; 2024, c. 2, s. 10.

1963. If the lessee refuses to vacate the dwelling, the lessor may nevertheless repossess it or evict the lessee with the authorization of the court.

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The application for authorization must be made within one month after the refusal by the lessee; the lessor shall show the court that he truly intends to repossess the dwelling or evict the lessee for the purpose mentioned in the notice and not as a pretext for other purposes and, in the case of an eviction, that the subdivision, enlargement or change of destination of the dwelling is permitted by law.

1991, c. 64, a. 1963; I.N. 2014-05-01; 2024, c. 2, s. 11.

1964. The lessor may not, without the consent of the lessee, avail himself of the right to repossess the dwelling where he owns another dwelling that is vacant or offered for rent on the date fixed for repossession, and that is of the same type as that occupied by the lessee, situated in the same neighbourhood and at equivalent rent.

1991, c. 64, a. 1964.

1965. The lessor shall pay to the evicted lessee reasonable moving expenses as well as an indemnity equal to one month's rent for each year of uninterrupted lease of the dwelling by the lessee, which indemnity may not however exceed an amount representing 24 months' rent or be less than an amount representing 3 months' rent. If the lessee considers that the injury suffered warrants a greater indemnity, the lessee may apply to the court to have the amount fixed.

Unless the court decides otherwise, the indemnity is payable at the expiry of the lease; the moving expenses are payable on presentation of vouchers.

1991, c. 64, a. 1965; I.N. 2014-05-01; 2024, c. 2, s. 12.

1966. *(Repealed).*

1991, c. 64, a. 1966; I.N. 2014-05-01; 2024, c. 2, s. 13.

1967. Where the court authorizes repossession or eviction, it may impose such conditions as it considers just and reasonable, including, in the case of repossession, payment to the lessee of an indemnity equivalent to his moving expenses.

1991, c. 64, a. 1967.

1968. The lessee may recover damages resulting from repossession or eviction, whether or not he has consented to it, unless the lessor proves that the repossession or eviction was in good faith.

The lessee may also apply for punitive damages against the lessor if the lessee shows that the repossession or eviction was in bad faith.

1991, c. 64, a. 1968; 2024, c. 2, s. 14.

1969. Where the lessor does not exercise his right of repossession or eviction on the fixed date, the lease is renewed by operation of law provided the lessee continues to occupy the dwelling with the consent of the lessor. In that case, the lessor, within one month after the date fixed for repossession or eviction, may apply to the court to have a new rent fixed.

The lease is also renewed where the court refuses an application for repossession or eviction and renders its decision after expiry of the period provided to avoid the renewal of the lease or to modify it. The lessor may then, within one month after the final decision, apply to the court to fix the rent.

1991, c. 64, a. 1969; I.N. 2014-05-01.

1970. A dwelling that has been the subject of a repossession or eviction may not, without the authorization of the court, be leased or used for a purpose other than that for which the right was exercised.

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If the court gives authorization to lease the dwelling, it fixes the rent.

1991, c. 64, a. 1970.

§ 8. — *Resiliation of lease*

1971. The lessor may obtain the resiliation of the lease if the lessee is over three weeks late in paying the rent or, if he suffers serious injury as a result, where the lessee is frequently late in paying it.

1991, c. 64, a. 1971; I.N. 2014-05-01.

1972. The lessor or the lessee may apply for the resiliation of the lease if the dwelling becomes unfit for habitation.

1991, c. 64, a. 1972.

1973. Where either of the parties applies for the resiliation of the lease, the court may grant it immediately or order the debtor to perform his obligations within the period it determines, except where payment of the rent is over three weeks late.

Where the debtor does not comply with the decision of the court, the court resiliates the lease on the application of the creditor.

1991, c. 64, a. 1973.

1974. A lessee may resiliate the current lease if he or she is allocated a dwelling in low-rental housing or, because of a decision of the court, the lessee is relocated in an equivalent dwelling corresponding to his or her needs; the lessee may also resiliate the lease if he or she can no longer occupy the dwelling because of a handicap or, in the case of a senior, if he or she is permanently admitted to a residential and long-term care centre, to a facility operated by an intermediate resource, to a private seniors' residence where the nursing care and personal assistance services required by his or her state of health are provided, or to any other lodging facility, regardless of its name, where such care and services are provided, whether or not the lessee already resides in such a place at the time of admission.

The resiliation takes effect two months after a notice is sent to the lessor, or one month after the notice is sent if the lease is for an indeterminate term or a term of less than 12 months. However, the resiliation takes effect before the two-month or one-month period expires if the parties so agree or when the dwelling, having been vacated by the lessee, is re-leased by the lessor during that same period. The notice must be sent with an acknowledgement from the authority concerned and, in the case of a senior, with a certificate from an authorized person stating that the conditions requiring admission to the facility have been met.

If part of the rent covers the cost of services of a personal nature provided to the lessee, the lessee is only required to pay that part of the rent that relates to the services which were provided before he or she vacated the dwelling. The same applies to the cost of such services if they are provided by the lessor under a contract separate from the lease.

1991, c. 64, a. 1974; 2011, c. 29, s. 6.

1974.1. A lessee may resiliate the current lease if, because of sexual violence, spousal violence or violence towards a child living in the dwelling covered by the lease, the safety of the lessee or of the child is threatened.

The resiliation takes effect two months after a notice is sent to the lessor or one month after the notice is sent if the lease is for an indeterminate term or a term of less than 12 months. However, the resiliation takes effect before the two-month or one-month period expires if the parties so agree or when the dwelling, having been vacated by the lessee, is re-leased by the lessor during that same period.

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The notice must be sent with an attestation from a public servant or public officer designated by the Minister of Justice, who, on examining a judgment confirming a situation of violence or the lessee's affidavit that there exists a situation involving violence and other factual elements or documents supporting the lessee's statement provided by persons in contact with the victims, considers that the resiliation of the lease is a measure that will ensure the safety of the lessee or of a child living with the lessee. The public servant or public officer must act promptly.

If part of the rent covers the cost of services of a personal nature provided to the lessee or to a child of the lessee who lives with the lessee, the lessee is only required to pay that part of the rent that relates to the services which were provided before he or she vacated the dwelling. The same applies to the cost of such services if they are provided by the lessor under a contract separate from the lease.

2005, c. 49, s. 1; 2011, c. 29, s. 7; I.N. 2015-11-01; I.N. 2016-01-01 (NCCP); 2022, c. 22, s. 119; 2024, c. 37, s. 12.

1975. The lease is resiliated by operation of law where a lessee abandons the dwelling without any reason, taking his movable effects with him; it may also be resiliated without further reason, where the dwelling is unfit for habitation and the lessee abandons it without notifying the lessor.

1991, c. 64, a. 1975; I.N. 2014-05-01.

1976. An employer may, where an employee ceases to be in his employ, resiliate a lease that is accessory to the contract of employment by giving the employee prior notice of one month, unless otherwise stipulated in the contract.

An employee may resiliate such a lease upon the termination of the contract of employment by giving prior notice of one month to his employer, unless otherwise stipulated in the contract.

1991, c. 64, a. 1976.

1977. The lease is renewed by operation of law where the court refuses an application for resiliation thereof and renders its decision after expiry of the period provided to avoid the renewal of the lease or to modify it. The lessor may then, within one month after the final decision, apply to the court to have the rent fixed.

1991, c. 64, a. 1977; I.N. 2014-05-01; I.N. 2015-11-01.

1978. The lessee, on resiliation of the lease or when he vacates the dwelling, shall leave it free of all movable effects except those which belong to the lessor. If the lessee leaves movable effects at the end of the lease or after abandoning the dwelling, the lessor may dispose of them in accordance with the rules prescribed in the Book on Property which apply to the holder of property entrusted and forgotten.

1991, c. 64, a. 1978.

§ 8.1. — *Assignment of lease*

2024, c. 2, s. 15.

1978.1. If the notice of assignment provided for in article 1870 concerns a lease of a dwelling, it must indicate the date of assignment fixed by the lessee.

2024, c. 2, s. 15.

1978.2. A lessor who is given notice of the lessee's intention to assign the lease may refuse to consent to it for a reason other than a serious reason referred to in the first paragraph of article 1871. In such a case, the lease is resiliated on the date of assignment indicated in the notice sent by the lessee.

2024, c. 2, s. 15.

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1978.3. A lessee who assigns his lease may not exact consideration.

2024, c. 2, s. 16.

1978.4. A lessee who subleases his dwelling may not exact, in addition to the cost of the services offered and reasonable expenses for the use of movable property owned by the lessee, an amount exceeding the rent the lessee pays to the lessor.

2024, c. 2, s. 16.

§ 9. — *Special provisions as to certain leases*

1991, c. 64, Sd. 9; I.N. 2014-05-01.

I. — *Lease of a dwelling intended for a person pursuing studies*

1991, c. 64, Sd. I; 2024, c. 2, s. 17.

1979. Every person pursuing studies who leases a dwelling from an educational institution is entitled to maintain occupancy for any period during which he is enrolled in the institution as a full-time student, but is not so entitled if he leases a dwelling from an institution other than the one in which he is enrolled.

A person who leases a dwelling situated in an immovable for which the owner is recognized in accordance with a government regulation is entitled to maintain occupancy for any period during which the person is enrolled in an educational institution as a full-time student. The government regulation establishes the terms and criteria for obtaining such a recognition and the authority in charge of granting it.

A person having a lease for the summer period only is not entitled to maintain occupancy.

1991, c. 64, a. 1979; 2024, c. 2, s. 18.

1980. A person pursuing studies who wishes to avail himself of the right to maintain occupancy shall give notice that he intends to renew the lease. The notice shall be given one month before the expiry of the lease in the case of a dwelling leased from an educational institution, and three months, but not more than six months, before the expiry of the lease in the case of a dwelling situated in an immovable for which the owner is recognized.

The educational institution or an owner holding a recognition may, however, for serious reasons, relocate the person in a dwelling of the same type as that which he occupies, situated in the same neighbourhood and at equivalent rent.

1991, c. 64, a. 1980; 2024, c. 2, s. 19.

1981. A person pursuing studies who leases a dwelling from an educational institution may not sublease his dwelling or assign his lease.

A person who leases a dwelling situated in an immovable for which the owner is recognized may, with the owner's consent, sublease his dwelling or assign his lease.

1991, c. 64, a. 1981; 2024, c. 2, s. 20.

1982. The educational institution or an owner holding a recognition may resiliate the lease of a person who ceases to be a full-time student. It shall give him prior notice of one month, which may be contested, on its merits, within one month after it is received. A person pursuing studies who leases a dwelling from an educational institution may, similarly, resiliate the lease.

1991, c. 64, a. 1982; 2024, c. 2, s. 21.

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1983. The lease of a person pursuing studies who leases a dwelling from an educational institution is terminated by operation of law when the person terminates his studies or when the person ceases to be enrolled in the educational institution.

1991, c. 64, a. 1983; I.N. 2014-05-01; 2024, c. 2, s. 22.

1983.1. A lessee of a dwelling for which the lease was entered into before the owner obtained a recognition continues to benefit from the right to maintain occupancy, whether or not the lessee is pursuing studies.

2024, c. 2, s. 23.

II. — *Lease of a dwelling in low-rental housing*

1984. A dwelling situated in low-rental housing owned or administered by the Société d'habitation du Québec or by a legal person whose operating expenses are met, in whole or in part, by a subsidy from the Société d'habitation du Québec, or a dwelling which is not so situated but whose rent is fixed by by-law of the Société d'habitation du Québec is a dwelling in low-rental housing.

A dwelling for which the Société d'habitation du Québec agrees to pay an amount towards the rent is also a dwelling in low-rental housing but, in this case, the provisions pertaining to the register of lease applications and to the list of eligible persons do not apply where the lessee is selected by an association that is a legal person constituted for that purpose under the Act respecting the Société d'habitation du Québec (chapter S-8).

1991, c. 64, a. 1984; I.N. 2014-05-01; I.N. 2015-11-01.

1985. The lessor of a dwelling in low-rental housing shall keep an up-to-date register of lease applications and a list of eligible persons for the lease of a dwelling, in accordance with the by-laws of the Société d'habitation du Québec and with any by-law made by the lessor himself as authorized by and pursuant to the by-laws of the Société d'habitation du Québec.

Where a dwelling is vacant, the lessor shall offer it to a person entered on the list of eligible persons, according to the conditions prescribed in the by-laws.

1991, c. 64, a. 1985; I.N. 2014-05-01.

1986. If a lessor refuses to enter the application of a person in the register or to enter his name on the list of eligible persons, the person may apply to the court within one month after the refusal for a review of the decision.

A person whose name is removed from the list or entered on the list for a dwelling of a category or subcategory other than that to which he is entitled may also, within one month after the decision, apply to the court to have the decision of the lessor revised.

In such cases, the lessor has the burden of establishing that he acted within the conditions prescribed in the by-laws. The court may, as the case may be, order the application entered in the register or the name of the person entered, re-entered or reclassified on the list of eligible persons.

1991, c. 64, a. 1986; I.N. 2014-05-01.

1987. If the lessor allocates a dwelling to a person other than the person entitled to it under the by-laws, the person entitled to the dwelling may apply to the court within one month thereafter for a review of the decision.

The lessor has the burden of establishing that he acted within the conditions prescribed in the by-laws; if he fails to do so, the court may order him to house the person in a dwelling of the category to which he is entitled or, if none is vacant, to allocate to him the next dwelling of that category that becomes vacant. The court may

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also, in an urgent case, order the lessor to house him in an equivalent dwelling, whether in low-rental housing or not, corresponding to the category of dwelling to which he is entitled. If the rent for that dwelling is higher than the rent the person would have paid for the dwelling he is entitled to, the lessor is bound to pay the excess amount.

1991, c. 64, a. 1987; I.N. 2014-05-01.

1988. Where a dwelling in low-rental housing is allocated following a misrepresentation of the lessee, the lessor may, within two months after becoming aware of the misrepresentation, apply to the court for the resiliation of the lease or the modification of certain conditions of the lease if, were it not for the misrepresentation, he would not have allocated the dwelling to the lessee or would have done so on different conditions.

1991, c. 64, a. 1988; I.N. 2014-05-01; I.N. 2015-11-01.

1989. A lessee who occupies a dwelling of a category other than that to which he is entitled may apply to the lessor to have his name re-entered on the list of eligible persons.

If the lessor refuses to re-enter the lessee's name or enters it on the list for a category of dwelling other than that to which he is entitled, the lessee may apply to the court to contest the lessor's decision within one month after receiving notice of the refusal or the allocation of the dwelling.

1991, c. 64, a. 1989; I.N. 2014-05-01.

1990. The lessor may, at any time, relocate a lessee who occupies a dwelling of a category other than that to which he is entitled to an appropriate dwelling, on giving him three months' notice.

The lessee may apply to the court for review of the decision within one month after receiving the notice.

1991, c. 64, a. 1990; I.N. 2015-11-01; 2016, c. 4, s. 221.

1991. If a person who benefits from the right to maintain occupancy ceases to cohabit with the lessee or if the lessee dies, that person is not entitled to renewal of the lease by operation of law if he no longer meets the conditions of allocation prescribed in the by-laws.

The lessor may, in such a case, resiliate the lease by giving the person three months' notice before termination of the lease.

1991, c. 64, a. 1991; I.N. 2014-05-01.

1992. A lessor who notifies the lessee of his intention to increase the rent is not bound to indicate the new rent or the amount of the increase, and the lessee is not bound to respond to such a notice.

However, if the rent is not fixed in accordance with the by-laws of the Société d'habitation du Québec, the lessee may apply to the court, within two months after the fixing of the rent, for its review.

1991, c. 64, a. 1992.

1993. A lessee, within one month after receiving notice of modification of the term or of another condition of the lease, may apply to the court for a ruling on the requested term or modification; otherwise, he is deemed to consent to the new conditions.

A person who benefits from the right to maintain occupancy and who receives a notice of resiliation of the lease may, similarly, contest the resiliation on its merits before the court; otherwise, he is deemed to have agreed to it.

1991, c. 64, a. 1993.

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1994. The lessor, at the request of a lessee who has suffered a reduction of income or a change in the composition of his household, is bound to reduce his rent during the term of the lease in accordance with the by-laws of the Société d'habitation du Québec; if he refuses or neglects to do so, the lessee may apply to the court for the reduction.

If the income of the lessee returns to or becomes greater than what it was, the former rent is re-established; the lessee may contest the re-establishment of the rent within one month after it is re-established.

1991, c. 64, a. 1994.

1995. The lessee of a dwelling in low-rental housing may not sublease the dwelling or assign his lease.

He may resiliate the lease at any time by giving three months' notice to the lessor.

1991, c. 64, a. 1995.

III. — *Lease of land intended for the installation of a mobile home*

1996. The lessor of land intended for the installation of a mobile home is bound to deliver the land and maintain it in accordance with the land use standards established by law. These obligations form part of the lease.

1991, c. 64, a. 1996; I.N. 2014-05-01.

1997. The lessor may not require that the lessee's mobile home be moved by the lessor.

1991, c. 64, a. 1997; I.N. 2014-05-01.

1998. The lessor may not limit the right of the lessee of the land to replace his mobile home by another mobile home of his choice.

The lessor may not limit the right of the lessee to alienate or lease his mobile home; nor may he require that he, the lessor, act as the mandatary or that he select the person to act as the mandatary of the lessee for the alienation or lease of the mobile home.

A lessee who alienates his mobile home shall, however, notify the lessor of the land immediately.

1991, c. 64, a. 1998.

1999. The lessor may not require any amount of money from the lessee by reason of the alienation or lease of the mobile home, unless he acts as the mandatary of the lessee for alienation or lease.

1991, c. 64, a. 1999.

2000. The acquirer of a mobile home situated on leased land becomes the lessee of the land unless he notifies the lessor of his intention to leave the premises within one month after the acquisition.

1991, c. 64, a. 2000.

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CHAPTER V

AFFREIGHTMENT

DIVISION I

GENERAL PROVISIONS

2001. Affreightment is a contract by which a person, the lessor, undertakes for a price, also called freight, to place all or part of a ship at the disposal of another person, the charterer, for navigation.

The contract, if in writing, is evidenced by a charterparty containing the names of the parties, their undertakings under the contract and particulars identifying the ship.

1991, c. 64, a. 2001; I.N. 2014-05-01.

2002. The charterer is bound to pay freight. If no price has been agreed, he shall pay an amount consistent with market conditions, at the place and time the contract is entered into.

1991, c. 64, a. 2002; I.N. 2014-05-01.

2003. Where the lessor has not been paid at the time of discharge of the cargo from the ship, he may retain the property carried until payment of what is due to him, including for reasonable expenses and injury resulting from the retention.

1991, c. 64, a. 2003; I.N. 2014-05-01.

2004. General average is governed by conventional maritime rules and customs, at the place and time the contract is entered into.

1991, c. 64, a. 2004; I.N. 2014-05-01.

2005. The charterer may subcharter the ship with the consent of the lessor or use it for carriage under bills of lading; in either case, he remains liable to the lessor for his obligations under the contract of affreightment.

The lessor may, to the extent of what is due to him by the charterer, bring action against the subcharterer for payment of the freight due by the latter, but the subchartering of the ship establishes no other direct relationship between the lessor and the subcharterer.

1991, c. 64, a. 2005; I.N. 2014-05-01.

2006. Prescription of an action arising out of a contract of affreightment runs, in the case of a bareboat or time charter, from the expiry of the term of the contract or the permanent interruption of its performance and, in the case of a voyage charter, from the completion of the discharge of the property carried or from the event which put an end to the voyage.

Prescription of an action arising out of a contract of subcharter runs under the same conditions.

1991, c. 64, a. 2006; I.N. 2014-05-01.

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DIVISION II

SPECIAL RULES GOVERNING DIFFERENT CONTRACTS OF AFFREIGHTMENT

§ 1. — *Bareboat charter*

2007. A bareboat charter is a contract of affreightment by which a lessor places an unmanned and unequipped or partly manned and partly equipped ship at the disposal of a charterer for a fixed time, and transfers to him the nautical and commercial management of the ship.

1991, c. 64, a. 2007; I.N. 2014-05-01.

2008. The lessor delivers the ship in a seaworthy condition and fit for the service for which it is intended, at the agreed place and time.

1991, c. 64, a. 2008.

2009. The charterer may use the ship for any purpose consistent with the ship's normal destination, but the lessor may, in the contract, impose restrictions as to that use.

1991, c. 64, a. 2009; I.N. 2014-05-01; 2016, c. 4, s. 222.

2010. The charterer may use the ship's stores and equipment.

He insures the ship and bears all operating costs. He hires and maintains the crew.

1991, c. 64, a. 2010.

2011. The charterer is bound to warrant the lessor against all remedies of third persons arising out of the operation of the ship.

1991, c. 64, a. 2011.

2012. The charterer is bound to maintain the ship and make the necessary repairs and replacements.

The lessor is bound to make the repairs and replacements arising from inherent defects whose effects appear within one year after delivery of the ship to the charterer and, if the ship is immobilized for more than 24 hours by reason of such a defect, no freight is payable by the charterer for the time during which the ship is immobilized.

1991, c. 64, a. 2012; I.N. 2014-05-01; I.N. 2015-11-01.

2013. At the end of the contract, the charterer redelivers the ship at the place where it was delivered and in the condition in which it was delivered; he is not bound to indemnify the lessor for fair wear and tear of the ship, stores and equipment.

He is bound, however, to redeliver stores, provisions and equipment of the same quantity and quality as those he received when the ship was delivered to him.

1991, c. 64, a. 2013; I.N. 2014-05-01.

§ 2. — *Time charter*

2014. A time charter is a contract by which a lessor places a fully-equipped and manned ship at the disposal of a charterer for a fixed time and under which he retains the nautical management of the ship but transfers its commercial management to the charterer.

1991, c. 64, a. 2014; I.N. 2014-05-01.

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2015. The lessor delivers the ship in a seaworthy condition and properly manned and equipped for the service for which it is intended, at the agreed place and time.

1991, c. 64, a. 2015.

2016. The charterer bears the cost of the commercial operation of the ship, in particular wharfage, pilotage and canal dues.

He acquires and pays for the fuel on board when the ship is delivered to him and thereafter provides and pays for fuel of such a grade as to ensure the proper working of the ship.

1991, c. 64, a. 2016.

2017. The master of the ship shall, within the limits stipulated in the contract, follow the instructions of the charterer with respect to the commercial management of the ship.

If the instructions are inconsistent with the rights of the lessor under the contract, the master may refuse to follow them. If he follows them, he does so without prejudice to the lessor's remedy against the charterer.

1991, c. 64, a. 2017; I.N. 2014-05-01.

2018. The charterer is bound to indemnify the lessor for any loss or damage caused to the ship as a result of its commercial operation, fair wear and tear excepted.

1991, c. 64, a. 2018; I.N. 2014-05-01.

2019. Freight runs from the day the ship is delivered to the charterer, in accordance with the terms of the contract.

Freight is payable until the day the ship is redelivered to the lessor; it is not payable, however, for periods during which the working of the ship is impeded by superior force or by a cause attributable to a third person or to the lessor.

1991, c. 64, a. 2019; I.N. 2014-05-01.

2020. The charterer redelivers the ship at the agreed place and within the agreed time; he gives reasonable prior notice to the lessor. If no place has been agreed for the redelivery of the ship, it is redelivered at the place where it was delivered.

1991, c. 64, a. 2020; I.N. 2014-05-01; I.N. 2015-11-01.

§ 3. — *Voyage charter*

2021. A voyage charter is a contract by which a lessor places all or part of a fully-equipped and manned ship at the disposal of a charterer for the carriage of cargo on one or more specified voyages and under which he retains the nautical and commercial management of the ship.

The contract specifies the nature and quantity of the cargo as well as the places of loading and discharge and the time allowed for those operations.

1991, c. 64, a. 2021; I.N. 2014-05-01.

2022. The lessor presents the ship in a seaworthy condition and properly manned and equipped for the voyage, at the agreed place and time.

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Moreover, he is bound to maintain the ship in a seaworthy condition and to use all diligence within his means to prosecute the voyage.

1991, c. 64, a. 2022.

2023. The lessor is responsible, within the limits stipulated in the contract, for loss of or damage to the property received on board. He may, however, relieve himself from that liability by proving that the damage did not result from failure on his part to perform his obligations.

1991, c. 64, a. 2023; I.N. 2014-05-01.

2024. The charterer is bound to load cargo of the agreed quality in the agreed quantity; if he does not, he is nevertheless bound to pay the stipulated freight.

The charterer may, however, resiliate the contract before loading begins; in that case, he shall pay to the lessor an indemnity equal to the injury he suffers, but in no case greater than the amount of the freight.

1991, c. 64, a. 2024; I.N. 2014-05-01; I.N. 2015-11-01.

2025. The charterer shall load and discharge the cargo within the time allowed by the contract or, if the contract does not specify a time, within a reasonable time or according to the custom of the port.

Where the times for loading and discharging are fixed separately by the contract, they are not reversible and the time for each operation is computed separately.

1991, c. 64, a. 2025; I.N. 2014-05-01; I.N. 2015-11-01.

2026. The time for loading or discharging runs from the moment the lessor informs the charterer that the ship is ready to load or ready to discharge, after its arrival at the port.

1991, c. 64, a. 2026; I.N. 2014-05-01.

2027. Where a time allowed for loading or discharging is exceeded for any reason not attributable to the lessor, the charterer shall pay demurrage from the expiry of the time allowed; demurrage is considered a supplement to freight and is payable for the entire additional time actually required for loading or discharging.

Demurrage not fixed by the contract is calculated at a reasonable rate, according to the custom of the port of loading or discharge or, failing that, according to maritime customs.

1991, c. 64, a. 2027; I.N. 2014-05-01; 2016, c. 4, s. 223.

2028. Freight is payable on completion of the voyage. However, it is not due in all circumstances.

Where completion of the voyage becomes impossible, the charterer is bound to pay freight only if the cause is not attributable to the lessor. In that case, freight is due only proportionately to the distance travelled.

1991, c. 64, a. 2028; I.N. 2014-05-01; I.N. 2015-11-01.

2029. The contract is resolved by operation of law, with no claim for damages on either part, if superior force renders the voyage impossible before its commencement.

The contract stands, however, if superior force prevents the sailing of the ship or the prosecution of the voyage for a time only; in that case, no reduction of freight or damages may be claimed by reason of the delay.

1991, c. 64, a. 2029; I.N. 2014-05-01.

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CHAPTER VI

CARRIAGE

DIVISION I

RULES APPLICABLE TO ALL MODES OF TRANSPORTATION

1991, c. 64, Div. I; I.N. 2014-05-01.

§ 1. — *General provisions*

2030. A contract of carriage is a contract by which one person, the carrier, undertakes principally to carry a person or property from one place to another, in return for a price which another person, the passenger or the shipper or receiver of the property, undertakes to pay at the agreed time.

1991, c. 64, a. 2030.

2031. Successive carriage is effected by several carriers in succession, using the same mode of transportation; combined carriage is effected by several carriers in succession, using different modes of transportation.

1991, c. 64, a. 2031; I.N. 2014-05-01.

2032. Except where it is effected by a carrier offering his services to the public in the ordinary course of business of his enterprise, gratuitous carriage of a person or property is not governed by the rules contained in this chapter and the carrier is bound only by an obligation of prudence and diligence.

1991, c. 64, a. 2032; I.N. 2015-11-01.

2033. A carrier who provides services to the general public shall carry any person requesting it and any property he is requested to carry, unless he has serious cause for refusal; the passenger, shipper or receiver is bound to follow the instructions given by the carrier, in accordance with the law.

1991, c. 64, a. 2033; I.N. 2014-05-01.

2034. A carrier may not exclude or limit his liability except to the extent and subject to the conditions established by law.

He is bound to make reparation for injury resulting from delay, unless he proves superior force.

1991, c. 64, a. 2034; I.N. 2014-05-01.

2035. Where the carrier entrusts another carrier with the performance of all or part of his obligation, the substitute carrier is deemed to be a party to the contract.

The shipper is discharged by payment to one of the carriers.

1991, c. 64, a. 2035.

§ 2. — *Carriage of persons*

2036. Carriage of persons includes, in addition to carriage itself, embarking and disembarking operations.

1991, c. 64, a. 2036.

2037. The carrier is bound to convey his passengers safe and sound to their destination.

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The carrier is bound to make reparation for injury suffered by a passenger unless he proves it was caused by superior force or by the state of health or fault of the passenger. He is also bound to make reparation where the injury is caused by his state of health or that of one of his subordinates or by the condition or working of the vehicle.

1991, c. 64, a. 2037; I.N. 2014-05-01.

2038. The carrier is liable for any loss of the luggage or other effects placed in his care by a passenger, unless he proves superior force, an inherent defect in the property or the fault of the passenger.

However, the carrier is not liable for any loss of documents, money or other property of great value, unless he agreed to carry the property after its nature or value was declared to him; moreover, the carrier is not liable for any loss of hand luggage or other effects which remain in the care of the passenger, unless the passenger proves the fault of the carrier.

1991, c. 64, a. 2038.

2039. In the case of successive or combined carriage of persons, the carrier who effects the carriage in the course of which the injury occurs is liable therefor, unless one of the carriers has, by express stipulation, assumed liability for the entire journey.

1991, c. 64, a. 2039; I.N. 2014-05-01.

§ 3. — *Carriage of property*

2040. Carriage of property extends from the time the carrier receives the property into his charge for carriage until its delivery.

1991, c. 64, a. 2040.

2041. A bill of lading is a writing which evidences a contract for the carriage of property.

A bill of lading states, in particular, the names of the shipper, receiver and carrier and, where applicable, of the person who is to pay the freight and carriage charges. It also states the place and date of receipt of the property by the carrier into his charge, the points of origin and destination, the freight as well as the nature, quantity, volume or weight and apparent condition of the property and any dangerous properties it may have.

1991, c. 64, a. 2041; I.N. 2014-05-01; 2016, c. 4, s. 224.

2042. The bill of lading is issued in several copies; the issuing carrier keeps a copy and gives one to the shipper; another copy accompanies the property to its destination.

In the absence of any evidence to the contrary, the bill of lading is proof of the receipt of the property by the carrier into his charge and of its nature, quantity and apparent condition.

1991, c. 64, a. 2042.

2043. A bill of lading is not negotiable, unless otherwise provided by law or by the contract.

Negotiation of a negotiable bill of lading is effected by endorsement and delivery, or by mere delivery if the bill is made to bearer.

1991, c. 64, a. 2043.

2044. The carrier is bound to deliver the property to the receiver or to the holder of the bill of lading.

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The holder of a bill of lading is bound to hand it over to the carrier when he demands delivery of the property.

1991, c. 64, a. 2044; I.N. 2014-05-01.

2045. Subject to the rights of the shipper, the receiver upon accepting the property or the contract acquires the rights and assumes the obligations arising out of the contract.

1991, c. 64, a. 2045.

2046. The carrier is bound to notify the receiver of the arrival of the property and of the time allowed to remove it, unless it is delivered to the receiver's residence or premises.

1991, c. 64, a. 2046.

2047. Where the receiver cannot be found or refuses or neglects to take delivery of the property or where, for any other reason, the carrier cannot deliver the property through no fault of his own, the carrier shall notify the shipper without delay and request instructions as to disposal of the property; in an emergency, however, the carrier may dispose of perishable property without notice.

If the carrier receives no instructions within 15 days of notification, he may return the property to the shipper at the shipper's expense or dispose of it in accordance with the rules contained in Book Four on Property concerning the holder of property entrusted and forgotten.

1991, c. 64, a. 2047.

2048. From the expiry of the time allowed for removal or from notification of the shipper, the obligations of the carrier are those of a gratuitous depositary; he is entitled, however, to reasonable remuneration for the preservation and storage of the property, payable by the receiver or, failing him, by the shipper.

1991, c. 64, a. 2048.

2049. The carrier is bound to carry the property to its destination.

He is bound to make reparation for injury resulting from the carriage, unless he proves that the loss was caused by superior force, an inherent defect in the property or natural shrinkage.

1991, c. 64, a. 2049; I.N. 2014-05-01.

2050. Prescription of any action for damages against a carrier runs from the delivery of the property or from the date on which it should have been delivered.

The action is not admissible unless a notice of the claim was first given to the carrier in writing within 60 days after the delivery of the property, whether or not the loss sustained by the property is apparent, or if the property is not delivered, within nine months after the date on which it was shipped. No notice is required if the action is brought within that time.

1991, c. 64, a. 2050; I.N. 2014-05-01; I.N. 2015-11-01.

2051. In the case of successive or combined carriage of property, an action in liability may be brought against the carrier with whom the contract was made or the last carrier.

1991, c. 64, a. 2051.

2052. The liability of the carrier, in the case of loss, may not exceed the value of the property declared by the shipper.

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If no value has been declared, it is determined on the basis of the value of the property at the place and time of shipment.

1991, c. 64, a. 2052; I.N. 2015-11-01.

2053. No carrier is bound to carry documents, money or property of great value.

If a carrier agrees to carry that type of property, he is not liable for loss unless its nature or value has been declared to him; any deceitful declaration which misleads as to the nature of the property or inflates its value exempts the carrier from all liability.

1991, c. 64, a. 2053; I.N. 2014-05-01.

2054. A shipper who places dangerous property into the charge of a carrier without prior disclosure of its exact nature shall indemnify the carrier for any injury he suffers by reason of carriage of the property.

In addition, the shipper shall pay any storage charges for the property and assume all the risks attached to it.

1991, c. 64, a. 2054; I.N. 2014-05-01.

2055. The shipper is bound to make reparation for injury suffered by the carrier as a result of an inherent defect in the property or any omission, deficiency or inaccuracy in the shipper's declarations as to the property carried.

However, the carrier remains liable to third persons who suffer injury as a result of any of these acts or omissions, subject to his remedy against the shipper.

1991, c. 64, a. 2055; I.N. 2014-05-01.

2056. The freight and carriage charges are payable before delivery, unless otherwise stipulated in the bill of lading.

In either case, if the property is not of the same nature as that described in the contract or if its value is greater than the declared amount, the carrier may claim the amount he could have charged for its carriage.

1991, c. 64, a. 2056; 2016, c. 4, s. 225.

2057. Where the price of the property carried is payable on delivery, the carrier shall not deliver the property until he receives payment.

The shipper pays the charges unless he has instructed otherwise on the bill of lading.

1991, c. 64, a. 2057.

2058. The carrier may retain the property carried until the freight, the carriage charges and any reasonable storage charges are paid.

If, according to the shipper's instructions, those amounts are payable by the receiver and the carrier does not demand payment of them, he loses his right to claim them from the shipper.

1991, c. 64, a. 2058; I.N. 2014-05-01.

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DIVISION II

SPECIAL RULES GOVERNING CARRIAGE OF PROPERTY BY WATER

§ 1. — *General provisions*

2059. Unless otherwise agreed by the parties, this section applies to carriage of property by water where the ports of sailing and destination are situated in Québec.

1991, c. 64, a. 2059; I.N. 2014-05-01.

2060. Carriage of property extends from the time the carrier receives the property into his charge until its delivery.

1991, c. 64, a. 2060.

§ 2. — *Obligations of the parties*

1991, c. 64, Sd. 2; I.N. 2014-05-01.

2061. Freight is payable by the shipper.

Freight is also payable by the receiver where he takes delivery of property for which freight is payable on arrival.

1991, c. 64, a. 2061; I.N. 2014-05-01.

2062. The shipper shall present the property at the time and place fixed by agreement between the parties or according to the custom of the port of loading, failing which he shall pay to the carrier an indemnity equal to the injury he suffers, but in no case greater than the amount of the freight.

1991, c. 64, a. 2062; I.N. 2014-05-01.

2063. At the beginning of the voyage and even before, the carrier is bound to exercise diligence to make the ship seaworthy, properly man, equip and supply it, and make fit and safe all parts of the ship where property is to be loaded and kept during the voyage.

1991, c. 64, a. 2063.

2064. The carrier is bound to proceed in an appropriate manner with the loading, handling, stowing, carrying, keeping in custody and discharging of the property carried.

Except in the coasting trade, a fault is committed by the carrier if, without the consent of the shipper and in the absence of rules or custom so permitting, he stows the property on deck. Consent is presumed where containers are loaded on a ship fit for that kind of carriage.

1991, c. 64, a. 2064; I.N. 2014-05-01.

2065. The carrier shall issue to the shipper, at his request, a bill of lading based on the declarations of the shipper.

In addition to the usual particulars, such a bill of lading contains entries allowing the property to be carried to be clearly identified, including the leading marks appearing on it, and any relevant information.

The carrier may refuse to include in the bill of lading any particular whose accuracy he has serious reason to suspect or which he has had no means of checking.

1991, c. 64, a. 2065; 2002, c. 19, s. 15; I.N. 2014-05-01.

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2066. The shipper warrants the accuracy of his declarations at the time of shipment and is liable for any injury the carrier may suffer as a result of inaccuracies in his declarations.

The carrier may exercise his rights under this article only against the shipper.

1991, c. 64, a. 2066; I.N. 2014-05-01.

2067. Where the nature or value of the property is knowingly misstated by the shipper, the carrier is not liable for any loss.

1991, c. 64, a. 2067.

2068. Removal of the property creates a presumption that the property was delivered to the receiver in the condition indicated in the bill of lading or, failing such an indication, in its condition at the time of shipment, unless the receiver gives notice in writing of any loss with respect to the property to the carrier or to his representative at the port of discharge, not later than upon removal or, if the loss is not apparent, within three days of removal.

The carrier and the receiver may, at the time of removal, require a statement as to the condition of the property.

1991, c. 64, a. 2068; I.N. 2014-05-01.

2069. In the case of any actual or apprehended loss with respect to the property, the carrier and the receiver are bound to give each other facilities for inspecting and tallying the parcels.

1991, c. 64, a. 2069; I.N. 2014-05-01; I.N. 2015-11-01.

2070. Any stipulation in a contract whereby the carrier or the lessor is relieved from the obligation to make reparation for injury resulting from the loss sustained by the property carried, except in the case of carriage of live animals or property stowed on deck other than containers loaded on a ship fitted for the carriage of containers, is null.

Any clause assigning the benefit of insurance to the carrier or any similar clause is considered to be a stipulation relieving the carrier from liability.

1991, c. 64, a. 2070.

2071. The carrier is liable for any loss sustained by the property carried, from the time he takes charge of it until delivery.

He is liable, in particular, for any loss resulting from unseaworthiness unless he proves that he exercised diligence to make the ship seaworthy.

1991, c. 64, a. 2071; I.N. 2014-05-01; I.N. 2015-11-01.

2072. The carrier is not liable for any loss with respect to the property resulting from:

(1) fault in the navigation and management of the ship by the master, pilot or subordinates of the carrier;

(2) fire, unless caused by an act, omission or fault of the carrier;

(3) superior force;

(4) fault of the owner of the property or shipper, particularly in packing, packaging or marking the property;

(5) an inherent defect in the property or shrinkage;

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(6) an act or attempt to save life or property in the course of a carriage or a deviation for that purpose.

1991, c. 64, a. 2072; I.N. 2014-05-01; 2016, c. 4, s. 226.

2073. The shipper is not liable for any injury suffered by the carrier or for any damage caused to the ship, if it is not due to his fault or that of his subordinates.

1991, c. 64, a. 2073; I.N. 2014-05-01.

2074. The carrier is liable for any loss with respect to the property carried, up to the sum fixed by government regulation, unless a higher indemnity has been fixed by agreement between him and the shipper.

He may be held liable in excess of the amount fixed by regulation if he committed fraud or if the nature and value of the property were declared by the shipper before shipment and the declaration was attached to the bill of lading. The shipper's declaration is binding on the carrier, saving his right to make proof to the contrary.

1991, c. 64, a. 2074; I.N. 2014-05-01.

2075. No freight is payable for property lost by reason of perils of the sea or negligence on the part of the carrier to make the ship seaworthy.

1991, c. 64, a. 2075; I.N. 2014-05-01.

2076. The carrier may land, destroy or render innocuous any dangerous property if he would not have consented to its shipment had he been aware of its nature or properties.

The shipper of such property is liable for any injury resulting from its shipment and for any expense incurred by the carrier to dispose of it or render it innocuous.

1991, c. 64, a. 2076.

2077. Where dangerous property shipped with the knowledge and consent of the carrier becomes a danger to the ship or cargo, it may be landed, destroyed or rendered innocuous by the carrier without any liability on his part except by way of general average, if any.

1991, c. 64, a. 2077.

2078. The contract is resolved with no claim for damages on either part if, by reason of superior force, the sailing of the ship which was to effect the carriage is prevented or delayed such that carriage can no longer be effected usefully for the shipper and without risk of his incurring liability to the carrier.

1991, c. 64, a. 2078; I.N. 2014-05-01.

2079. Any action against the carrier, shipper or receiver under a contract of carriage is prescribed by one year from the delivery of the property or, in the case of total loss, by one year from the date it should have been delivered.

1991, c. 64, a. 2079; I.N. 2014-05-01.

§ 3. — *Handling of property*

2080. The handling contractor is in charge of all loading and discharging operations, including all necessary operations prior and subsequent to loading and discharge.

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For the purposes of his activities, the handling contractor is presumed to have received the property as declared by the depositor.

1991, c. 64, a. 2080.

2081. The handling contractor acts on behalf of the person who hired his services and is liable only to that person, who alone has an action against him.

1991, c. 64, a. 2081.

2082. The handling contractor may be called upon, on behalf of the carrier, shipper or receiver, to receive and tally, onshore, property to be loaded and to have custody of it until loading; he may likewise be called upon to receive and tally, onshore, discharged property and to have custody of and deliver it.

These additional services are due if they have been agreed or if they are consistent with the custom of the port.

1991, c. 64, a. 2082; I.N. 2014-05-01.

2083. The handling contractor may be exonerated from liability for any loss with respect to property for the same reasons as the carrier; however, the plaintiff may in those cases establish that the loss is due to the fault of the handling contractor or his subordinates.

In no case may the liability of the handling contractor exceed the sum fixed by government regulation, unless he committed fraud or has been notified of a declaration of the value of the property.

1991, c. 64, a. 2083; I.N. 2014-05-01.

2084. No clause for the purpose or to the effect of relieving the handling contractor from liability, shifting the burden of proof which lies upon him, limiting his liability to a sum lower than that fixed by regulation or assigning the benefit of insurance to him may be set up against the shipper or the receiver.

1991, c. 64, a. 2084; I.N. 2014-05-01.

CHAPTER VII

CONTRACT OF EMPLOYMENT

2085. A contract of employment is a contract by which a person, the employee, undertakes, for a limited time and for remuneration, to do work under the direction or control of another person, the employer.

1991, c. 64, a. 2085; 2016, c. 4, s. 227.

2086. A contract of employment is for a fixed term or an indeterminate term.

1991, c. 64, a. 2086.

2087. The employer is bound not only to allow the performance of the work agreed upon and to pay the remuneration fixed, but also to take any measures consistent with the nature of the work to protect the health, safety and dignity of the employee.

1991, c. 64, a. 2087.

2088. The employee is bound not only to perform his work with prudence and diligence, but also to act faithfully and honestly and not use any confidential information he obtains in the performance or in the course of his work.

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These obligations continue for a reasonable time after the contract terminates and permanently where the information concerns the reputation and privacy of others.

1991, c. 64, a. 2088; I.N. 2014-05-01; I.N. 2015-11-01.

2089. The parties may stipulate in writing and in express terms that, even after the termination of the contract, the employee may neither compete with his employer nor participate in any capacity whatsoever in an enterprise which would compete with him.

However, the stipulation shall be limited as to time, place and type of employment, to what is necessary for the protection of the legitimate interests of the employer.

The burden of proof that the stipulation is valid is on the employer.

1991, c. 64, a. 2089; I.N. 2014-05-01.

2090. A contract of employment is tacitly renewed for an indeterminate term where the employee continues to carry on his work for five days after the expiry of the term, without objection from the employer.

1991, c. 64, a. 2090.

2091. Either party to a contract for an indeterminate term may terminate it by giving notice of termination to the other party.

The notice of termination shall be given in reasonable time, taking into account, in particular, the nature of the employment, the specific circumstances in which it is carried on and the duration of the period of work.

1991, c. 64, a. 2091; I.N. 2014-05-01.

2092. The employee may not renounce his right to obtain an indemnity for any injury he suffers where insufficient notice of termination is given or where the manner of resiliation is abusive.

1991, c. 64, a. 2092; I.N. 2014-05-01.

2093. A contract of employment terminates upon the death of the employee.

Depending on the circumstances, it may also terminate upon the death of the employer.

1991, c. 64, a. 2093.

2094. One of the parties may, for a serious reason, unilaterally resiliate the contract of employment without prior notice.

1991, c. 64, a. 2094.

2095. An employer may not avail himself of a stipulation of non-competition if he has resiliated the contract without a serious reason or if he has himself given the employee such a reason for resiliating the contract.

1991, c. 64, a. 2095.

2096. Upon termination of the contract, the employer shall furnish to the employee, at his request, a certificate of employment stating only the nature and duration of the employment and indicating the identities of the parties.

1991, c. 64, a. 2096; I.N. 2014-05-01.

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2097. A contract of employment is not terminated by alienation of the enterprise or any change in its legal structure by way of amalgamation or otherwise.

The contract is binding on the successor of the employer.

1991, c. 64, a. 2097; 2002, c. 19, s. 15.

CHAPTER VIII

CONTRACT OF ENTERPRISE OR FOR SERVICES

DIVISION I

NATURE AND SCOPE OF THE CONTRACT

2098. A contract of enterprise or for services is a contract by which a person, the contractor or the provider of services, as the case may be, undertakes to another person, the client, to carry out physical or intellectual work or to supply a service, for a price which the client binds himself to pay to him.

1991, c. 64, a. 2098; I.N. 2014-05-01.

2099. The contractor or the provider of services is free to choose the means of performing the contract and, with respect to such performance, no relationship of subordination exists between the contractor or the provider of services and the client.

1991, c. 64, a. 2099; I.N. 2014-05-01.

2100. The contractor and the provider of services are bound to act in the best interests of their client, with prudence and diligence. Depending on the nature of the work to be carried out or the service to be supplied, they are also bound to act in accordance with usage and good practice and, where applicable, to ensure that the work carried out or service supplied is in conformity with the contract.

Where they are bound to an obligation of result, they may not be relieved from their liability except by proving superior force.

1991, c. 64, a. 2100; I.N. 2014-05-01; I.N. 2015-11-01.

DIVISION II

RIGHTS AND OBLIGATIONS OF THE PARTIES

§ 1. — *General provisions applicable to both services and works*

2101. Unless a contract has been entered into in view of his personal qualities or unless the very nature of the contract prevents it, the contractor or the provider of services may obtain the assistance of a third person to perform the contract, but its performance remains under his supervision and responsibility.

1991, c. 64, a. 2101; 2016, c. 4, s. 229.

2102. Before the contract is entered into, the contractor or the provider of services is bound to provide the client, as far as circumstances permit, with any useful information concerning the nature of the task which he undertakes to perform and the property and time required for that task.

1991, c. 64, a. 2102.

2103. The contractor or the provider of services supplies the property necessary for the performance of the contract, unless the parties have stipulated that only his work is required.

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He shall supply only property of good quality; he is bound by the same warranties with respect to the property as a seller.

A contract is a contract of sale, and not a contract of enterprise or for services, where the work or service is merely an accessory in relation to the value of the property supplied.

1991, c. 64, a. 2103; I.N. 2014-05-01.

2104. Where the property is supplied by the client, the contractor or the provider of services is bound to use it with care and to account for its use; where the property is manifestly unfit for its intended use or where it has an apparent or latent defect of which the contractor or the provider of services should be aware, he is bound to inform the client immediately, failing which he is liable for any injury which may result from the use of the property.

1991, c. 64, a. 2104; I.N. 2014-05-01.

2105. If the property necessary for the performance of the contract perishes by superior force, the party that supplied it bears the loss.

1991, c. 64, a. 2105; I.N. 2014-05-01.

2106. The price of the work or services is fixed by the contract, by usage or by law or on the basis of the value of the work carried out or the services rendered.

1991, c. 64, a. 2106.

2107. Where the price of the work or services is estimated at the time the contract is entered into, the contractor or the provider of the services shall justify any increase of the price.

The client is bound to pay such increase only to the extent that it results from work, services or expenses that the contractor or the provider of services could not have foreseen at the time the contract was entered into.

1991, c. 64, a. 2107; I.N. 2014-05-01.

2108. Where the price is fixed according to the value of the work performed, the services rendered or the property supplied, the contractor or the provider of services is bound, at the request of the client, to give him an account of the work progress, of the services that have been rendered and of the expenses incurred so far.

1991, c. 64, a. 2108; I.N. 2014-05-01.

2109. Where the price is fixed by the contract, the client shall pay the price agreed, and may not claim a reduction of the price on the ground that the work or service required less effort or cost less than had been foreseen.

Similarly, the contractor or the provider of services may not claim an increase of the price for the opposite reason.

Unless otherwise agreed by the parties, the price fixed by the contract remains unchanged notwithstanding any modification of the original terms and conditions of performance.

1991, c. 64, a. 2109.

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§ 2. — *Special provisions as to works*

1991, c. 64, Sd. 2; I.N. 2014-05-01.

I. — *General provisions*

2110. The client is bound to accept the work when work is completed; work is completed when the work has been produced and is ready to be used for its intended purpose.

Acceptance of the work is the act by which the client declares that he accepts it, with or without reservation.

1991, c. 64, a. 2110.

2111. The client is not bound to pay the price before the work is accepted.

At the time of payment, the client may withhold from the price, until the repairs or corrections are made to the work, a sufficient amount to meet the reservations which he made as to the apparent defects or apparent poor workmanship that existed when he accepted the work.

The client may not exercise this right if the contractor furnishes him with sufficient security to secure the performance of his obligations.

1991, c. 64, a. 2111; I.N. 2014-05-01; 2016, c. 4, s. 230.

2112. If the parties do not agree on the amount to be withheld and on the work to be completed, an assessment is made by an expert designated by the parties or, failing that, by the court.

1991, c. 64, a. 2112; 2016, c. 4, s. 231.

2113. A client who accepts without reservation nevertheless retains his right to pursue his remedies against the contractor in cases of nonapparent defects or nonapparent poor workmanship.

1991, c. 64, a. 2113; I.N. 2014-05-01.

2114. Where the work is performed in successive phases, it may be accepted in parts; the price for each part is payable upon delivery and acceptance of the part; payment creates a presumption that the part has been accepted, unless the sums paid are to be considered as merely partial payments on account of the price.

1991, c. 64, a. 2114; I.N. 2014-05-01.

2115. The contractor is liable for loss of the work occurring before its delivery, unless it is due to the fault of the client or the client is in default for not receiving the work.

However, where the property is supplied by the client, the contractor is not liable for the loss of the work unless it is due to his fault or some other failure on his part. He may not claim the price of his work except where the loss of the work results from an inherent defect in the property supplied or a defect in the property that he was unable to detect, or where the loss is due to the fault of the client.

1991, c. 64, a. 2115; I.N. 2014-05-01; I.N. 2015-11-01.

2116. The prescription of rights to pursue remedies between the parties begins to run only from the time that work is completed, even with respect to work that was subject to reservations at the time of acceptance of the work.

1991, c. 64, a. 2116; I.N. 2014-05-01.

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II. — *Immovable works*

2117. At any time during the construction or renovation of an immovable, the client, provided he does not interfere with the work, may examine the progress of the work, the quality of the materials used and of the work performed, and the statement of expenses incurred so far.

1991, c. 64, a. 2117.

2118. Unless they can be relieved from liability, the contractor, the architect, the engineer and the professional technologist who, as the case may be, directed or supervised the work, and the subcontractor with respect to work performed by him, are solidarily liable for the loss of the work occurring within five years after the work was completed, whether the loss results from faulty design, construction or production of the work, or defects in the ground.

1991, c. 64, a. 2118; I.N. 2014-05-01; 2020, c. 15, s. 57.

2119. The architect, engineer or professional technologist may be relieved from liability only by proving that the defects in the work or in the part of it carried out by him do not result from any error or defect in the expert opinions or plans he may have supplied or from any failure in the direction or supervision of the work.

The contractor may be relieved from liability only by proving that the defects result from an error or defect in the expert opinions or plans of the architect, engineer or professional technologist selected by the client. The subcontractor may be relieved from liability only by proving that the defects result from decisions of the contractor or from the expert opinions or plans of the architect, engineer or professional technologist.

Each may, in addition, be relieved from liability by proving that the defects result from decisions imposed by the client in selecting the land or materials, or the subcontractors, experts, or construction methods.

1991, c. 64, a. 2119; I.N. 2014-05-01; 2016, c. 4, s. 232; 2020, c. 15, s. 58.

2120. The contractor, the architect, the engineer and the professional technologist, for the work they directed or supervised, and, where applicable, the subcontractor, for the work he performed, are jointly bound to warrant the work for one year against poor workmanship existing at the time of acceptance or discovered within one year after acceptance.

1991, c. 64, a. 2120; 2002, c. 19, s. 15; I.N. 2014-05-01; 2020, c. 15, s. 59.

2121. An architect, engineer or professional technologist who does not direct or supervise work is liable only for the loss occasioned by a defect or error in the plans or in the expert opinions he supplied.

1991, c. 64, a. 2121; I.N. 2014-05-01; 2020, c. 15, s. 60.

2122. During the performance of the work, the contractor may, if so provided in the agreement, require partial payments on account of the price of the contract for the value of the work performed and of the materials needed to produce the work; before doing so, he is bound to furnish the client with a statement of the amounts paid to the subcontractors, to the persons having supplied the materials and to any other person having participated in the work, and of the amounts he still owes them for the completion of the work.

1991, c. 64, a. 2122; I.N. 2014-05-01.

2123. At the time of payment, the client may withhold from the price of the contract an amount sufficient to pay the claims of the workmen, as well as those of the other persons who may enforce a legal hypothec on the immovable work and who have given him notice of their contract with the contractor, in relation to the work performed or the materials or services supplied after the notice was given.

The withholding is valid until such time as the contractor gives the client an acquittance of such claims.

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The client may not exercise the right set out in the first paragraph if the contractor furnishes him with sufficient security to secure the claims.

1991, c. 64, a. 2123; I.N. 2014-05-01.

2124. For the purposes of this chapter, the property developer who sells the work which he has built or caused to be built, even after its completion, is considered to be a contractor.

1991, c. 64, a. 2124; 1992, c. 57, s. 716; I.N. 2014-05-01.

DIVISION III

RESILIATION OF THE CONTRACT

2125. The client may unilaterally resiliate the contract even though the work or provision of service is already in progress.

1991, c. 64, a. 2125.

2126. The contractor or the provider of services may not resiliate the contract unilaterally except for a serious reason, and never at an inopportune moment; otherwise, he is bound to make reparation for injury caused to the client as a result of the resiliation.

Where the contractor or the provider of services resiliates the contract, he is bound to do all that is immediately necessary to prevent any loss.

1991, c. 64, a. 2126; I.N. 2014-05-01.

2127. The death of the client does not terminate the contract unless its performance thereby becomes impossible or useless.

1991, c. 64, a. 2127.

2128. The contract is not terminated by the death or incapacity of the contractor or the provider of services unless it has been entered into in view of his personal qualities or cannot be adequately continued by the person who succeeds him in his activities, in which case the client may resiliate it.

1991, c. 64, a. 2128; I.N. 2014-05-01; 2016, c. 4, s. 233.

2129. Upon resiliation of the contract, the client is bound to pay to the contractor or the provider of services, in proportion to the agreed price, the actual costs and expenses, the value of the work performed before the end of the contract or before the notice of resiliation and, as the case may be, the value of the property supplied, where it can be put into his hands and used by him.

For his part, the contractor or the provider of services is bound to repay any advances he has received in excess of what he has earned.

In either case, each party is liable for any other injury that the other party may have suffered.

1991, c. 64, a. 2129; I.N. 2014-05-01.

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CHAPTER IX

MANDATE

DIVISION I

NATURE AND SCOPE OF MANDATE

2130. Mandate is a contract by which a person, the mandator, confers upon another person, the mandatary, the power to represent him in the performance of a juridical act with a third person, and the mandatary, by his acceptance, binds himself to exercise the power.

That power and, where applicable, the writing evidencing it are also called power of attorney.

1991, c. 64, a. 2130; I.N. 2014-05-01; 2016, c. 4, s. 234.

2131. The object of the mandate may also be the performance of acts intended to ensure the personal protection of the mandator, the administration, in whole or in part, of his patrimony and, generally, his moral and material well-being, should he become incapable of taking care of himself or administering his property.

1991, c. 64, a. 2131; 2002, c. 19, s. 15; I.N. 2014-05-01; I.N. 2015-11-01.

2132. Acceptance of a mandate may be express or tacit. Tacit acceptance may be inferred from the acts and even from the silence of the mandatary.

1991, c. 64, a. 2132.

2133. A mandate is either by gratuitous title or by onerous title. A mandate entered into between two natural persons is presumed to be by gratuitous title, but a professional mandate is presumed to be by onerous title.

1991, c. 64, a. 2133; I.N. 2014-05-01.

2134. The remuneration, if any, is determined by the contract, usage or law, or on the basis of the value of the services rendered.

1991, c. 64, a. 2134; I.N. 2014-05-01.

2135. A mandate may be special, for a particular matter, or general, for all the affairs of the mandator.

A mandate expressed in general terms confers the power to perform acts of simple administration only. The power to perform other acts is conferred only by express mandate, except where, in the case of a protection mandate, that mandate confers full administration.

1991, c. 64, a. 2135; I.N. 2014-05-01; I.N. 2016-01-01 (NCCP).

2136. The powers of a mandatary extend not only to what is expressed in the mandate, but also to anything that may be inferred therefrom. The mandatary may carry out all acts which are incidental to such powers and which are necessary for the performance of the mandate.

1991, c. 64, a. 2136.

2137. Powers that are granted to persons to perform an act not outside the scope of their profession or duties, but that may be inferred from the nature of such profession or duties, need not be mentioned expressly.

1991, c. 64, a. 2137; I.N. 2014-05-01.

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DIVISION II

OBLIGATIONS BETWEEN PARTIES

§ 1. — *Obligations of the mandatary towards the mandator*

2138. A mandatary is bound to fulfill the mandate he has accepted, and he shall act with prudence and diligence in performing it.

He shall also act honestly and faithfully in the best interests of the mandator, and shall avoid placing himself in a position where his personal interest is in conflict with that of his mandator.

1991, c. 64, a. 2138; I.N. 2014-05-01.

2139. In the course of the mandate, the mandatary is bound to inform the mandator, at the mandator's request or where circumstances warrant it, of the stage reached in the performance of the mandate.

The mandatary shall inform the mandator without delay that he has fulfilled his mandate.

1991, c. 64, a. 2139; I.N. 2014-05-01.

2140. The mandatary is bound to fulfill the mandate himself unless he is authorized by the mandator to appoint another person to perform all or part of it in his place.

If the interests of the mandator so require, however, the mandatary shall appoint a third person to replace him where unforeseen circumstances prevent him from fulfilling the mandate and he is unable to inform the mandator thereof in due time.

1991, c. 64, a. 2140; I.N. 2014-05-01.

2141. The mandatary is accountable for the acts of the person he has appointed without authorization as his substitute as if he had performed them himself; where he was authorized to make such a substitution, he is accountable only for the care with which he selected his substitute and gave him instructions.

In all cases, the mandator has a direct action against the person appointed by the mandatary as his substitute.

1991, c. 64, a. 2141; I.N. 2014-05-01.

2142. In the performance of the mandate, the mandatary, unless prohibited from doing so by the mandator or by usage, may be assisted by another person and delegate powers to him for that purpose.

The mandatary remains liable to the mandator for the acts performed by the person who assisted him.

1991, c. 64, a. 2142; I.N. 2014-05-01.

2143. A mandatary who agrees to represent, for the same act, parties whose interests conflict or could conflict shall so inform each of the mandators, unless he is exempted by usage or by the fact that each of the mandators is aware of the double mandate; he shall act impartially towards each of them.

Where a mandator was not in a position to know of the double mandate, he may have the act of the mandatary declared null if he suffers injury as a result.

1991, c. 64, a. 2143; I.N. 2014-05-01; 2016, c. 4, s. 235.

2144. Where several mandataries are appointed together for the same matter, the mandate has effect only if it is accepted by all of them.

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The mandataries shall act jointly for all acts contemplated in the mandate, unless otherwise stipulated or implied by the mandate. They are solidarily bound to perform their obligations.

1991, c. 64, a. 2144; I.N. 2014-05-01; I.N. 2015-11-01; 2016, c. 4, s. 236.

2145. A mandatary who, alone, exercises powers that he is charged to exercise with another exceeds his powers, unless he has exercised them in a manner more advantageous to the mandator than that agreed upon.

1991, c. 64, a. 2145; I.N. 2014-05-01.

2146. The mandatary may not use for his benefit any information he obtains or any property he is charged with receiving or administering in the performance of his mandate, unless the mandator consents to such use or such use arises from the law or the mandate.

If the mandatary uses the property or information without authorization, he shall indemnify the mandator by paying, in addition to any indemnity for which he may be liable for injury suffered, in the case of information, an amount equal to the enrichment he obtains or, in the case of property, appropriate rent or the interest on the sums used.

1991, c. 64, a. 2146; I.N. 2014-05-01.

2147. The mandatary may not, even through an intermediary, become a party to an act which he has agreed to perform for his mandator, unless the mandator authorizes it or is aware of his quality as a contracting party.

Only the mandator may avail himself of the nullity resulting from the violation of this rule.

1991, c. 64, a. 2147.

2148. Where the mandate is by gratuitous title, the court may, after assessing the extent of the mandatary's liability, reduce the amount of damages for which he is liable.

1991, c. 64, a. 2148.

§ 2. — *Obligations of the mandator towards the mandatary*

2149. The mandator is bound to cooperate with the mandatary to facilitate the fulfilment of the mandate.

1991, c. 64, a. 2149.

2150. Where required, the mandator advances to the mandatary the necessary sums for the performance of the mandate. He reimburses the mandatary for any reasonable expenses he has incurred and pays him the remuneration to which he is entitled.

1991, c. 64, a. 2150.

2151. The mandator owes interest on expenses incurred by the mandatary in the performance of his mandate from the day they are disbursed.

1991, c. 64, a. 2151.

2152. The mandator is bound to discharge the mandatary from the obligations he has contracted towards third persons within the limits of the mandate.

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The mandator is not liable to the mandatary for any act which exceeds the limits of the mandate. He is fully liable, however, if he ratifies such act or if the mandatary, at the time he acted, was unaware that the mandate had terminated.

1991, c. 64, a. 2152.

2153. The mandator is presumed to have ratified an act which exceeds the limits of the mandate where the act has been performed in a manner more advantageous to him than the one he had indicated.

1991, c. 64, a. 2153; I.N. 2014-05-01.

2154. Where the mandatary has not committed any fault, the mandator is bound to indemnify him for any injury he has suffered by reason of the performance of the mandate.

1991, c. 64, a. 2154; I.N. 2014-05-01; 2016, c. 4, s. 237.

2155. If no fault is attributable to the mandatary, the sums owed to him are payable even though the matter was not successfully concluded.

1991, c. 64, a. 2155; I.N. 2014-05-01.

2156. If a mandate is given by several persons, their obligations towards the mandatary are solidary.

1991, c. 64, a. 2156.

DIVISION III

OBLIGATIONS OF THE PARTIES TOWARDS THIRD PERSONS

1991, c. 64, Div. III; I.N. 2014-05-01.

§ 1. — *Obligations of the mandatary towards third persons*

2157. A mandatary who binds himself, within the limits of his mandate, in the name and on behalf of the mandator, is not personally liable to the third person with whom he contracts.

The mandatary is liable to the third person if he acts in his own name, subject to any rights the third person may have against the mandator.

1991, c. 64, a. 2157; I.N. 2014-05-01.

2158. A mandatary who exceeds his powers is personally liable to the third person with whom he contracts, unless the third person was sufficiently aware of the mandate, or unless the mandator has ratified the acts performed by the mandatary.

1991, c. 64, a. 2158; I.N. 2014-05-01.

2159. A mandatary who agrees with a third person to disclose the identity of his mandator within a fixed period and fails to do so, binds himself personally.

A mandatary also binds himself personally if he is bound to withhold the name of the mandator or knows, but fails to mention, that the person whose identity he discloses is insolvent, is a minor or is under tutorship to a person of full age or under a protection mandate.

1991, c. 64, a. 2159; I.N. 2014-05-01; 2020, c. 11, s. 81.

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§ 2. — *Obligations of the mandator towards third persons*

2160. A mandator is liable to third persons for the acts performed by the mandatary in the performance and within the limits of his mandate unless, under the agreement or by virtue of usage, the mandatary alone is liable.

The mandator is also liable for any acts which exceeded the limits of the mandate, if he has ratified them.

1991, c. 64, a. 2160; I.N. 2014-05-01.

2161. The mandator may, if he suffers injury thereby, repudiate the acts of the person appointed by the mandatary as his substitute where the substitution was made without the mandator's authorization or where the mandator's interest or the circumstances did not warrant the substitution.

1991, c. 64, a. 2161; I.N. 2014-05-01.

2162. The mandator or, upon his death, his heirs are liable to third persons for acts performed by the mandatary in the performance and within the limits of the mandate after the termination of the mandate, where the acts were the necessary consequence of those already performed or could not be deferred without risk of loss, or where the third person was unaware of the termination of the mandate.

1991, c. 64, a. 2162; I.N. 2014-05-01; I.N. 2015-11-01.

2163. Where a person has allowed it to be believed that another person was his mandatary, he is liable, as if there had been a mandate, to a third person who in good faith has contracted with that other person, unless he took appropriate measures to prevent the error in circumstances in which it was foreseeable.

1991, c. 64, a. 2163; I.N. 2014-05-01; I.N. 2015-11-01.

2164. A mandator is liable for any injury caused by the fault of the mandatary in the performance of his mandate unless he proves, where the mandatary was not his subordinate, that he could not have prevented the injury.

1991, c. 64, a. 2164; I.N. 2014-05-01.

2165. A mandator, after disclosing to a third person the mandate he had given, may take action directly against the third person for the performance of the obligations contracted by that person towards the mandatary who had acted in his own name. However, the third person may plead the inconsistency of the mandate with the stipulations or nature of his contract, as well as the defenses which can be set up against the mandator and the mandatary respectively.

If proceedings have already been instituted against the third person by the mandatary, the mandator may exercise his right only by intervening in the proceedings.

1991, c. 64, a. 2165; I.N. 2014-05-01.

DIVISION IV

SPECIAL RULES GOVERNING PROTECTION MANDATES

2014, c. 1, s. 794.

2166. A protection mandate is a mandate given by a person of full age in anticipation of his incapacity to take care of himself or to administer his property; it is made by a notarial act *en minute* or in the presence of witnesses. It may not be made jointly by two or more persons.

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The performance of the mandate is conditional upon the occurrence of the incapacity, ascertained by medical and psychosocial assessment reports, and homologation by the court upon application by the mandatary designated in the act.

1991, c. 64, a. 2166; I.N. 2014-05-01; 2014, c. 1, s. 795; 2020, c. 11, s. 82.

2166.1. A mandate may, in particular, state the wishes of the mandator with respect to his care or to his living environment. However, the wishes expressed with respect to medical care in advance medical directives prevail over any conflicting wishes stated in the mandate.

The mandate may also state the mandator's wish to be periodically subject to medical and psychosocial assessments, and set the time limits within which the mandator will be reassessed.

The mandate must indicate the person to whom the mandatary shall render an account and the intervals at which the mandatary shall do so, which may not exceed three years. If the person to whom the mandatary shall render an account has not been designated or where the person designated to receive the account is unable to act, the court may designate another person to receive it. The Public Curator may be designated to receive the account both by the mandator and by the court.

2020, c. 11, s. 83.

2167. A mandate made in the presence of witnesses is drawn up by the mandator or by a third person.

The mandator, in the presence of two witnesses who have no interest in the act and who are able to ascertain his capacity to act, declares the nature of the act but need not disclose its contents. The mandator signs the act at the end or, if he has already signed it, acknowledges his signature; he may also cause a third person to sign the writing for him in his presence and according to his instructions. The witnesses sign the mandate forthwith in the presence of the mandator.

1991, c. 64, a. 2167; I.N. 2014-05-01.

2167.1. In the course of homologation proceedings or even before if a request for homologation is imminent and it is necessary to act to prevent serious injury for the mandator, the court may issue any order it considers necessary to ensure the personal protection of the mandator, his representation in the exercise of civil rights or the administration of his property.

An act under which the mandator has already charged the administration of his property to another person continues to produce its effects notwithstanding the proceedings, unless the act is revoked by the court for a serious reason.

2002, c. 19, s. 9; I.N. 2014-05-01; I.N. 2015-11-01.

2167.2. Every decision relating to the homologation or performance of a protection mandate shall be made in the interest of the mandator, respect his rights and safeguard his autonomy, taking into account his wishes and preferences.

The mandator shall, so far as possible and without delay, be informed of the decision.

2020, c. 11, s. 84.

2167.3. To ensure the moral and material well-being of the mandator, the mandatary takes into account his condition, his needs and his faculties as well as the other circumstances of his situation.

So far as possible, the mandatary shall maintain a personal relationship with the mandator, involve him in the decisions made in his regard and keep him informed of those decisions.

2020, c. 11, s. 84.

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2167.4. The mandatary shall, within 60 days after the mandate is homologated, make an inventory of the property to be administered and transmit a copy of it to the person designated to receive the account.

The rules for administration of the property of others set out in articles 1326 to 1329 apply to the inventory, subject to any stipulations regarding it in the mandate.

2020, c. 11, s. 84.

2167.5. A mandatary who continues the administration of another mandatary after the rendering of account is exempt from making an inventory, subject to the stipulations in the mandate.

2020, c. 11, s. 84.

2168. Where the scope of the mandate is unclear, the mandatary interprets it according to the rules that apply to tutorship to persons of full age.

If as a result any notice, consent or authorization is required pursuant to the rules with respect to the administration of the property of others, the mandatary obtains it from the Public Curator or from the court.

1991, c. 64, a. 2168; I.N. 2014-05-01.

2169. Where the mandate does not fully ensure care of the person or administration of his property, tutorship to a person of full age may be instituted to complete it; the mandatary then continues to perform the mandate and reports, on request and at least once each year, to the tutor. At the end of the mandate, he renders an account to the tutor.

The mandatary is bound by such obligations only with respect to the tutor to the person. If the protection of the person is assumed by the mandatary himself, the tutor to property is bound by the same obligations towards the mandatary.

1991, c. 64, a. 2169; I.N. 2014-05-01; 2020, c. 11, s. 85.

2170. Acts performed before the homologation of the mandate may be annulled or the resulting obligations may be reduced, on the mere proof that the mandator's incapacity was notorious or known to the other contracting party at the time that the acts were entered into.

Acts performed alone by the mandator after the homologation of the mandate that are incompatible with its stipulations may not be annulled or the resulting obligations reduced, unless he suffers injury therefrom.

1991, c. 64, a. 2170; I.N. 2015-11-01; 2020, c. 11, s. 86.

2171. Unless otherwise stipulated in the mandate, the mandatary is authorized to perform, to his benefit, the obligations of the mandator provided in articles 2150 to 2152 and 2154.

1991, c. 64, a. 2171.

2172. The mandate ceases to have effect when the court ascertains that the mandator has again become capable; the mandator may then revoke his mandate if he considers it appropriate to do so.

1991, c. 64, a. 2172.

2173. If the competent person under the Act that governs the health or social services institution which provides care or services to the mandator becomes aware that the mandator has again become capable, he shall attest to such capacity in a report filed in the office of the court. The report includes the medical and psychosocial assessments.

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The mandator or the mandatary may also request medical and psychosocial assessments to assess the capacity of the mandator. If the assessors conclude that the mandator has again become capable, they shall send a copy of their assessment reports to the mandator and the mandatary and file a copy in the office of the court.

The clerk informs the mandatary, the mandator and the persons qualified to intervene in an application for the institution of tutorship to a person of full age that the report has been filed. If no objection is made within 30 days after the date of the notice, the court is presumed to have found that the mandator has again become capable, and the clerk shall, without delay, transmit a notice of cessation of the effects of the mandate to the mandator, the mandatary and the Public Curator.

1991, c. 64, a. 2173; I.N. 2014-05-01; 2020, c. 11, s. 87; 2023, c. 34, s. 835.

2174. Notwithstanding any stipulation to the contrary, the mandatary may not renounce his mandate unless he has first seen to his replacement if the mandate provides therefor, or has applied for the institution of tutorship to a person of full age for the mandator.

1991, c. 64, a. 2174; I.N. 2014-05-01; 2016, c. 4, s. 238; 2020, c. 11, s. 88.

2174.1. The replacement mandatary is bound to give notice of his taking office to the Public Curator.

2020, c. 11, s. 89.

2174.2. The replacement mandatary may, if the mandate is not being faithfully performed or for any other serious reason, apply to the court to have it replace the initial mandatary and order the rendering of an account by the latter.

2020, c. 11, s. 89.

DIVISION V

TERMINATION OF MANDATE

2175. In addition to the causes of extinction common to obligations, the mandate is terminated by its revocation by the mandator, by renunciation by the mandatary, by the extinction of the power conferred on the mandatary or by the death of either of the parties.

The mandate is also terminated by bankruptcy, except in the case of a protection mandate given by gratuitous title; it may also be terminated, in certain cases, by the institution of tutorship to a person of full age or the homologation of a protection mandate for either of the parties.

1991, c. 64, a. 2175; I.N. 2014-05-01; I.N. 2016-01-01 (NCCP); 2020, c. 11, s. 90.

2176. The mandator may revoke the mandate and compel the mandatary to return to him the power of attorney in order to make a notation thereon of the termination of the mandate. The mandatary has the right to require that the mandator furnish him with a duplicate of the power of attorney containing the notation.

Where the power of attorney is made by notarial act *en minute*, the mandator makes the notation on a copy and may give notice of the termination of the mandate to the depositary of the act, who is bound to note it on the act and on every copy of it which he issues.

Such a notation may be made on the mandate or, if applicable, on a copy of it or in a writing attached to the mandate or copy, directly or by a reference.

1991, c. 64, a. 2176; I.N. 2014-05-01; 2023, c. 23, s. 4.

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2177. Where the mandator is incapable, any interested person, including the Public Curator, may, if the mandate is not being faithfully performed or for any other serious reason, apply to have the court revoke the mandate, order the rendering of an account by the mandatary and institute tutorship to a person of full age for the mandator.

1991, c. 64, a. 2177; I.N. 2014-05-01; 2020, c. 11, s. 91.

2178. The mandatary may renounce the mandate he has accepted by so notifying the mandator. He is thereupon entitled, if the mandate was given by onerous title, to the remuneration he has earned until the day of his renunciation.

However, the mandatary is bound to make reparation for injury caused to the mandator by his renunciation, if he renounces without a serious reason and at an inopportune moment.

1991, c. 64, a. 2178; I.N. 2014-05-01.

2179. The mandator may, for a fixed term or to ensure the performance of a particular obligation, renounce his right to revoke the mandate unilaterally.

The mandatary may, in the same manner, undertake not to exercise his right of renunciation.

Unilateral revocation or renunciation by, as the case may be, the mandator or the mandatary despite his undertaking terminates the mandate.

1991, c. 64, a. 2179; 2002, c. 19, s. 10; I.N. 2014-05-01.

2180. The appointment of a new mandatary by the mandator for the same matter is equivalent to revocation of the first mandatary from the day the first mandatary was notified of the new appointment.

1991, c. 64, a. 2180; I.N. 2014-05-01.

2181. A mandator who revokes a mandate remains bound to perform his obligations towards the mandatary; he is also bound to make reparation for injury caused to the mandatary as a result of a revocation made without a serious reason and at an inopportune moment.

Where notice of the revocation has been given only to the mandatary, the revocation does not affect a third person who deals with him while unaware of the revocation, without prejudice, however, to the remedy of the mandator against the mandatary.

1991, c. 64, a. 2181; I.N. 2014-05-01.

2182. Upon termination of the mandate, the mandatary is bound to do everything which is a necessary consequence of his acts or which cannot be deferred without risk of loss.

1991, c. 64, a. 2182.

2182.1. In the case of a protection mandate, the mandatary is bound to give notice of the mandator's death to the Public Curator.

2020, c. 11, s. 92.

2183. Upon the death of the mandatary or tutorship to a person of full age being instituted for him, the liquidator or tutor, if aware of the mandate and able to act, is bound to notify the mandator of the event and, with respect to any matter already begun, to do everything which cannot be deferred without risk of loss. The same rule applies upon the homologation of a protection mandate for the mandatary.

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In the case of a protection mandate, the liquidator of the mandatary is bound, in the same circumstances, to give notice of the mandatary's death to the Public Curator.

1991, c. 64, a. 2183; I.N. 2014-05-01; I.N. 2016-01-01 (NCCP); 2016, c. 4, s. 239; 2020, c. 11, s. 93.

2184. Upon termination of the mandate, the mandatary is bound to render an account and hand over to the mandator everything he has received in the performance of his duties, even if what he has received was not due to the mandator.

The mandatary owes interest, computed from the date of default, on sums received that constitute the balance of the account.

1991, c. 64, a. 2184; I.N. 2014-05-01; I.N. 2015-11-01.

2185. A mandatary is entitled to deduct what the mandator owes him by reason of the mandate from the sums he is required to remit.

The mandatary may also retain what was entrusted to him by the mandator for the performance of the mandate until payment of the sums due to him.

1991, c. 64, a. 2185.

CHAPTER X

CONTRACTS OF PARTNERSHIP AND OF ASSOCIATION

DIVISION I

GENERAL PROVISIONS

2186. A contract of partnership is a contract by which the parties, in a spirit of cooperation, agree to carry on an activity, including the operation of an enterprise, to contribute thereto by combining property, knowledge or activities and to share among themselves any resulting pecuniary profits.

A contract of association is a contract by which the parties agree to pursue a common goal other than the making of pecuniary profits to be shared among the members of the association.

1991, c. 64, a. 2186; I.N. 2014-05-01.

2187. The partnership or association is created upon the formation of the contract if no other date is indicated in the contract.

1991, c. 64, a. 2187.

2188. Partnerships are either general partnerships, limited partnerships or undeclared partnerships.

They may also be in joint-stock form, in which case they are legal persons.

1991, c. 64, a. 2188; I.N. 2014-05-01.

2189. A general or limited partnership is formed under a name that is common to the partners.

It shall file a registration declaration in accordance with the Act respecting the legal publicity of enterprises (chapter P-44.1); otherwise, it is deemed to be an undeclared partnership, subject to the rights of third persons in good faith.

1991, c. 64, a. 2189; 2010, c. 7, s. 168.

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2190. *(Repealed).*

1991, c. 64, a. 2190; 2010, c. 7, s. 169.

2191. If the partnership discovers or is informed that its registration declaration is incomplete, inaccurate or irregular, the declaration may be corrected by filing an updating declaration in accordance with the Act respecting the legal publicity of enterprises (chapter P-44.1).

1991, c. 64, a. 2191; 2010, c. 7, s. 170.

2192. A correction that would infringe upon the rights of the partners or of third persons has no effect in their regard unless they consented to it or unless the court, after hearing the persons concerned and, if necessary, amending the proposed updating declaration, ordered that it be filed.

1991, c. 64, a. 2192; 2010, c. 7, s. 170.

2193. The correction is deemed to be part of the registration declaration and to have taken effect simultaneously with it unless a later date is provided in the updating declaration or in the judgment.

1991, c. 64, a. 2193; 2010, c. 7, s. 170.

2194. Any change to the content of the registration declaration of the partnership shall be set forth in an updating declaration in accordance with the Act respecting the legal publicity of enterprises (chapter P-44.1).

1991, c. 64, a. 2194; 2010, c. 7, s. 171.

2195. Declarations relating to a partnership may be set up against third persons from the time the information they contain is recorded in the enterprise register. They constitute proof of their content in favour of third persons in good faith.

Third persons may refute the statements contained in a declaration, by any means.

1991, c. 64, a. 2195; 2010, c. 7, s. 172; 2010, c. 40, s. 92; I.N. 2014-05-01.

2196. If the registration declaration of the partnership is incomplete, inaccurate or irregular or, despite a change having occurred in the partnership, no updating declaration has been filed, the partners are liable to third persons for the resulting obligations of the partnership; however, special partners who are not otherwise liable for the obligations of the partnership do not incur that liablity.

1991, c. 64, a. 2196; 2010, c. 7, s. 173; I.N. 2014-05-01.

2197. A general or limited partnership shall, in the course of its activities, indicate its juridical form in its name or after its name.

Failing such indication in an act concluded by the partnership, the court, in ruling on the action of a third person in good faith, may decide that the partnership and its partners are liable, with respect to that act, in the same manner as an undeclared partnership and its partners.

1991, c. 64, a. 2197; 2002, c. 19, s. 15; I.N. 2014-05-01.

DIVISION II

GENERAL PARTNERSHIPS

§ 1. — *Relations of partners between themselves and with the partnership*

2198. A partner is a debtor to the partnership for everything he promises to contribute to it.

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Where a person promises to contribute a sum of money and fails to do so, he is liable for interest from the day his contribution ought to have been made, subject to any additional damages which may be claimed from him.

1991, c. 64, a. 2198; I.N. 2014-05-01.

2199. A contribution of property is made by transferring rights of ownership or of enjoyment and by placing the property at the disposal of the partnership.

In his relations with the partnership, the person who contributes property is warrantor therefor, in the same manner as a seller towards a buyer, where the contribution consists in the ownership of property; he is warrantor therefor, in the same manner as a lessor towards a lessee, where the contribution consists in the enjoyment of property.

In the case of property that would normally need to be renewed during the term of the partnership, a contribution consisting in enjoyment transfers ownership of the property to the partnership, subject to the obligation for it to return property of the same quantity, quality and value.

1991, c. 64, a. 2199; I.N. 2014-05-01; I.N. 2015-11-01.

2200. A contribution consisting of knowledge or activities is owed continuously so long as the partner who undertook to make such a contribution is a member of the partnership; the partner is liable to the partnership for any profit he realizes from the contribution.

1991, c. 64, a. 2200; I.N. 2014-05-01.

2201. Participation in the profits of a partnership entails the obligation to share in the losses.

1991, c. 64, a. 2201.

2202. The share of each partner in the assets, profits and losses is equal if it is not determined by the contract.

If the contract determines only each partner's share of the assets, profits or losses, that determination is presumed to be made for all three cases.

1991, c. 64, a. 2202; I.N. 2014-05-01.

2203. Any stipulation whereby a partner is excluded from participation in the profits is without effect.

Any stipulation whereby a partner is exempt from the obligation to share in the losses may not be set up against third persons.

1991, c. 64, a. 2203.

2204. A partner may not compete with the partnership on his own account or on behalf of a third person, or take part in an activity which deprives the partnership of the property, knowledge or activity he is bound to contribute to it; any profits arising therefrom belong to the partnership, without prejudice to the remedies it may pursue.

1991, c. 64, a. 2204; I.N. 2014-05-01.

2205. A partner is entitled, if he was in good faith, to recover the amount of the disbursements he made on behalf of the partnership and to be indemnified for the obligations he contracted and for the losses he suffered in acting for the partnership.

1991, c. 64, a. 2205; I.N. 2014-05-01.

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2206. Where one of the partners is, on his own account, the creditor of a person who is also a debtor of the partnership, and the debts are equally due, the amounts he receives from the debtor shall be charged to both claims in proportion to their respective amounts.

1991, c. 64, a. 2206; I.N. 2014-05-01; I.N. 2015-11-01.

2207. Where a partner has received his full share of a claim due to the partnership, and the debtor becomes insolvent, the partner is bound to remit to the partnership what he has received, even though he may have given an acquittance for his share.

1991, c. 64, a. 2207; I.N. 2014-05-01.

2208. Each partner may use the property of the partnership, provided he uses it in the interest of the partnership, according to the property's destination, and in such a way as not to prevent the other partners from using it as they are entitled.

Each partner may also bind the partnership in the course of its activities, but the partners may oppose dealings before they are entered into or restrict the right of a partner to bind the partnership.

1991, c. 64, a. 2208; I.N. 2014-05-01.

2209. A partner may, without the consent of the other partners, become a partner with a third person with respect to his share in the partnership, but he may not make him a member of the partnership without their consent.

Within 60 days after becoming aware that a person who is not a member of the partnership has acquired the share of a partner by onerous title, any partner may exclude the person from the partnership by reimbursing him for the price of the share and the expenses he has paid. That right may only be exercised within one year from the acquisition of the share.

1991, c. 64, a. 2209; I.N. 2014-05-01.

2210. Where a partner transfers his share in the partnership to a partner or to the partnership or where the partnership redeems it, the value of the share, if the parties fail to agree on it, is determined by an expert designated by the parties or, failing that, by the court.

1991, c. 64, a. 2210.

2211. The share of a partner in the assets or profits of the partnership may be charged with a hypothec. However, the share of a partner in the assets may only be hypothecated with the consent of the other partners or if so provided in the contract.

1991, c. 64, a. 2211; I.N. 2014-05-01.

2212. The partners may enter into such agreements between themselves as they consider appropriate with regard to their respective powers in the management of the affairs of the partnership.

1991, c. 64, a. 2212.

2213. The partners may appoint one or more fellow partners or even a third person to manage the affairs of the partnership.

Notwithstanding the objection of the partners, the manager may perform any act within his management powers, provided he does not act fraudulently. As long as the partnership lasts, those powers may not be revoked without a serious reason, except where they were conferred by an act subsequent to the contract of partnership, in which case they may be revoked in the same manner as a simple mandate.

1991, c. 64, a. 2213; I.N. 2014-05-01.

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2214. Where several persons are charged with the management without it being divided among them and without any stipulation preventing one from acting without the others, each of them may act separately; where there is such a stipulation, however, none of them may act without the others, even where it is impossible for the others to join in the act.

1991, c. 64, a. 2214; I.N. 2014-05-01; 2016, c. 4, s. 240.

2215. Failing any stipulation as to the mode of management, the partners are deemed to have conferred the power to manage the affairs of the partnership on one another.

Any act performed by a partner with respect to the common activities binds the other partners, without prejudice to their right to object, jointly or separately, to the act before it is performed.

In addition, each partner may compel his partners to incur any expenses necessary to preserve the common property, but a partner may not change the condition of that property without the consent of the others, regardless of how advantageous such change may be.

1991, c. 64, a. 2215; I.N. 2014-05-01.

2216. Every partner has the right to participate in collective decisions, and the contract of partnership may not prevent him from exercising that right.

Unless otherwise stipulated in the contract, collective decisions are taken by a majority vote of the partners, regardless of the value of their interests in the partnership, but collective decisions to amend the contract of partnership are taken by a unanimous vote.

1991, c. 64, a. 2216; I.N. 2014-05-01; I.N. 2015-11-01; 2016, c. 4, s. 241.

2217. A partner without powers of management may not alienate or otherwise dispose of common property, subject to the rights of third persons in good faith.

1991, c. 64, a. 2217.

2218. Notwithstanding any stipulation to the contrary, any partner, even though he is excluded from management, has the right to inform himself as to the state of the affairs of the partnership and consult its books and records.

In exercising this right, the partner is bound not to unduly hinder the operations of the partnership nor to prevent the other partners from exercising the same right.

1991, c. 64, a. 2218; I.N. 2014-05-01; I.N. 2015-11-01.

§ 2. — *Relations of the partnership and the partners with third persons*

2219. Each partner is a mandatary of the partnership with respect to third persons in good faith and binds the partnership for every act concluded in its name in the ordinary course of its activities.

No stipulation to the contrary may be set up against third persons in good faith.

1991, c. 64, a. 2219; I.N. 2014-05-01.

2220. An obligation contracted by a partner in his own name binds the partnership when it comes within the scope of the activities of the partnership or when its subject is property for use by the partnership.

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A third person may, however, cumulate the defences which may be set up against the partner and the partnership and plead that he would not have entered into the contract if he had known that the partner was acting on behalf of the partnership.

1991, c. 64, a. 2220; I.N. 2014-05-01; I.N. 2015-11-01.

2221. With respect to third persons, the partners are jointly liable for the obligations contracted by the partnership but they are solidarily liable if the obligations have been contracted for the service or operation of an enterprise of the partnership.

The creditors may bring an action against a partner for payment only after they have discussed the property of the partnership; even then, the property of the partner is applied to the payment of the creditors of the partnership only after his own creditors have been paid.

1991, c. 64, a. 2221; I.N. 2014-05-01.

2222. A person who gives reason to believe that he is a partner, even though he is not, may be held liable as a partner to third persons in good faith acting in that belief.

The partnership is, however, liable to third persons only if it gave reason to believe that such a person was a partner and it failed to take measures to prevent the error on their part in circumstances in which it was foreseeable.

1991, c. 64, a. 2222; I.N. 2014-05-01; I.N. 2015-11-01.

2223. Silent partners are liable to third persons for the same obligations as declared partners.

1991, c. 64, a. 2223; I.N. 2014-05-01.

2224. A partnership may not make a public offering of securities or issue negotiable instruments, on pain of nullity of the contracts entered into or of the securities or instruments issued and on pain of the obligation to make reparation for any injury the partnership causes to third persons in good faith.

In such a case, the partners are solidarily liable for the obligations of the partnership.

1991, c. 64, a. 2224; I.N. 2014-05-01; I.N. 2015-11-01.

2225. A partnership may sue and be sued under the name it declares.

1991, c. 64, a. 2225; 2016, c. 4, s. 242.

§ 3. — *Loss of the quality of partner*

2226. A partner ceases to be a member of the partnership by the transfer or redemption of his share, by his death, by tutorship to a person of full age being instituted or a protection mandate homologated for him, by becoming bankrupt, or by the exercise of his right of withdrawal; he also ceases to be a member by his own will, by his expulsion or by a judgment authorizing his withdrawal or ordering the seizure of his share.

1991, c. 64, a. 2226; I.N. 2014-05-01; 2020, c. 11, s. 94.

2227. A partner who ceases to be a member of the partnership otherwise than by the transfer or seizure of his share is entitled to receive the value his share had when he ceased to be a partner, and the other partners are bound to pay him that value as soon as it is determined, with interest from the day on which his membership ceased.

Failing stipulations in the contract of partnership or failing agreement among the interested persons as to the value of the share, the value is determined by an expert designated by the interested persons or, failing

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that, by the court. The expert or the court may, however, defer the assessment of contingent assets or liabilities.

1991, c. 64, a. 2227; I.N. 2014-05-01; I.N. 2015-11-01.

2228. A partner of a partnership constituted for a term that is not fixed or whose contract of partnership reserves the right of withdrawal may withdraw from the partnership by giving it notice of his withdrawal in good faith and not at an inopportune moment.

A partner of a partnership constituted for a fixed term may withdraw only with the agreement of a majority of the other partners, unless the contract of partnership stipulates otherwise.

1991, c. 64, a. 2228; I.N. 2014-05-01.

2229. The partners may, by majority vote, agree on the expulsion of a partner who fails to perform his obligations or hinders the carrying on of the activities of the partnership.

In the same circumstances, a partner may apply to the court for authorization to withdraw from the partnership; the application is granted unless the court considers it more appropriate to order the expulsion of the partner at fault.

1991, c. 64, a. 2229; I.N. 2014-05-01.

§ 4. — *Dissolution and liquidation of the partnership*

2230. A partnership is dissolved for the causes of dissolution provided for in the contract, by the achievement of its object or the impossibility of achieving it, or by consent of all the partners. It may also be dissolved by the court for a legitimate cause.

The partnership is then liquidated.

1991, c. 64, a. 2230; I.N. 2014-05-01; I.N. 2015-11-01.

2231. A partnership constituted for a specified term may be continued with the consent of all the partners.

1991, c. 64, a. 2231; I.N. 2014-05-01.

2232. The uniting of all the shares in the hands of a single partner does not entail dissolution of the partnership, provided at least one other partner joins the partnership within 120 days.

1991, c. 64, a. 2232.

2233. The powers of the partners to act on behalf of the partnership cease upon the dissolution of the partnership, except for acts which are a necessary consequence of dealings already begun.

However, anything done in the ordinary course of the activities of the partnership by a partner unaware of the dissolution of the partnership and acting in good faith binds the partnership and the other partners as if the partnership were still in existence.

1991, c. 64, a. 2233; I.N. 2014-05-01.

2234. Dissolution of the partnership does not affect the rights of third persons in good faith who subsequently enter into a contract with a partner or a mandatary acting on behalf of the partnership.

1991, c. 64, a. 2234.

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2235. Liquidation of the partnership is subject to the rules provided in articles 358 to 364 of the Book on Persons, adapted as required. The notices required by those rules shall be filed in accordance with the Act respecting the legal publicity of enterprises (chapter P-44.1).

1991, c. 64, a. 2235; 2010, c. 7, s. 174.

DIVISION III

LIMITED PARTNERSHIPS

2236. A limited partnership consists of one or more general partners who are the sole persons authorized to administer and bind the partnership, and of one or more special partners who are bound to contribute to the common stock of the partnership.

1991, c. 64, a. 2236; I.N. 2014-05-01.

2237. A limited partnership may make a public offering of securities to establish or increase the common stock, and may issue negotiable instruments.

A third person who undertakes to contribute becomes a special partner of the partnership.

1991, c. 64, a. 2237; I.N. 2014-05-01; I.N. 2015-11-01.

2238. General partners have the powers, rights and obligations of the partners of a general partnership but they are bound to render an account of their administration to the special partners.

The general partners are bound by the same obligations towards the special partners as those binding an administrator charged with full administration of the property of others towards the beneficiary of the administration.

Clauses restricting the powers of the general partners may not be set up against third persons in good faith.

1991, c. 64, a. 2238.

2239. The general partners keep a register at the place of the principal establishment of the partnership, containing the name and domicile of each of the special partners and all the information concerning their contributions to the common stock.

1991, c. 64, a. 2239; I.N. 2014-05-01.

2240. The contribution of a special partner, where it consists of a sum of money or of any other property, is furnished at the time of establishment of the common stock or at any other time as an additional contribution to the common stock.

The special partner assumes the risk of loss of the agreed contribution by superior force until it is delivered.

1991, c. 64, a. 2240.

2241. As long as the partnership lasts, a special partner may not withdraw in any manner any part of his contribution in property to the common stock, unless he obtains the consent of a majority of the other partners and the property remaining after the withdrawal is sufficient to discharge the debts of the partnership.

1991, c. 64, a. 2241; I.N. 2014-05-01; I.N. 2015-11-01.

2242. A special partner is entitled to receive his share of the profits, but if the payment of the profits reduces the common stock, every special partner who receives them is bound to remit such sum as is necessary to cover his share of the deficit, with interest.

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In the case of a partnership whose capital includes property that is consumed by the partnership's use of it, the special partner may receive his share of the profits only if the property remaining after the payment is sufficient to discharge the debts of the partnership.

1991, c. 64, a. 2242; I.N. 2014-05-01.

2243. The share of a special partner in the common stock of the partnership is transferable.

With respect to third persons, the transferor remains liable for the obligations which may result from his participation in the partnership while he was still a special partner.

1991, c. 64, a. 2243; I.N. 2014-05-01.

2244. A special partner may only give advisory opinions regarding the management of the partnership.

A special partner may not negotiate any business on behalf of the partnership or act as mandatary or agent for the partnership or allow his name to be used in any act of the partnership; should he do so, he is liable in the same manner as a general partner for the obligations of the partnership resulting from such acts and, according to the importance or number of such acts, he may be liable in the same manner as a general partner for all the obligations of the partnership.

1991, c. 64, a. 2244; I.N. 2014-05-01; I.N. 2015-11-01.

2245. Where the general partners can no longer act, the special partners may perform any act of simple administration required for the management of the partnership.

If the general partners are not replaced within 120 days, the partnership is dissolved.

1991, c. 64, a. 2245.

2246. Where the property of the partnership is insufficient, the general partners are solidarily liable to third persons for the debts of the partnership; a special partner is liable for the debts up to the agreed amount of his contribution, notwithstanding any transfer of his share in the common stock.

Any stipulation whereby a special partner is bound to be surety for or assume the debts of the partnership beyond the agreed amount of his contribution is without effect.

1991, c. 64, a. 2246; I.N. 2014-05-01.

2247. A special partner whose name appears in the firm name of the partnership is liable for the obligations of the partnership in the same manner as a general partner, unless his quality of special partner is clearly indicated.

1991, c. 64, a. 2247.

2248. Where the property of the partnership is insufficient, a special partner may not, in that quality, claim as a creditor until the other creditors of the partnership are satisfied.

1991, c. 64, a. 2248.

2249. In all other respects, the rules governing general partnerships, adapted as required, apply to limited partnerships.

1991, c. 64, a. 2249.

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DIVISION IV

UNDECLARED PARTNERSHIPS

§ 1. — *Establishment of an undeclared partnership*

2250. The contract by which an undeclared partnership is constituted may be written or verbal. It may also arise as a result of facts clearly indicating the intention to form an undeclared partnership.

Mere indivision of property existing between several persons does not create a presumption of their intention to form an undeclared partnership.

1991, c. 64, a. 2250; I.N. 2014-05-01; I.N. 2015-11-01.

§ 2. — *Relations of the partners between themselves*

2251. The partners agree upon the object, operation, management and other terms and conditions of the undeclared partnership.

Failing any special agreement, the relations of the partners between themselves are subject to the provisions governing the relations of general partners between themselves and with the partnership, adapted as required.

1991, c. 64, a. 2251; I.N. 2014-05-01; I.N. 2015-11-01.

§ 3. — *Relations of the partners with third persons*

2252. With respect to third persons, each partner remains the owner of the property he contributes to the undeclared partnership.

Property that was undivided before the contributions of the partners were combined or that is undivided by agreement of the partners, or any property acquired using undivided sums during the term of the contract of partnership, is undivided property as between the partners.

1991, c. 64, a. 2252; I.N. 2014-05-01; I.N. 2015-11-01.

2253. Each partner contracts in his own name and is alone liable to third persons.

However, where the partners act in the quality of partners to the knowledge of third persons, each partner is liable to the latter for the obligations resulting from acts performed in that quality by any of the other partners.

1991, c. 64, a. 2253; I.N. 2014-05-01.

2254. The partners are not solidarily liable for debts contracted in the course of carrying on their activity unless the debts have been contracted for the service or operation of a common enterprise; they are liable to the creditor, each for an equal share, even if their shares in the undeclared partnership are unequal.

1991, c. 64, a. 2254; I.N. 2014-05-01; 2016, c. 4, s. 243.

2255. No stipulation limiting the extent of the partners' obligation towards third persons may be set up against the latter.

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2256. The partners may exercise all the rights arising from contracts entered into by another partner, but the third person is bound only towards the partner with whom he contracted, unless that partner declared his quality.

1991, c. 64, a. 2256; I.N. 2014-05-01.

2257. Any action which may be brought against all the partners may also be brought against one or more of them, as partners of other persons, without naming the other persons in the action.

Where judgment is rendered against the partner or partners sued, all the other partners may be sued jointly or separately on the same cause of action. Where the action is based on an obligation set forth in a writing naming all the partners bound thereby, all of them must be parties to the action for the judgment to be set up against them.

1991, c. 64, a. 2257; I.N. 2014-05-01.

§ 4. — *Termination of the contract of undeclared partnership*

2258. A contract of undeclared partnership is terminated by resiliation with the consent of all the partners, by the expiry of its term, by the fulfilment of the condition attached to the contract, or by the achievement of the object of the contract or the impossibility of achieving it.

It is also terminated by the death or bankruptcy of one of the partners, by tutorship to a person of full age being instituted or a protection mandate homologated for him or by a judgment ordering the seizure of his share.

1991, c. 64, a. 2258; I.N. 2014-05-01; I.N. 2015-11-01; 2020, c. 11, s. 95.

2259. It may be stipulated that, in the event of the death of one of the partners, the undeclared partnership will continue with his legal representatives or among the surviving partners. In the latter case, the representatives of the deceased partner are entitled to the partition of the property of the undeclared partnership only as it existed at the time of death of the partner. They may not claim benefits arising from subsequent dealings unless the dealings are a necessary consequence of those carried out before the death.

1991, c. 64, a. 2259; I.N. 2014-05-01.

2260. Where a contract of undeclared partnership is made for a term that is not fixed or where it reserves a right of withdrawal, it may be terminated at any time by mere notice given by one of the partners to the other partners, provided it is given in good faith and not at an inopportune moment.

1991, c. 64, a. 2260; I.N. 2014-05-01.

2261. A contract of undeclared partnership may be resiliated for a legitimate cause, in particular where one of the partners fails to perform his obligations or hinders the carrying on of the activity of the partners.

1991, c. 64, a. 2261; I.N. 2014-05-01.

2262. The powers of the partners to act under the contract of undeclared partnership cease upon the termination of the contract, except as regards necessary consequences of dealings already begun.

However, anything done in the course of activities of the undeclared partnership by a partner unaware of the termination of the contract and acting in good faith binds all the partners as if the undeclared partnership continued to exist.

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2263. The termination of a contract of undeclared partnership does not affect the rights of third persons in good faith who subsequently contract with a partner or any other mandatary of all the partners.

1991, c. 64, a. 2263.

2264. Failing agreement as to the mode of liquidation of the undeclared partnership or the selection of a liquidator, any interested person may apply to the court for the appointment of a liquidator.

1991, c. 64, a. 2264.

2265. A partner is entitled to restitution of the property corresponding to the share he owns, and to demand the apportionment in kind or by equivalence of the undivided property he owns in the undeclared partnership, upon termination of the contract.

Failing agreement as to the value of the share, the liquidator or, failing him, the court determines it. The liquidator or the court may, however, defer assessment of contingent assets or liabilities.

1991, c. 64, a. 2265; I.N. 2014-05-01.

2266. The liquidator has the seisin of the common property and acts as an administrator of the property of others charged with full administration.

The liquidator first pays the debts, then reimburses the contributions, and thereafter partitions the assets among the partners.

1991, c. 64, a. 2266; I.N. 2014-05-01.

DIVISION V

ASSOCIATIONS

2267. The contract by which an association is constituted may be written or verbal. It may also arise as a result of facts clearly indicating the intention to form an association.

1991, c. 64, a. 2267; I.N. 2014-05-01; I.N. 2015-11-01.

2268. The contract of association governs the object, operation, management and other terms and conditions of the association.

It is presumed to allow the admission of members other than the founding members.

1991, c. 64, a. 2268; I.N. 2014-05-01.

2269. Failing special rules in the contract of association, the directors of the association are elected from among its members, and the founding members are, by operation of law, the directors of the association until they are replaced.

1991, c. 64, a. 2269; I.N. 2014-05-01.

2270. The directors act as mandataries of the members of the association.

Their only powers are those conferred on them by the contract of association or by law, or those arising from their mandate.

1991, c. 64, a. 2270.

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2271. The directors may sue and be sued to assert the rights and interests of the association.

1991, c. 64, a. 2271.

2272. Every member has the right to participate in collective decisions and the contract of association may not prevent him from exercising that right.

Unless otherwise stipulated in the contract, collective decisions, including those to amend the contract of association, are taken by a majority vote of the members.

1991, c. 64, a. 2272; I.N. 2014-05-01; I.N. 2015-11-01.

2273. Notwithstanding any stipulation to the contrary, any member, even though he is excluded from management, has the right to inform himself of the affairs of the association and consult its books and records.

In exercising this right, the member is bound not to unduly hinder the activities of the association nor to prevent the other members from exercising the same right.

1991, c. 64, a. 2273; I.N. 2014-05-01; I.N. 2015-11-01.

2274. Where the property of the association is insufficient, the directors and any member who has the actual administration of the affairs of the association are solidarily or jointly liable for the obligations of the association resulting from decisions to which they gave their approval during their administration, whether or not the obligations have been contracted for the service or operation of an enterprise of the association.

However, the property of each of these persons is applied to the payment of the creditors of the association only after their own creditors have been paid.

1991, c. 64, a. 2274; I.N. 2014-05-01.

2275. A member who has not administered the association is liable for the debts of the association only to the extent of the promised contribution and the membership fees that are due.

1991, c. 64, a. 2275; I.N. 2014-05-01.

2276. Notwithstanding any stipulation to the contrary, a member may withdraw from the association, even if it has been established for a fixed term; if he withdraws, he is bound to pay the promised contribution and the membership fees that are due.

A member may be excluded from the association by decision of the members.

1991, c. 64, a. 2276; I.N. 2014-05-01.

2277. A contract of association is terminated by the expiry of its term or the fulfilment of the condition attached to the contract, or by the achievement of the object of the contract or the impossibility of achieving it.

It is also terminated by decision of the members.

1991, c. 64, a. 2277; I.N. 2014-05-01; I.N. 2015-11-01.

2278. When a contract of association is terminated, the association is liquidated by a person appointed by the directors or, failing that, by the court.

1991, c. 64, a. 2278.

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2279. After payment of the debts, the remaining property devolves in accordance with the rules respecting the contract of association or, failing special rules, it is shared equally among the members.

However, any property derived from contributions of third persons devolves, notwithstanding any stipulation to the contrary, to an association, legal person or trust sharing objectives similar to those of the association; if such devolution is not possible, the property devolves to the State and is administered by the Minister of Revenue as property without an owner or, if it is of little value, it is shared equally among the members.

1991, c. 64, a. 2279; 2005, c. 44, s. 54; I.N. 2014-05-01; I.N. 2015-11-01.

CHAPTER XI

DEPOSIT

DIVISION I

DEPOSIT IN GENERAL

§ 1. — *General provisions*

2280. Deposit is a contract by which a person, the depositor, hands over movable property to another person, the depositary, who undertakes to keep custody of it for a certain time and to restore it to him.

Deposit is by gratuitous title but may be by onerous title where permitted by usage or an agreement.

1991, c. 64, a. 2280; I.N. 2014-05-01; 2016, c. 4, s. 244.

2281. Handing over of the property to be deposited is essential to perfect the contract of deposit.

Fictitious handing over is sufficient where the depositary already has detention of the property under another title.

1991, c. 64, a. 2281; I.N. 2014-05-01.

2282. Where the deposit has been made with a minor person or with a person under tutorship to a person of full age or under a protection mandate, the depositor may revendicate the property deposited so long as it remains in the hands of that person; where restitution in kind is impossible, he is entitled to claim the value of the property up to the amount of the enrichment of the person who received it.

1991, c. 64, a. 2282; 2020, c. 11, s. 96.

§ 2. — *Obligations of the depositary*

2283. The depositary shall act with prudence and diligence in his custody of the property; he may not use the property without the permission of the depositor.

1991, c. 64, a. 2283; I.N. 2014-05-01; 2016, c. 4, s. 245.

2284. The depositary may not require the depositor to prove that he is the owner of the property deposited, or require such proof from the person to whom the property is to be restored.

1991, c. 64, a. 2284; I.N. 2014-05-01.

2285. The depositary is bound to restore the property deposited to the depositor on demand, even if a term has been fixed for its restitution.

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Where the depositary has issued a receipt or any other document evidencing the deposit or giving the person holding it the right to withdraw the property, he may require that the document be returned to him.

1991, c. 64, a. 2285; I.N. 2014-05-01.

2286. The depositary shall return the same property he received on deposit.

Where the depositary has received something to replace property that had perished by superior force, he shall return what he has so received to the depositor.

1991, c. 64, a. 2286; I.N. 2014-05-01.

2287. The depositary is bound to restore the fruits and revenues he has received from the property deposited.

The depositary owes interest on money deposited only when he is in default for failing to restore the money.

1991, c. 64, a. 2287; I.N. 2015-11-01.

2288. An heir or other legal representative of the depositary who, in good faith and unaware of the deposit, sells the property deposited, is bound only to return the price he has received or to assign his claim against the buyer if the price has not been paid.

1991, c. 64, a. 2288; I.N. 2014-05-01; I.N. 2015-11-01.

2289. Where a deposit is by gratuitous title, the depositary is liable for the loss of the property deposited, if caused by his fault; where a deposit is by onerous title or where it was required by the depositary, he is liable for the loss of the property, unless he proves superior force.

1991, c. 64, a. 2289; I.N. 2014-05-01.

2290. The court may reduce the damages payable by the depositary where the deposit is by gratuitous title or where the depositary received documents, money or other valuables for deposit, without their nature or value having been declared by the depositor.

1991, c. 64, a. 2290; I.N. 2014-05-01.

2291. The property is restored at the place where it was handed over for deposit, unless the parties have agreed on another place.

1991, c. 64, a. 2291.

2292. Where the deposit is by gratuitous title, the cost of restitution is borne by the depositor, but it is borne by the depositary if he, without the knowledge of the depositor, has transported the property elsewhere than to the place agreed for its restitution, unless he did it to preserve the property.

Where the deposit is by onerous title, the cost of restitution is borne by the depositary.

1991, c. 64, a. 2292; I.N. 2014-05-01.

§ 3. — *Obligations of the depositor*

2293. The depositor is bound to reimburse the depositary for any expenses he has incurred for the preservation of the property, to indemnify him for any loss the property may have caused him and to pay him the agreed remuneration.

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The depositary is entitled to retain the deposited property until he is paid.

1991, c. 64, a. 2293.

2294. The depositor is bound to indemnify the depositary for any injury caused to him by the premature restitution of the property if the term was agreed upon in the sole interest of the depositary.

1991, c. 64, a. 2294; I.N. 2014-05-01.

DIVISION II

NECESSARY DEPOSIT

2295. Necessary deposit takes place where a person is compelled, by an unforeseen and urgent necessity due to an accident or to superior force, to entrust the custody of property to another person.

1991, c. 64, a. 2295; I.N. 2014-05-01; I.N. 2015-11-01.

2296. The depositary may not refuse to accept the property without a serious reason.

The depositary is liable for loss of the property in the same manner as a depositary by gratuitous title.

1991, c. 64, a. 2296.

2297. The deposit of property in a health or social services establishment is presumed to be a necessary deposit.

1991, c. 64, a. 2297.

DIVISION III

DEPOSIT WITH AN INNKEEPER

2298. A person who offers lodging to the public, called an innkeeper, is liable in the same manner as a depositary by onerous title for the loss of the personal effects and baggage brought by persons who lodge with him, up to 10 times the posted cost of lodging for one day or, in the case of property he has accepted for deposit, up to 50 times such cost.

1991, c. 64, a. 2298; I.N. 2014-05-01.

2299. An innkeeper is bound to accept for deposit the documents, sums of money and other valuables brought by his guests; he may not refuse them unless, given the size and operating conditions of the hotel, they appear to be of excessive value or cumbersome, or unless they are dangerous.

The innkeeper may examine the property handed over to him for deposit and require it to be placed in a closed or sealed receptacle.

1991, c. 64, a. 2299.

2300. An innkeeper who places a safe at the disposal of guests in the room itself is not deemed to have accepted for deposit the property placed in such a safe by a guest.

1991, c. 64, a. 2300.

2301. Notwithstanding the foregoing, the liability of the innkeeper is unlimited where the loss of property brought by a guest is caused by the intentional or gross fault of the innkeeper or of a person for whom he is responsible.

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The liability of the innkeeper is also unlimited where he refuses the deposit of property he is bound to accept, or where he has not taken the necessary measures to inform the guest of the limits of his liability.

1991, c. 64, a. 2301.

2302. The innkeeper is entitled to retain, as security for payment of the cost of lodging and the services and prestations actually provided by him, the effects and baggage brought to the hotel by the guest, with the exception of his personal papers and effects that have no market value.

1991, c. 64, a. 2302; I.N. 2014-05-01; I.N. 2015-11-01; 2016, c. 4, s. 246.

2303. The innkeeper may dispose of the property retained, failing payment, in accordance with the rules prescribed in the Book on Property, which apply to the holder of property entrusted and forgotten.

1991, c. 64, a. 2303.

2304. The innkeeper is bound to post the text of the articles of this section, printed in legible type, in the offices, public rooms and bedrooms of his establishment.

1991, c. 64, a. 2304; I.N. 2014-05-01.

DIVISION IV

SEQUESTRATION

2305. Sequestration is the deposit by which persons place property over which they are in dispute in the hands of another person chosen by them, who binds himself to restore it, once the contestation is decided, to the person who will then be entitled to it.

1991, c. 64, a. 2305; 2016, c. 4, s. 247.

2306. The object of sequestration may be immovable property as well as movable property.

An immovable is handed over by abandoning detention of the immovable to the depositary charged with acting as sequestrator.

1991, c. 64, a. 2306.

2307. The parties choose the sequestrator by mutual agreement; they may designate one of their number to act as sequestrator.

Where the parties disagree on the choice of a sequestrator or on certain terms and conditions of his office, they may apply to the court for a ruling on the issue.

1991, c. 64, a. 2307; I.N. 2014-05-01.

2308. A sequestrator may not make any disbursement or perform any act other than acts of simple administration with respect to the sequestered property unless otherwise stipulated or unless authorized by the court.

He may, however, with the consent of the parties or, failing that, with the authorization of the court, alienate, without delay or formalities, property which entails costs for custody or maintenance disproportionate to its value.

1991, c. 64, a. 2308; I.N. 2014-05-01.

2309. The sequestrator is discharged, upon the termination of the contestation, by the restitution of the property to the person entitled to it.

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The sequestrator may not be discharged and restore the property before the contestation is terminated except with the consent of all the parties or, failing that, for sufficient cause; in this last case, he may be discharged only with the authorization of the court.

1991, c. 64, a. 2309.

2310. The sequestrator shall render an account of his management at the end of his administration, and also earlier at the request of the parties or by order of the court.

1991, c. 64, a. 2310.

2311. A sequestrator may be appointed under judicial authority; in such a case, he is subject to the provisions of the Code of Civil Procedure (chapter C-25.01) and to the rules contained in this chapter, so far as they are consistent.

1991, c. 64, a. 2311; I.N. 2015-11-01; I.N. 2016-01-01 (NCCP).

CHAPTER XII

LOAN

DIVISION I

NATURE AND KINDS OF LOANS

2312. There are two kinds of loans: loan for use and simple loan.

1991, c. 64, a. 2312.

2313. A loan for use is a contract by gratuitous title by which a person, the lender, hands over property to another person, the borrower, for his use, under the obligation to return it to him after a certain time.

1991, c. 64, a. 2313; I.N. 2014-05-01; I.N. 2015-11-01.

2314. A simple loan is a contract by which the lender hands over a certain quantity of money or other property that is consumed by use to the borrower, who binds himself to return a like quantity of the same kind and quality to the lender after a certain time.

1991, c. 64, a. 2314; I.N. 2014-05-01.

2315. A simple loan is presumed to be by gratuitous title unless otherwise stipulated or unless it is a loan of money, in which case it is presumed to be by onerous title.

1991, c. 64, a. 2315; I.N. 2014-05-01.

2316. A promise to lend confers on the beneficiary of the promise, in the event of failure by the promisor to perform the promise, only the right to claim damages from the promisor.

1991, c. 64, a. 2316; I.N. 2014-05-01.

DIVISION II

LOAN FOR USE

2317. The borrower is bound to act with prudence and diligence in the custody and preservation of the property loaned.

1991, c. 64, a. 2317; 2016, c. 4, s. 248.

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2318. The borrower may not put the property loaned to a use other than that for which it is intended; nor may he allow a third person to use it without the authorization of the lender.

1991, c. 64, a. 2318.

2319. The lender may claim the property before the expiry of the term or, if the term is indeterminate, before the borrower ceases to need it, where he himself is in urgent and unforeseen need of the property or where the borrower dies or fails to perform his obligations.

1991, c. 64, a. 2319; I.N. 2014-05-01.

2320. The borrower is entitled to the reimbursement of any necessary and urgent expenses incurred for the preservation of the property.

The borrower alone bears the expenses he has incurred in using the property.

1991, c. 64, a. 2320.

2321. Where the lender knew that the property loaned had latent defects but failed to inform the borrower, he is bound to make reparation for injury the borrower suffered as a result.

1991, c. 64, a. 2321; I.N. 2014-05-01.

2322. The borrower is not liable for loss of the property resulting from the use for which it is loaned.

However, where the borrower puts the property to a use other than that for which it is intended, or uses it for a longer time than agreed, he is liable for its loss even where the loss is caused by superior force, unless the superior force would in any case have caused the loss of the property.

1991, c. 64, a. 2322; I.N. 2014-05-01.

2323. Where the property loaned perishes by superior force and the borrower could have protected it by using his own property or if, being unable to save both, he chose to save his own, he is liable for the loss.

1991, c. 64, a. 2323.

2324. The borrower may not retain the property for what the lender owes him unless the debt is an urgent and necessary expense incurred for the preservation of the property.

1991, c. 64, a. 2324.

2325. An action for damages for injury caused by the fault of a third person to the property loaned may be taken by the lender or the borrower, whichever is the more diligent.

1991, c. 64, a. 2325; I.N. 2015-11-01.

2326. Where several persons borrow the same property together, they are solidarily liable to the lender.

1991, c. 64, a. 2326; I.N. 2014-05-01.

DIVISION III

SIMPLE LOAN

2327. By simple loan, the borrower becomes the owner of the property loaned and he bears the risks of loss of the property from the time it is handed over to him.

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2328. The lender is liable, in the same manner as the lender for use, for any injury resulting from defects in the property loaned.

1991, c. 64, a. 2328.

2329. The borrower is bound to return the same quantity and quality of property as he received and nothing more, notwithstanding any increase or reduction of its price.

In the case of a loan of a sum of money, the borrower is bound to return only the nominal amount received, notwithstanding any variation in its value.

1991, c. 64, a. 2329.

2330. The loan of a sum of money bears interest from the date the money is handed over to the borrower.

1991, c. 64, a. 2330.

2331. The discharge of the capital of a loan of money entails the discharge of the interest.

1991, c. 64, a. 2331.

2332. In the case of a loan of a sum of money, the court may pronounce the nullity of the contract, order the reduction of the obligations arising from the contract or revise the terms and conditions of the performance of the obligations to the extent that it finds that, having regard to the risk and to all the circumstances, one of the parties has suffered lesion.

1991, c. 64, a. 2332.

CHAPTER XIII

SURETYSHIP

DIVISION I

NATURE, OBJECT AND EXTENT OF SURETYSHIP

2333. Suretyship is a contract by which a person, the surety, binds himself towards the creditor, gratuitously or for remuneration, to perform the obligation of the debtor if he fails to fulfil it.

1991, c. 64, a. 2333.

2334. Suretyship may result from an agreement, or may be imposed by law or ordered by judgment.

1991, c. 64, a. 2334.

2335. Suretyship is not presumed; it is effected only if it is express.

1991, c. 64, a. 2335.

2336. A person may become surety for an obligation without an order from or even the knowledge of the person for whom he binds himself.

A person may also become surety not only for the principal debtor but also for his surety.

1991, c. 64, a. 2336; I.N. 2015-11-01.

2337. A debtor bound to furnish a surety shall offer a surety having and maintaining sufficient property in Québec to answer for the obligation and having his domicile in Canada; otherwise, he shall furnish another surety.

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This rule does not apply where the creditor has required that a specific person be the surety.

1991, c. 64, a. 2337; I.N. 2014-05-01.

2338. A debtor bound to furnish a legal or judicial surety may offer other sufficient security instead.

1991, c. 64, a. 2338; I.N. 2014-05-01.

2339. Any dispute as to the sufficiency of the property of the surety or the sufficiency of the security offered is decided by the court.

1991, c. 64, a. 2339.

2340. Suretyship may be contracted only for a valid obligation.

It may be for the fulfilment of an obligation from which the principal debtor may be discharged by invoking his incapacity, provided the surety is aware of this, or the fulfilment of a purely natural obligation.

1991, c. 64, a. 2340.

2341. Suretyship may not exceed what is owed by the debtor, or be contracted with more onerous conditions.

Suretyship which does not meet that requirement is not null for that reason; it may only be reduced to the extent of the principal obligation.

1991, c. 64, a. 2341; I.N. 2014-05-01.

2342. Suretyship may be contracted for part of the principal obligation only and with less onerous conditions.

1991, c. 64, a. 2342; I.N. 2014-05-01.

2343. Suretyship may not be extended beyond the limits for which it was contracted.

1991, c. 64, a. 2343; I.N. 2015-11-01.

2344. Suretyship extends to all the accessories of the principal obligation, even to the costs of the first demand and to all costs subsequent to notice of it given to the surety.

1991, c. 64, a. 2344; I.N. 2014-05-01; 2016, c. 4, s. 249.

DIVISION II

EFFECTS OF SURETYSHIP

§ 1. — *Effects between the creditor and the surety*

2345. At the request of the surety, the creditor is bound to provide him with any useful information as to the content and the terms and conditions of the principal obligation and as to the stage reached in its performance.

1991, c. 64, a. 2345; I.N. 2014-05-01.

2346. The surety is bound to fulfil the obligation of the debtor only if the debtor fails to perform it.

1991, c. 64, a. 2346.

2347. A conventional or legal surety enjoys the benefit of discussion unless he renounces it expressly.

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A person who is surety of a judicial surety may not demand the discussion of the principal debtor nor of the surety.

1991, c. 64, a. 2347.

2348. A surety who avails himself of the benefit of discussion shall invoke it in the action against him, indicate to the creditor the seizable property of the principal debtor, and advance to the creditor the sums required for the costs of discussion.

Where the creditor neglects to carry out the discussion, he is liable to the surety, up to the value of the property indicated, for insolvency of the principal debtor occurring after the surety has indicated the seizable property of the principal debtor.

1991, c. 64, a. 2348; I.N. 2014-05-01.

2349. Where several persons become sureties of the same debtor for the same debt, each of them is liable for the whole debt but may invoke the benefit of division if he has not renounced it expressly in advance.

Each surety who avails himself of the benefit of division may require the creditor to divide his action and to reduce it to the amount of the share and portion of each surety.

1991, c. 64, a. 2349.

2350. If, at the time division was obtained by one of the sureties, some of them were insolvent, that surety is proportionately liable for their insolvency, but he may not be made liable for insolvencies occurring after the division.

1991, c. 64, a. 2350.

2351. Where the creditor has himself voluntarily divided his action, he may not call the division into question although, even prior to the time of the division, some of the sureties were insolvent.

1991, c. 64, a. 2351; I.N. 2014-05-01.

2352. Where the surety binds himself with the principal debtor as solidary surety or solidary co-debtor, he may no longer invoke the benefits of discussion and division; the effects of his undertaking are governed by the rules established with respect to solidary debts so far as they are consistent with the nature of the suretyship.

1991, c. 64, a. 2352.

2353. A surety, whether or not he is a solidary surety, may set up against the creditor all the defences of the principal debtor, except those which are purely personal to the principal debtor or that are excluded by the terms of his undertaking.

1991, c. 64, a. 2353.

2354. The surety is not discharged by mere prorogation of the term granted by the creditor to the principal debtor; in the same way, forfeiture of the term by the principal debtor produces its effects with respect to the surety.

1991, c. 64, a. 2354; I.N. 2014-05-01.

2355. A surety may not renounce in advance the right to be provided with information or the benefit of subrogation.

1991, c. 64, a. 2355.

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§ 2. — *Effects between the debtor and the surety*

2356. A surety who has bound himself with the consent of the debtor may claim from him what he has paid in capital, interest and costs, in addition to damages for any injury he has suffered by reason of the suretyship; he may also charge interest on any sum he has had to pay to the creditor, even if the principal debt was not producing interest.

A surety who has bound himself without the consent of the debtor may only recover from him what the debtor would have been bound to pay, including damages, if there had been no suretyship; however, costs subsequent to notice of the payment are payable by the debtor.

1991, c. 64, a. 2356; I.N. 2014-05-01.

2357. Where the principal debtor has been discharged from his obligation by invoking his incapacity, the surety has, to the extent of the enrichment retained by the debtor, a remedy for reimbursement against him.

1991, c. 64, a. 2357; I.N. 2015-11-01; 2016, c. 4, s. 250.

2358. A surety who paid a debt has no remedy against the principal debtor who paid it subsequently, if he failed to inform the debtor of the payment.

A surety who paid without informing the principal debtor has no remedy against him if, at the time of the payment, the debtor had defences that could have enabled him to have the debt declared extinguished. In these circumstances, the surety has a remedy only for the sum the debtor could have been required to pay, to the extent that the debtor could set up other defences against the creditor to cause the debt to be reduced.

In all cases the surety retains his right of action for recovery against the creditor.

1991, c. 64, a. 2358; I.N. 2014-05-01.

2359. A surety who has bound himself with the consent of the debtor may take action against him, even before paying, if he is sued for payment or the debtor is insolvent, or if the debtor has bound himself to effect his acquittance within a certain time.

The same rule applies where the debt becomes payable by the expiry of its term, disregarding any extension granted to the debtor by the creditor without the consent of the surety, or where, by reason of losses incurred by the debtor or of any fault committed by the debtor, the surety is at appreciably higher risk than at the time he bound himself.

1991, c. 64, a. 2359.

§ 3. — *Effects between sureties*

2360. Where several persons have become sureties of the same debtor for the same debt, the surety who has paid the debt has in addition to the action in subrogation, a personal right of action against the other sureties, each for his share and portion.

The personal right of action may only be exercised where the surety has paid in one of the cases in which he could take action against the debtor before paying.

Where one of the sureties is insolvent, his insolvency is apportioned by contribution among the other sureties, including the surety who made the payment.

1991, c. 64, a. 2360.

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DIVISION III

TERMINATION OF SURETYSHIP

2361. Notwithstanding any stipulation to the contrary, the death of the surety terminates the suretyship.

1991, c. 64, a. 2361; 2016, c. 4, s. 251.

2362. Where suretyship is contracted with a view to covering future or indeterminate debts, or for an indeterminate period, the surety may terminate it after three years, so long as the debt has not become due, by giving prior and sufficient notice to the debtor, the creditor and the other sureties.

This rule does not apply in the case of a judicial suretyship.

1991, c. 64, a. 2362; I.N. 2014-05-01.

2363. Suretyship attached to the performance of special duties is terminated upon cessation of the duties.

1991, c. 64, a. 2363; I.N. 2014-05-01.

2364. Upon termination of the suretyship, the surety remains liable for debts existing at that time, even if those debts are subject to a condition or a term.

1991, c. 64, a. 2364.

2365. Where, as a result of an act or omission of the creditor, the surety can no longer be usefully subrogated to his rights, the surety is discharged to the extent of the injury he suffers thereby.

1991, c. 64, a. 2365; I.N. 2014-05-01; 2016, c. 4, s. 252.

2366. Where a creditor voluntarily accepts property in payment of the principal debt, the surety is discharged even if the creditor is subsequently evicted.

1991, c. 64, a. 2366; 2016, c. 4, s. 253.

CHAPTER XIV

ANNUITIES

DIVISION I

NATURE OF THE CONTRACT AND SCOPE OF THE RULES GOVERNING IT

2367. A contract for the constitution of an annuity is a contract by which a person, the debtor, undertakes, by gratuitous title or in exchange for the alienation of capital for his benefit, to make periodic payments to another person, the annuitant, for a certain time.

The capital may consist of immovable or movable property; if it is a sum of money, it may be paid all at once or in instalments.

1991, c. 64, a. 2367; I.N. 2014-05-01; 2016, c. 4, s. 254.

2368. Where the debtor undertakes to pay the annuity in return for the transfer, for his benefit, of ownership of an immovable, the contract is called alienation for rent and it is principally governed by the rules that apply to contracts of sale, to which it is similar.

1991, c. 64, a. 2368; I.N. 2014-05-01.

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2369. An annuity may be constituted for the benefit of a person other than the person who furnishes the capital.

In such a case, the contract is not subject to the forms required for gifts even though the annuity so constituted is received by gratuitous title by the annuitant.

1991, c. 64, a. 2369; I.N. 2014-05-01.

2370. An annuity may be constituted by contract, will, judgment or law.

The rules of this chapter, adapted as required, apply to such annuities.

1991, c. 64, a. 2370.

DIVISION II

SCOPE OF THE CONTRACT

2371. An annuity may be either a life annuity or a fixed term annuity.

A life annuity is an annuity payable for a duration limited to the lifetime of one or several persons.

A fixed term annuity is an annuity payable for a duration determined otherwise.

1991, c. 64, a. 2371; I.N. 2014-05-01.

2372. A life annuity may be set up for the lifetime of the person who constitutes it or receives it or for the lifetime of a third person who has no right to enjoyment of the annuity.

It may be stipulated, however, that the payment of the annuity will continue beyond the death of the person upon whose life the duration of payment of the annuity was determined, for the benefit, as the case may be, of a determinate person or of the heirs of the annuitant.

1991, c. 64, a. 2372; I.N. 2015-11-01; 2016, c. 4, s. 255.

2373. A life annuity set up for the lifetime of a person who is dead on the day the debtor is to begin paying the annuity or who dies within the following 30 days is without effect.

Similarly, a life annuity set up for the lifetime of a person who does not exist yet on the day on which the debtor is to begin paying the annuity is without effect, unless the person was conceived at that time and is born alive and viable.

1991, c. 64, a. 2373; I.N. 2014-05-01.

2374. Where a life annuity is set up for the lifetime of several persons successively, it has effect only if the first of those persons exists on the day the debtor is to begin paying the annuity or if he is conceived at that time and is born alive and viable.

It terminates where the persons concerned are dead or are not born alive and viable, but not later than 100 years after it is constituted.

1991, c. 64, a. 2374.

2375. A non-returnable loan is presumed to constitute a life annuity for the benefit and for the lifetime of the lender.

1991, c. 64, a. 2375.

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2376. The duration of payment of any annuity, whether or not it is a life annuity, is in all cases limited or reduced to 100 years after the annuity is constituted even if the contract provides for a longer duration or constitutes a successive annuity.

1991, c. 64, a. 2376.

DIVISION III

CERTAIN EFFECTS OF THE CONTRACT

2377. A stipulation may be made to the effect that the annuity is unseizable and inalienable only if the annuitant receives it by gratuitous title; even in such a case, the stipulation has effect only up to the amount of the annuity necessary to the annuitant as support.

1991, c. 64, a. 2377; I.N. 2014-05-01; I.N. 2015-11-01.

2378. Any capital accumulated for the payment of the annuity is unseizable where the annuity is payable to the annuitant and to the person substituted for him, so long as the capital is appropriated to the payment of an annuity.

Only that part of the capital is unseizable, however, which, in the assessment of the seizing creditor, the debtor and the annuitant or, if they disagree, the court, would be necessary, for the duration fixed in the contract, for the payment of an annuity which would meet the requirements of the annuitant for support.

1991, c. 64, a. 2378; I.N. 2014-05-01.

2379. The designation or revocation of an annuitant, other than the person who furnished the capital of the annuity, is governed by the rules that apply to stipulations for another.

However, the designation or revocation of an annuitant, with respect to annuities provided by insurers or pursuant to a retirement plan, is governed by the rules for contracts of insurance that relate to beneficiaries and subrogated policyholders, adapted as required.

1991, c. 64, a. 2379; I.N. 2014-05-01.

2380. A stipulation may be made to the effect that a life annuity, constituted for the benefit of two or more annuitants jointly, continues on the death of one of the annuitants for the lifetimes of those who survive him.

Similarly, a life annuity constituted for the benefit of spouses is presumed, on the death of either spouse, to continue for the lifetime of the surviving spouse.

1991, c. 64, a. 2380; I.N. 2014-05-01.

2381. The life annuity is due to the annuitant only in proportion to the number of days lived by the person upon whose life the duration of payment of the annuity was determined, and the annuitant may demand payment of the annuity only if he establishes the existence of the person.

However, where it was stipulated that the annuity would be paid in advance, that which was to have been paid vests from the day it was to have been paid.

1991, c. 64, a. 2381; I.N. 2014-05-01; I.N. 2015-11-01.

2382. Payments are made at the end of each payment period, which may not exceed one year; the amount due is computed from the day the debtor is bound to begin paying the annuity.

1991, c. 64, a. 2382.

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2383. In no case may the debtor free himself from the payment of the annuity by offering to reimburse the capital value of the annuity and renouncing the recovery of the annuity payments made; he is bound to pay the annuity for the whole duration stipulated in the contract.

1991, c. 64, a. 2383.

2384. The debtor of an annuity may appoint an authorized insurer to replace him, by paying that insurer the value of the annuity.

Similarly, the owner of an immovable charged as security for the payment of the annuity may substitute the security offered by an authorized insurer for that securing the annuity.

The annuitant may not object to the substitution, but he may require that the purchase of the annuity be made with another insurer, or he may contest the determined capital value or the value of the annuity arising therefrom.

1991, c. 64, a. 2384; I.N. 2014-05-01.

2385. The substitution releases the debtor or the owner of the immovable charged as security for the payment of the annuity, upon payment of the required capital; it binds the insurer towards the annuitant and, as the case may be, entails the extinction of the hypothec securing the payment of the annuity.

1991, c. 64, a. 2385.

2386. The non-payment of the annuity is not a reason which permits the annuitant to demand recovery of the capital alienated for the constitution of the annuity; it only allows him, beyond demanding payment of the amount owing, to seize and sell the property of the debtor and obtain consent to, or require an order for, the use of an amount, from the proceeds of the sale, sufficient to ensure payment of the annuity, or to require that the debtor be replaced by an authorized insurer.

Payment of the capital may be required, however, if the debtor becomes insolvent or bankrupt or decreases, by his act or omission and without the consent of the annuitant, the security he has furnished to secure the payment of the annuity.

1991, c. 64, a. 2386; I.N. 2014-05-01; 2016, c. 4, s. 256.

2387. Where the payment of an annuity is secured by a hypothec on property that is to be the subject of a sale under judicial authority, the annuitant may not require that the sale be carried out subject to his annuity but, if his hypothec ranks first, he may require the creditor to furnish him with a surety sufficient to ensure that the annuity continues to be paid.

Failure to furnish a surety entitles the annuitant, according to his rank, to receive the capital value of the annuity on the day of collocation or distribution.

1991, c. 64, a. 2387; I.N. 2014-05-01; 2014, c. 1, s. 796.

2388. The capital value of an annuity is always assessed as equal to the amount that would be sufficient to acquire an annuity of equivalent value from an authorized insurer.

1991, c. 64, a. 2388; I.N. 2014-05-01.

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CHAPTER XV

INSURANCE

DIVISION I

GENERAL PROVISIONS

§ 1. — *Nature of the contract of insurance and classes of insurance*

2389. A contract of insurance is a contract whereby the insurer undertakes, for a premium or assessment, to make a payment to the client or a third person if a risk covered by the insurance occurs.

Insurance is divided into marine insurance and non-marine insurance.

1991, c. 64, a. 2389; I.N. 2014-05-01.

2390. The object of marine insurance is to indemnify the insured against losses incident to marine adventure.

1991, c. 64, a. 2390.

2391. Non-marine insurance is divided into insurance of persons and damage insurance.

1991, c. 64, a. 2391.

2392. Insurance of persons covers the life, physical integrity or health of the insured.

Insurance of persons is divided into individual insurance and group insurance.

Group insurance of persons covers, under a master policy, the participants in a specified group and, in some cases, their families or dependants.

1991, c. 64, a. 2392; I.N. 2014-05-01.

2393. Life insurance guarantees payment of the agreed amount upon the death of the insured; it may also guarantee payment of the agreed amount during the lifetime of the insured, on his surviving a specified period or on the occurrence of an event related to his existence.

Life or fixed-term annuities provided by insurers are assimilated to life insurance but also remain governed by the chapter on Annuities. However, the rules in this chapter that apply to unseizability take precedence.

1991, c. 64, a. 2393; I.N. 2014-05-01.

2394. Clauses of accident or sickness insurance which are accessory to a contract of life insurance and clauses of life insurance which are accessory to a contract of accident or sickness insurance are governed by the rules governing the principal contract.

1991, c. 64, a. 2394; 2016, c. 4, s. 257.

2395. Damage insurance protects the insured against the consequences of an event that may adversely affect his patrimony.

1991, c. 64, a. 2395; I.N. 2014-05-01.

2396. Damage insurance includes property insurance, the object of which is to indemnify the insured for material loss, and liability insurance, the object of which is to protect the insured against the pecuniary

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consequences of the obligation he may incur, by reason of an injurious act or omission, to make reparation for the injury caused to another.

1991, c. 64, a. 2396; 2016, c. 4, s. 258.

2397. The contract of reinsurance has effect only between the insurer and the reinsurer.

1991, c. 64, a. 2397.

§ 2. — *Formation and content of the contract*

2398. A contract of insurance is formed upon acceptance by the insurer of the application of the client.

1991, c. 64, a. 2398.

2399. The policy is the document evidencing the existence of the contract of insurance.

In addition to the names of the parties to the contract and the names of the persons to whom the insured sums are payable or, if those persons are not determined, a means to identify them, the subject of the insurance shall be set out in the policy, together with the amount of coverage, the nature of the risks insured, the time from which the risks are covered and the term of the coverage as well as the amount and rate of the premiums and the dates on which they are due.

1991, c. 64, a. 2399; I.N. 2015-11-01.

2400. In non-marine insurance, the insurer is bound to deliver the policy to the client, as well as a copy of any application in writing made by or on behalf of the client.

In case of inconsistency between the policy and the application, the latter prevails unless the insurer has indicated in writing to the client, in a separate document, the particulars of the inconsistency.

1991, c. 64, a. 2400; I.N. 2014-05-01.

2401. In group insurance, the insurer issues the group insurance policy to the client and delivers to him the insurance certificates, which the latter shall distribute to the participants.

Participants and beneficiaries may examine and make copies of the policy at the place of business of the client and, in case of inconsistency between the policy and the insurance certificate, they may invoke either one according to their interest.

1991, c. 64, a. 2401; I.N. 2014-05-01; I.N. 2015-11-01.

2402. In non-marine insurance, any general clause whereby the insurer is released from his obligations if the law is violated is deemed not written, unless the violation is an indictable offence.

Any clause of a policy whereby the insured consents, in case of loss, to effect an assignment of claim to his insurer that would result in granting his insurer more rights than he would have under the rules on subrogation is also deemed not written.

1991, c. 64, a. 2402.

2403. Subject to the special provisions on marine insurance, the insurer may not invoke conditions or representations not stated in writing in the contract.

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2404. In insurance of persons, the insurer may invoke only the exclusions or clauses reducing coverage that are clearly indicated under an appropriate heading.

1991, c. 64, a. 2404; I.N. 2014-05-01.

2405. In non-marine insurance, changes to the contract made by the parties are evidenced by riders attached to the policy.

However, any rider stipulating a reduction of the insurer's liability or an increase in the insured's obligations, other than an increased premium, has no effect unless the policyholder consents to the change in writing.

Where such a change is made upon renewal of the contract, the insurer shall indicate it clearly to the insured in a separate document from the rider which stipulates it. The change is presumed to be accepted by the insured 30 days after receipt of the document.

1991, c. 64, a. 2405; I.N. 2014-05-01.

2406. The representations of a participant in group insurance may be invoked against him only if the insurer has furnished him with a copy of them.

1991, c. 64, a. 2406.

2407. A certificate of participation in a mutual association may establish the rights and obligations of the members by reference to the articles of the association, but only the constituting instrument and those by-laws which are specifically indicated in the certificate may be invoked against the members.

Every member is entitled to a copy of the articles of the association in force.

1991, c. 64, a. 2407.

§ 3. — *Representations and warranties of the client in non-marine insurance*

2016, c. 4, s. 259.

2408. The client, and the insured if the insurer requires it, is bound to represent all the facts known to him which are likely to materially influence an insurer in the setting of the premium, the appraisal of the risk or the decision to cover it, but he is not bound to represent facts that the insurer knows or is presumed to know because of their notoriety, except in answer to inquiries.

1991, c. 64, a. 2408; I.N. 2014-05-01.

2409. The obligation with respect to representations is deemed properly met if the representations are such as a normally provident insured would make, if they were made without material concealment and if the facts are substantially as represented.

1991, c. 64, a. 2409; I.N. 2014-05-01.

2410. Subject to the provisions on statement of age and risk, any misrepresentation or concealment of the facts by either the client or the insured nullifies the contract at the instance of the insurer, even with respect to losses not connected with the risks so misrepresented or concealed.

1991, c. 64, a. 2410; I.N. 2014-05-01; I.N. 2015-11-01.

2411. In damage insurance, unless the bad faith of the client is established or unless it is established that the insurer would not have covered the risk if he had known the facts, the insurer remains liable to the insured

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for such proportion of the indemnity as the premium he collected bears to the premium he should have collected.

1991, c. 64, a. 2411; I.N. 2014-05-01; I.N. 2015-11-01.

2412. A breach of warranty aggravating the risk suspends the coverage. The suspension ceases as soon as the insurer has acquiesced or the insured has remedied the breach.

1991, c. 64, a. 2412; I.N. 2014-05-01.

2413. Where the representations contained in the application for insurance have been entered or suggested by the representative of the insurer or by an insurance broker, proof may be made by testimony that they do not correspond to what was actually represented.

1991, c. 64, a. 2413.

§ 4. — *Special provision*

2414. Any clause in a non-marine insurance contract which grants the client, the insured, the participant, the beneficiary or the policyholder fewer rights than are granted by the provisions of this chapter is null.

Any stipulation which derogates from the rules on insurable interest or, in liability insurance, from those protecting the rights of injured third persons is also null.

1991, c. 64, a. 2414.

DIVISION II

INSURANCE OF PERSONS

§ 1. — *Content of policy*

2415. In addition to the particulars prescribed for policies generally, a policy of insurance of persons shall indicate, where applicable, the name of the insured or a means to identify him, the time limits for payment of premiums, any right to policy dividends, the method and table by which the surrender value is determined and any rights to the surrender value and to policy advances.

The conditions of reinstatement, the right to convert the insurance, the terms and conditions of payment of sums due and the period during which benefits are payable shall also be set out in the policy, where applicable.

1991, c. 64, a. 2415; 2002, c. 19, s. 15; I.N. 2014-05-01; I.N. 2015-11-01.

2416. In an accident or sickness policy, the insurer shall set out, expressly and in clearly legible characters, the nature of the coverage stipulated in it.

Where the contract provides coverage against disability, he shall set out in the same manner the terms and conditions of payment of the indemnities and the nature and extent of the disability covered. Failing clear indication as to the nature and extent of the disability covered, the inability to carry on one's usual occupation constitutes the disability.

1991, c. 64, a. 2416; 2016, c. 4, s. 260.

2417. In accident or sickness insurance, the insurer may not, except in case of fraud, exclude or reduce the coverage by reason of a disease or ailment disclosed in the application except under a clause referring by name to the disease or ailment.

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Except in the case of fraud, an insurer may not, by a general clause, exclude or limit the coverage by reason of a disease or ailment not disclosed in the application unless the disease or ailment appears within the first two years of the insurance.

1991, c. 64, a. 2417; 2016, c. 4, s. 260.

§ 2. — *Insurable interest*

2418. In individual insurance, a contract is null if at the time the contract is made the client has no insurable interest in the life or health of the insured, unless the insured consents in writing.

Subject to the same reservation, the assignment of such a contract is null if the assignee does not have the required interest at the time of the assignment.

1991, c. 64, a. 2418.

2419. A person has an insurable interest in his own life and health and in the life and health of his spouse, of his descendants and the descendants of his spouse, or of persons who contribute to his support or education.

He also has an interest in the life and health of his subordinates and staff or of persons in whose life and health he has a pecuniary or moral interest.

1991, c. 64, a. 2419; 2016, c. 4, s. 261.

§ 3. — *Representation of age and risk*

2420. Misrepresentation of the age of the insured does not nullify the insurance. In such circumstances, the sum insured is adjusted in such proportion as the premium collected bears to the premium that should have been collected.

In accident or sickness insurance, however, the insurer may elect to adjust the premium to make it correspond to the rates applicable for the true age of the insured.

1991, c. 64, a. 2420; I.N. 2014-05-01; I.N. 2015-11-01; 2016, c. 4, s. 262.

2421. In life insurance, the insurer may apply to have the contract annulled if, at the time of formation of the contract, the age of the insured exceeds the limits fixed by the insurer’s rates.

The insurer may apply only within three years of the making of the contract, during the lifetime of the insured and within 60 days after becoming aware of the error.

1991, c. 64, a. 2421; I.N. 2014-05-01; I.N. 2015-11-01.

2422. In accident or sickness insurance, the true age is the determining factor in cases where the commencement or termination of the insurance depends on the age of the insured.

In life insurance, the true age is also the determining factor for termination of a contract which is to terminate at a specified age, where the misrepresentation as to age is discovered before the death of the insured.

1991, c. 64, a. 2422; I.N. 2014-05-01; 2016, c. 4, s. 263.

2423. In group insurance, misrepresentation or concealment by a participant as to age or risk affects only the insurance of the persons who are the subject of the misrepresentation or concealment.

1991, c. 64, a. 2423.

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2424. In the absence of fraud, misrepresentation or concealment as to risk does not justify the annulment or reduction of insurance which has been in force for two years.

However, this rule does not apply in the case of disability insurance if the disability begins during the first two years of the insurance.

1991, c. 64, a. 2424; I.N. 2014-05-01.

§ 4. — *Effective date of the insurance*

1991, c. 64, Sd. 4; I.N. 2014-05-01.

2425. Life insurance takes effect when the application is accepted by the insurer, provided that it is accepted without modification, that the initial premium has been paid, and that there has been no change in the insurability of the risk since the application was signed.

1991, c. 64, a. 2425.

2426. Accident or sickness insurance takes effect upon the delivery of the policy to the client, even if it is delivered by a person other than a representative of the insurer.

A policy issued in accordance with the application and given to a representative of the insurer for unconditional delivery to the client is also validly delivered.

1991, c. 64, a. 2426; 2016, c. 4, s. 264.

§ 5. — *Premiums, advances and reinstatement of the insurance*

1991, c. 64, Sd. 5; I.N. 2014-05-01.

2427. In life insurance, the policyholder is entitled to 30 days for the payment of each premium, except the initial premium; the insurance remains in force during the 30 days, but failure to pay the premium within that period terminates the insurance.

The period runs concurrently with any other period granted by the insurer, but it may not be reduced by agreement.

1991, c. 64, a. 2427.

2428. When payment is made by bill of exchange, it is deemed made only if the bill is honoured when first presented.

The payment is also deemed made when the bill is not honoured by reason of the death of the person who issued the bill of exchange, subject to payment of the premium.

1991, c. 64, a. 2428.

2429. The premium does not bear interest during the period allowed for payment, except in group insurance.

Where the insurer is entitled to interest on a premium due, the interest may not be at a higher rate than that fixed by the regulations made to that effect by the Government.

1991, c. 64, a. 2429.

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2430. No accident or sickness insurance contract that is in force may be cancelled for non-payment of the premium unless 15 day's prior notice in writing is given to the debtor.

1991, c. 64, a. 2430; 2016, c. 4, s. 265.

2431. The insurer is bound to reinstate individual life insurance that has been cancelled for non-payment of the premium if the policyholder applies to him therefor within two years from the date of the cancellation and establishes that the insured still meets the conditions required to be insured under the cancelled contract. The policyholder is bound in that case to pay the overdue premiums and repay the advances he has obtained on the policy, with interest at a rate not exceeding the rate fixed by the regulations made to that effect by the Government.

However, the insurer is not bound by the first paragraph if the surrender value has been paid or if the policyholder has elected for a reduction or extension of coverage.

1991, c. 64, a. 2431; I.N. 2014-05-01.

2432. Any amount payable for the reinstatement of a contract may be made out of advances receivable on the policy up to the sum stipulated in the contract.

1991, c. 64, a. 2432.

2433. The insurer may require the payment of overdue premiums when settling a claim under a group life insurance contract or an accident or sickness insurance contract.

The insurer may, for any individual insurance contract, deduct the amount of any overdue premium out of the benefits payable.

1991, c. 64, a. 2433; I.N. 2014-05-01; 2016, c. 4, s. 266.

2434. Upon the reinstatement of a contract of insurance, the two-year period during which the insurer may apply to have the contract annulled or the coverage reduced by reason of misrepresentation or concealment relating to the risk, or may have effect given to a clause that excludes coverage in case of the suicide of the insured, runs again.

1991, c. 64, a. 2434; I.N. 2014-05-01.

§ 6. — *Performance of the contract of insurance*

2435. The holder of an accident or sickness policy or the beneficiary or insured is bound to give written notice of loss to the insurer within 30 days of becoming aware of it. He shall also, within 90 days, transmit all the information to the insurer that he may reasonably expect as to the circumstances and extent of the loss.

The person entitled to the payment is not prevented from receiving it if he proves that it was impossible for him to act within the prescribed time, provided the information is sent to the insurer within one year of the loss.

1991, c. 64, a. 2435; I.N. 2014-05-01; I.N. 2015-11-01; 2016, c. 4, s. 267.

2436. The insurer is bound to pay the sums insured and the other benefits provided in the contract, in accordance with its conditions, within 30 days after receipt of the required proof of loss.

However, in accident or sickness insurance, the period is 60 days, unless the insurance covers losses of income arising from disability.

1991, c. 64, a. 2436; I.N. 2014-05-01; 2016, c. 4, s. 268.

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2437. Where the insurance covers losses of income arising from disability and the contract stipulates a waiting period, the 30 day period for payment of the first indemnity runs from the expiry of the waiting period.

Subsequent payments are made at intervals of not more than 30 days, provided that proof is furnished to the insurer on request.

1991, c. 64, a. 2437; I.N. 2014-05-01.

2438. The insured shall submit to a medical examination when the insurer is entitled to require it owing to the nature of the disability.

1991, c. 64, a. 2438.

2439. In accident or sickness insurance, where an increase of the occupational risk has lasted for six months or more, the insurer may reduce the indemnity provided under the contract to the sum payable for the new risk according to the premium stipulated in the contract.

Where there is a reduction of the occupational risk, the insurer is bound, from receipt of a notice to that effect, to reduce the rate of the premium or to extend the insurance by applying the rate corresponding to the new risk, as the client may elect.

1991, c. 64, a. 2439; I.N. 2015-11-01; 2016, c. 4, s. 269.

2440. The heirs of the beneficiary of an insurance contract may require the insurer to make a single lump sum payment to them of any sums payable by instalments.

1991, c. 64, a. 2440.

2441. The insurer may not refuse payment of the sums insured by reason of the suicide of the insured unless he expressly stipulated that coverage would be excluded in such a case and, even then, the stipulation is without effect if the suicide occurs after two years of uninterrupted insurance.

Any change made to a contract to increase the amount of coverage is, as regards the additional amount, subject to the initially stipulated exclusion clause for a period of two years of uninterrupted insurance beginning on the effective date of the increase.

1991, c. 64, a. 2441; 2002, c. 70, s. 156; I.N. 2014-05-01.

2441.1. *(Repealed).*

2009, c. 25, s. 48; 2018, c. 23, s. 805.

2442. A contract of insurance for funeral expenses whereby a person undertakes, for a premium paid in a single payment or by instalments, to provide services or goods upon the death of another person, to pay funeral expenses or to set aside a sum of money for that purpose is null.

Only the person who paid the premium or instalments or the Autorité des marchés financiers acting on his behalf may bring an action for the annulment of the contract or recovery of the premium.

1991, c. 64, a. 2442; 2002, c. 45, s. 161; 2004, c. 37, s. 90.

2443. An attempt on the life of the insured by the policyholder entails, by operation of law, cancellation of the insurance and payment of the surrender value.

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An attempt on the life of the insured by any person other than the policyholder entails forfeiture only with respect to that person's right to the coverage.

1991, c. 64, a. 2443; I.N. 2014-05-01.

2444. The benefits established in favour of a member of a mutual benefit association, or of his or her married or civil union spouse, ascendants or descendants are unseizable either for debts of the member or for debts of the beneficiaries.

1991, c. 64, a. 2444; 2002, c. 6, s. 55.

§ 7. — *Designation of beneficiaries and subrogated policyholders*

I. — *Conditions of designation*

2445. The sum insured may be payable to the policyholder, the participant or a specified beneficiary.

In individual insurance, the holder of a policy on the life of a third person may designate a subrogated policyholder to replace him upon his death; he may also designate several subrogated policyholders and specify the order in which they will succeed to any preceding policyholder.

A life insurance policy may not be payable to bearer.

1991, c. 64, a. 2445; I.N. 2014-05-01.

2446. The designation of beneficiaries or of subrogated policyholders is made in the policy or in another writing which may or may not be in the form of a will.

1991, c. 64, a. 2446.

2447. The beneficiary or the subrogated policyholder need not exist at the time of designation or be then expressly determined; it is sufficient that at the time his right becomes exigible he exist or, if he is conceived but not born, that he be born alive and viable and that his quality be recognized.

The designation of a beneficiary is presumed made on the condition that the beneficiary exists at the time the proceeds of the insurance become payable; the designation of the subrogated policyholder is presumed made on the condition that the person so designated exists at the death of the preceding policyholder.

1991, c. 64, a. 2447; I.N. 2014-05-01; I.N. 2015-11-01.

2448. Where the insured and the beneficiary die at the same time or in circumstances which make it impossible to determine which of them died first, the insured is, for the purposes of the insurance, deemed to have survived the beneficiary. Where the insured dies intestate, leaving no heir within the degrees of succession, the beneficiary is deemed to have survived the insured. In similar circumstances, the preceding policyholder is deemed to have survived the subrogated policyholder.

1991, c. 64, a. 2448.

2449. A policyholder's or participant's designation, in a writing other than a will, of his or her married or civil union spouse as beneficiary is irrevocable, unless otherwise stipulated. The designation of any other person as beneficiary is revocable unless otherwise stipulated in the policy or in a separate writing other than a will. The designation of a person as subrogated policyholder is always revocable.

Where revocation is permitted, it may only result from a writing but it need not be express.

1991, c. 64, a. 2449; 2002, c. 6, s. 56; I.N. 2014-05-01.

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2450. A designation or revocation contained in a will that is null by reason of a defect of form is not null for that sole reason; such a designation or revocation is null, however, if the will is revoked.

A designation or revocation made in a will does not avail against another designation or revocation subsequent to the signing of the will. Nor does it avail against a designation prior to the signing of the will unless the will refers to the insurance policy in question or unless the intention of the testator in that respect is manifest.

1991, c. 64, a. 2450.

2451. Regardless of the terms used, every designation of beneficiaries remains revocable until received by the insurer.

1991, c. 64, a. 2451.

2452. Designations and revocations may be set up against the insurer only from the day he receives them; where several irrevocable designations of beneficiaries are made separately and at different times, they are given priority according to their dates of receipt by the insurer.

The insurer is discharged by payment in good faith in accordance with these rules to the last known person entitled to it.

1991, c. 64, a. 2452.

II. — *Effects of a designation*

1991, c. 64, Sd. II; I.N. 2014-05-01.

2453. Beneficiaries and subrogated policyholders are the creditors of the insurer but the insurer may set up against them the causes of nullity or forfeiture that may be invoked against the policyholder or participant.

1991, c. 64, a. 2453.

2454. The policyholder is entitled to the policy dividends and other benefits conferred on him by the contract even if the beneficiary has been designated irrevocably.

Policy dividends and benefits shall be imputed by the insurer to any premium due, so as to keep the insurance in force.

In either case, the contract may provide otherwise.

1991, c. 64, a. 2454; I.N. 2014-05-01.

2455. Sums insured payable to a beneficiary do not form part of the succession of the insured. Similarly, a contract transferred to a subrogated policyholder does not form part of the succession of the preceding policyholder.

1991, c. 64, a. 2455.

2456. Insurance payable to the succession or to the assigns, heirs, liquidators or other legal representatives of a person pursuant to a stipulation in which those terms or similar terms are employed forms part of the succession of that person.

The rules on representation of heirs do not apply with respect to insurance but those on accretion to the benefit of legatees by particular title apply among co-beneficiaries or subrogated co-policyholders.

1991, c. 64, a. 2456; I.N. 2014-05-01.

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2457. Where the designated beneficiary of the insurance is the married or civil union spouse, descendant or ascendant of the policyholder or of the participant, the rights under the contract are exempt from seizure until the beneficiary receives the sum insured.

1991, c. 64, a. 2457; 2002, c. 6, s. 57.

2458. A stipulation of irrevocability binds the policyholder even if the designated beneficiary has no knowledge of it. As long as the designation remains irrevocable, the rights conferred by the contract on the policyholder, participant or beneficiary are exempt from seizure.

1991, c. 64, a. 2458; I.N. 2014-05-01.

2459. Separation from bed and board does not affect the rights of the spouse, whether a beneficiary or a subrogated policyholder. However, the court may declare them revocable or lapsed when granting a separation.

Divorce or nullity of marriage or the dissolution or nullity of a civil union causes any designation of the spouse as beneficiary or subrogated policyholder to lapse.

1991, c. 64, a. 2459; 2002, c. 6, s. 58; I.N. 2014-05-01.

2460. Even if the beneficiary has been designated irrevocably, the policyholder and the participant may dispose of their rights, subject to the rights of the beneficiary.

1991, c. 64, a. 2460.

§ 8. — *Assignment and hypothecation of a right under a contract of insurance*

2461. An assignment of a right under a contract of insurance or a hypothec charging such a right may not be set up against the insurer, the beneficiary or third persons until the insurer receives notice thereof.

Where a right under a contract of insurance is subject to several assignments or hypothecs, priority is determined by the date on which the insurer is notified.

1991, c. 64, a. 2461; I.N. 2014-05-01.

2462. The assignment of insurance confers on the assignee all the rights and obligations of the assignor and entails the revocation of the designation of a revocable beneficiary and of a subrogated policyholder.

However, a hypothec charging a right under a contract of insurance confers rights on the hypothecary creditor only to the extent of the balance of the claim, interest and accessories; it entails revocation of the designation of a revocable beneficiary and of a subrogated policyholder only with respect to those amounts.

1991, c. 64, a. 2462; I.N. 2014-05-01; I.N. 2015-11-01.

DIVISION III

DAMAGE INSURANCE

§ 1. — *Provisions common to property insurance and liability insurance*

I. — *Principle of indemnity*

2463. In damage insurance, the insurer is obliged to make reparation for the injury suffered at the time of the loss, but only up to the amount of the coverage.

1991, c. 64, a. 2463; I.N. 2014-05-01; I.N. 2015-11-01.

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2464. The insurer is bound to make reparation for the injury resulting from superior force or the fault of the insured, unless an exclusion is expressly and restrictively stipulated in the contract. However, the insurer is never bound to make reparation for the injury resulting from the insured's intentional fault. Where there is more than one insured, the obligation of coverage remains with respect to those insured who have not committed an intentional fault.

Where the insurer covers injury caused by a person for whose acts or omissions the insured is bound to make reparation, the obligation of coverage subsists regardless of the nature or gravity of the fault committed by that person.

1991, c. 64, a. 2464; I.N. 2014-05-01; I.N. 2015-11-01; 2016, c. 4, s. 270.

2465. The insurer is not bound to indemnify for injury resulting from shrinkage, diminution or losses sustained by the property arising from an inherent defect in, or the nature of, the property.

1991, c. 64, a. 2465; I.N. 2014-05-01; I.N. 2015-11-01; 2016, c. 4, s. 271.

II. — *Increase in risk*

2016, c. 4, s. 272.

2466. The insured is bound to promptly notify the insurer of any circumstances that increases the risks stipulated in the policy and that result from events within his control if they are such as to materially influence an insurer in setting the rate of the premium, appraising the risk or deciding to continue to insure it.

If the insured fails to discharge his obligation, the provisions of article 2411 apply, adapted as required.

1991, c. 64, a. 2466; I.N. 2014-05-01; I.N. 2015-11-01.

2467. On being notified of the new circumstances, the insurer may cancel the contract or propose, in writing, a new rate of premium, in which case the insured is bound to accept and to pay the premium at the new rate within 30 days of the proposal, otherwise the policy ceases to be in force.

However, if the insurer continues to accept the premiums or pays an indemnity after a loss, he is deemed to have acquiesced in the change notified to him.

1991, c. 64, a. 2467; I.N. 2014-05-01; 2016, c. 4, s. 273.

2468. The lack of occupation of a residence does not constitute a change which increases the risk if it does not last more than 30 consecutive days or the insurance covers a secondary residence designated as such.

Nor does the admission of tradesmen into the residence to do maintenance or repair work for a period of not more than 30 days constitute a change which increases the risk.

1991, c. 64, a. 2468; I.N. 2014-05-01; 2016, c. 4, s. 274.

III. — *Payment of the premium*

1991, c. 64, Sd. III; I.N. 2014-05-01.

2469. The insurer is entitled to the premium only from the time the risk begins, and only for its duration if the risk disappears completely as a result of an event that is not covered by the insurance.

The insurer may bring an action for payment of the premium or deduct it from the indemnity payable.

1991, c. 64, a. 2469.

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IV. — *Notice of loss and payment of indemnity*

2470. The insured shall notify the insurer of any loss which may fall under the coverage, as soon as he becomes aware of it. Any interested person may give such notice.

An insurer who has not been so notified, and thereby suffers injury, may set up against the insured any clause of the policy providing for forfeiture of the right to indemnity in such a case.

1991, c. 64, a. 2470; I.N. 2014-05-01; 2016, c. 4, s. 275.

2471. At the request of the insurer, the insured shall inform the insurer as soon as possible of all the circumstances surrounding the loss, including its probable cause, the nature and extent of the damage, the location of the insured property, the rights of third persons, and any concurrent insurance; he shall also provide the insurer with vouchers and attest under oath to the truth of the information.

Where, for a serious reason, the insured is unable to fulfil that obligation, he is entitled to a reasonable time in which to do so.

If the insured fails to fulfil his obligation, any interested person may do so on his behalf.

1991, c. 64, a. 2471; I.N. 2014-05-01.

2472. Any deceitful representation entails the loss of the right of the person making it to any indemnity for the risk to which the representation relates.

However, if the occurrence of the risk insured against has entailed the loss of both movable and immovable property or of both property for occupational use and personal property, forfeiture is incurred only with respect to the class of property to which the representation relates.

1991, c. 64, a. 2472; I.N. 2014-05-01.

2473. The insurer is bound to pay the indemnity within 60 days after receiving the notice of loss or, if the insurer requested them, the relevant information and vouchers.

1991, c. 64, a. 2473; I.N. 2014-05-01.

2474. The insurer is subrogated to the rights of the insured against the author of the injury, up to the amount of indemnity paid. The insurer may be fully or partly released from his obligation towards the insured where, owing to an act or omission of the insured, he cannot be so subrogated.

The insurer may never be subrogated against persons who are members of the household of the insured.

1991, c. 64, a. 2474; I.N. 2014-05-01; 2016, c. 4, s. 277.

V. — *Assignment*

2475. A contract of insurance may be assigned only with the consent of the insurer and in favour of a person who has an insurable interest in the insured property.

1991, c. 64, a. 2475.

2476. Upon the death or bankruptcy of the insured or the assignment of his interest in the insurance to a co-insured, the insurance continues in favour of the heir, trustee in bankruptcy or remaining insured, subject to his performing the obligations to which the insured was bound.

1991, c. 64, a. 2476; I.N. 2014-05-01.

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VI. — *Cancellation of the contract*

2477. The insurer may cancel the contract on prior notice which shall be sent to every insured named in the policy. The cancellation takes place 15 days after notice is received by the insured at his last known address.

A contract of insurance may also be cancelled on mere notice in writing given to the insurer by each of the insured named in the policy. The cancellation takes place upon receipt of the notice.

The insured named in the policy may, however, give one or more of their number the mandate of receiving or sending the notice of cancellation.

1991, c. 64, a. 2477.

2478. Where the right to the indemnity has been hypothecated and notice to that effect has been given to the insurer, the contract may not be cancelled or amended to the detriment of the hypothecary creditor unless the insurer has given him prior notice of at least 15 days.

1991, c. 64, a. 2478; I.N. 2014-05-01.

2479. Where the insurance is cancelled, the insurer is entitled to only the earned portion of the premium, computed day by day if the contract is cancelled by the insurer, or at the short-term rate if it is cancelled by the insured; the insurer is bound to refund any overpayment of premium.

1991, c. 64, a. 2479; I.N. 2014-05-01.

2479.1. If the insured has assigned or hypothecated his right to a premium overpayment refund to or in favour of the person who paid the premium and the insurer has received notice of the assignment or hypothec, the insurer is bound to make the overpayment refund to the assignee or to the holder of the hypothec.

The assignment or hypothec may not be set up against third persons until the insurer receives notice of the assignment or hypothec.

If two or more assignments or hypothecs are made or granted on the same right to a premium overpayment refund, priority is determined according to when the insurer received notice.

2008, c. 20, s. 131.

§ 2. — *Property insurance*

I. — *Content of the policy*

1991, c. 64, Sd. I; I.N. 2014-05-01.

2480. In addition to the particulars prescribed for insurance policies generally, an indication shall be made in a property insurance policy of any exclusion of coverage not resulting from the ordinary meaning of the words or any limitation of coverage applying to specified objects or classes of objects, specifying the conditions on which the contract may be cancelled by the insured, as well as those on which the insurance may be reinstated or continued after a loss.

1991, c. 64, a. 2480.

II. — *Insurable interest*

2481. A person has an insurable interest in property where the loss of the property may cause him direct and immediate injury.

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It is necessary that the insurable interest exist at the time of the loss but not necessary that the same interest have existed throughout the duration of the contract.

1991, c. 64, a. 2481; I.N. 2014-05-01; 2016, c. 4, s. 278.

2482. Future property and incorporeal property may be the subject of a contract of insurance.

1991, c. 64, a. 2482.

2483. Property insurance may be contracted on behalf of whomever it may concern. The clause is valid as insurance for the benefit of the policyholder or as a stipulation for another in favour of the beneficiary of the clause, whether known or potential.

The policyholder alone is liable for payment of the premium to the insurer; any exception that the insurer may set up against him may also be set up against the beneficiary of the contract, whoever he may be.

1991, c. 64, a. 2483; I.N. 2014-05-01.

2484. The insurance of property in which the insured has no insurable interest is null.

1991, c. 64, a. 2484; I.N. 2014-05-01.

III. — *Extent of coverage*

2485. In fire insurance, the insurer is bound to make reparation for the injury which is an immediate consequence of fire or combustion, whatever the cause, including damage to the property during removal or that caused by the means employed to extinguish the fire, subject to the exceptions specified in the policy. The insurer also covers the disappearance of insured things that occurs during the fire, unless he proves that the disappearance is due to theft which is not covered.

The insurer is not bound to make reparation for the injury caused solely by excessive heat from a heating apparatus or by any process involving the application of heat where there is no fire or commencement of fire but, even where there is no fire, the insurer is bound to make reparation for the injury caused by lightning or the explosion of fuel.

1991, c. 64, a. 2485; I.N. 2014-05-01; I.N. 2015-11-01.

2486. An insurer who insures property against fire does not cover damage due to fires or explosions caused by foreign or civil war, riot or civil disturbance, nuclear explosion, volcanic eruption, earthquake or other cataclysm.

1991, c. 64, a. 2486; I.N. 2014-05-01.

2487. The insurer is bound to make reparation for the injury to the insured property caused by measures taken to save or protect it.

1991, c. 64, a. 2487; I.N. 2014-05-01; I.N. 2015-11-01.

2488. Insurance of things generally described as being in a certain place covers all things of the same kind which are in that place at the time of the loss.

1991, c. 64, a. 2488.

2489. The insurance of a furnished residence and that of movable property in general covers every class of movable property except what is expressly excluded or what is insured for only a limited amount.

1991, c. 64, a. 2489.

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IV. — *Amount of coverage*

1991, c. 64, Sd. IV; I.N. 2014-05-01.

2490. The value of the insured property is determined in the ordinary manner unless a special valuation formula is contained in the policy.

1991, c. 64, a. 2490.

2491. In unvalued contracts, the amount of the coverage does not make proof of the value of the insured property.

In valued contracts, the agreed value makes complete proof, between the insurer and the insured, of the value of the insured property.

1991, c. 64, a. 2491; I.N. 2014-05-01; 2016, c. 4, s. 279.

2492. A contract made without fraud for an amount greater than the value of the insured property is valid up to that value; the insurer has no right to charge any premium for the excess but premiums paid or due remain earned by him.

1991, c. 64, a. 2492; I.N. 2014-05-01.

2493. The insurer may not refuse to cover a risk for the sole reason that the amount of the coverage is less than the value of the insured property. In such a case, he is released by paying the amount of the coverage in the event of total loss or a proportional indemnity in the event of partial loss.

1991, c. 64, a. 2493; I.N. 2014-05-01.

V. — *Losses, and payment of indemnity*

2494. Subject to the rights of prior and hypothecary creditors, the insurer may reserve the right to repair, rebuild or replace the insured property. He is then entitled to salvage and may take over the property.

1991, c. 64, a. 2494; 2016, c. 4, s. 280.

2495. The insured may not abandon the damaged property if there is no agreement to that effect.

The insured shall facilitate the salvage and inspection of the insured property by the insurer. He shall, in particular, permit the insurer and his representatives to visit the premises and examine the insured property.

1991, c. 64, a. 2495.

2496. Any person who, without fraud, is insured by several insurers, under several policies, for the same interest and against the same risk, so that the total amount of indemnity that would result from the separate performance of such policies would exceed the loss incurred, may be indemnified by the insurer or insurers of his choice, each being liable only for the amount he has contracted for.

No clause suspending all or part of the performance of the contract by reason of plurality of insurance may be set up against the insured.

Unless otherwise agreed, the indemnity is apportioned among the insurers in proportion to the share of each in the total coverage, except with respect to specific insurance, which constitutes primary insurance.

1991, c. 64, a. 2496; I.N. 2014-05-01.

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2497. Notwithstanding any contrary provision, the indemnities due to the insured are apportioned among the prior creditors or creditors holding hypothecs on the damaged property, according to their rank and without express delegation, upon mere notice and proof by them.

However, payments made in good faith before the notice discharge the insurer.

1991, c. 64, a. 2497.

§ 3. — *Liability insurance*

2498. Civil liability, whether contractual or extracontractual, may be the subject of a contract of insurance.

1991, c. 64, a. 2498.

2499. In addition to the particulars prescribed for insurance policies generally, a liability insurance policy shall set out the relation between persons and property as well as between persons and acts and omissions which entails liability, together with the amounts of and exclusions from coverage, and the compulsory or optional nature of the insurance and the direct and indirect beneficiaries of it.

1991, c. 64, a. 2499; I.N. 2014-05-01; 2016, c. 4, s. 281.

2500. The proceeds of the insurance are applied exclusively to the payment of injured third persons.

1991, c. 64, a. 2500; I.N. 2014-05-01.

2501. An injured third person may bring an action directly against the insured or against the insurer, or against both.

The option chosen in that regard by the injured third person does not deprive him of his other recourses.

1991, c. 64, a. 2501; I.N. 2014-05-01.

2502. The insurer may set up against the injured third person any grounds he could have invoked against the insured at the time of the loss, but not grounds pertaining to facts that occurred after the loss; the insurer has a recursory action against the insured with respect to facts that occurred after the loss.

1991, c. 64, a. 2502; I.N. 2014-05-01; 2016, c. 4, s. 282.

2503. The insurer is bound to take up the interest of any person entitled to the benefit of the insurance and assume his defence in any action brought against him.

Legal costs and expenses resulting from actions against the insured, including those of the defence, and interest on the proceeds of the insurance are borne by the insurer over and above the proceeds of the insurance.

However, the Government may, by regulation, determine categories of insurance contracts that may depart from those rules and from the rule set out in article 2500, as well as classes of insureds that may be covered by such contracts. The Government may also prescribe any standard applicable to those contracts.

1991, c. 64, a. 2503; I.N. 2016-01-01 (NCCP); 2021, c. 15, s. 84.

2504. No transaction made without the consent of the insurer may be set up against him.

1991, c. 64, a. 2504.

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DIVISION IV

MARINE INSURANCE

§ 1. — *General provisions*

2505. In addition to providing coverage against the losses incident to marine adventure, marine insurance may cover the risks of any adventure analogous to a marine adventure, land risks which are incidental to a marine adventure or risks incident to the building, repair and launch of a ship.

1991, c. 64, a. 2505.

2506. In particular, there is a marine adventure where any ship, goods or other movables are exposed to maritime perils or where by reason of such perils, civil liability may be incurred by any person interested in insurable property.

There is also a marine adventure where the earning or acquisition of any freight, passage money, commission or other pecuniary benefit, or the security for any advances, loan or disbursements, is endangered by the exposure of insurable property to maritime perils.

1991, c. 64, a. 2506; I.N. 2015-11-01.

2507. Maritime perils include the perils designated by the policy and the perils consequent on or incidental to navigation such as perils of the sea, piracy, restraints, jettisons and barratry, and the capture, restraint, seizure or detainment of the ship or other insurable property by a government.

1991, c. 64, a. 2507.

2508. The insurance of a ship covers the hull of the ship as well as her outfit, stores and provisions, the machinery and boilers and, in the case of a ship engaged in a special trade, the ordinary fittings requisite for that trade, and, if owned by the insured, the bunkers and engine stores.

1991, c. 64, a. 2508.

2509. Insurance on freight covers the profit derivable by a shipowner from the employment of his ship to carry his own goods or other movables as well as freight payable by a third person, but does not include passage money.

1991, c. 64, a. 2509; I.N. 2015-11-01.

2510. The insurance on movables covers all movables not covered by the insurance on the ship.

1991, c. 64, a. 2510.

§ 2. — *Insurable interest*

I. — *Necessity of interest*

2511. It is not necessary that the insurable interest exist when the contract is made but it is necessary that it exist at the time of the loss.

The acquisition of an interest after a loss does not validate the insurance. However, where the property is insured “lost or not lost”, the insurance is valid although the insured may not have acquired his interest until after the loss provided that, at the time of making the contract, the insured was not aware of the loss.

1991, c. 64, a. 2511.

2512. Every contract of marine insurance by way of gaming or wagering is absolutely null.

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There is a gaming or wagering contract where the insured has no insurable interest and the contract is entered into with no expectation of acquiring such an interest.

A contract of marine insurance is deemed to be a gaming or wagering contract where the policy is made "interest or no interest" or "without further proof of interest than the policy itself", or "without benefit of abandonment to the insurer" where there is in fact a possibility of abandonment.

1991, c. 64, a. 2512.

II. — *Instances of insurable interest*

2513. An insurable interest exists where a person is interested in a marine adventure and, in particular, where the relation between that person and the adventure or the insurable property is such that he may incur liability in respect thereof or derive benefit from the safety or due arrival of the insurable property or be prejudiced in case of detainment, loss or damage.

1991, c. 64, a. 2513; I.N. 2014-05-01.

2514. An insurable interest subject to annulment, or that is contingent or partial, may be the subject of a contract of marine insurance.

1991, c. 64, a. 2514; 2016, c. 4, s. 283.

2515. An insurable interest exists, in particular, for the insurer in respect of the risk insured, for the insured in respect of the charges of insurance effected and the solvency of his insurer and for the master or any member of the crew of a ship in respect of his wages.

An insurable interest also exists for the person advancing freight so far as it is not repayable in case of loss, for the buyer of goods even where he is entitled to reject the goods or treat them as at the seller's risk, for the hypothecary debtor in respect of the full value of the hypothecated property, and for the hypothecary creditor up to the amount of his claim.

1991, c. 64, a. 2515; I.N. 2014-05-01.

III. — *Extent of insurable interest*

2516. Any person having an interest in insured property may take out insurance on his own account as well as on behalf of a third person having an interest in the property.

1991, c. 64, a. 2516; I.N. 2014-05-01; I.N. 2015-11-01.

2517. The owner of insurable property has an insurable interest in respect of the full value thereof, notwithstanding that some third person might have agreed, or be liable, to indemnify him in case of loss.

1991, c. 64, a. 2517.

§ 3. — *Measure of insurable value*

2518. The insurable value is the amount at the risk of the insured when the contract is formed.

The insurable value includes the charges of insurance on the property.

1991, c. 64, a. 2518; 2016, c. 4, s. 284.

2519. In insurance on ship, the insurable value is the value of the ship plus the money advanced for seamen's wages and any other disbursements incurred to make the ship fit for the voyage or adventure contemplated by the policy.

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In insurance on freight, whether paid in advance or otherwise, the insurable value is the gross amount of the freight at the risk of the insured; in insurance on goods, the insurable value is the cost price of the goods plus the expenses of and incidental to shipping.

1991, c. 64, a. 2519.

§ 4. — *Contract and policy*

I. — *Subscription*

2520. The subscription of each insurer constitutes a distinct contract with the insured.

1991, c. 64, a. 2520.

II. — *Kinds of contract*

2521. A contract may be for a voyage or for a period of time; a contract for both voyage and time may be included in the same policy.

A contract may be valued, unvalued or floating.

1991, c. 64, a. 2521.

2522. A voyage contract covers the insured from one place to another or others and, where specified in the contract, at the place of departure itself.

A time contract covers the insured for the stipulated period of time.

1991, c. 64, a. 2522; I.N. 2014-05-01; 2016, c. 4, s. 285.

2523. A valued contract is a contract which specifies the agreed value of the insured property.

In the absence of fraud, the value fixed by the contract is, as between the insurer and the insured, conclusive of the value of the insured property whether the loss be total or partial, but is not conclusive for the purpose of determining whether there has been a constructive total loss.

1991, c. 64, a. 2523; 2016, c. 4, s. 286.

2524. An unvalued contract is a contract which does not specify the value of the insured property but, without exceeding the amount of coverage, leaves the insurable value to be subsequently ascertained.

Where a declaration of the value of an insured property is not made until after notice of loss or arrival, the contract is treated as an unvalued contract as regards that property, unless the policy provides otherwise.

1991, c. 64, a. 2524.

2525. A floating contract is a contract which describes the insurance in general terms and leaves the necessary particulars such as the name of the ship to be defined by subsequent declaration.

1991, c. 64, a. 2525.

2526. Declarations may be made by endorsement on the policy or in other other customary manner but, where they pertain to goods to be dispatched or shipped, they shall, unless the policy provides otherwise, be made in the order of dispatch or shipment, state the value of the goods and comprise all consignments within the terms of the policy.

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Omissions or erroneous declarations made in good faith may be rectified even after loss or arrival.

1991, c. 64, a. 2526; I.N. 2014-05-01; I.N. 2015-11-01.

III. — *Content of the policy*

2527. In addition to the name of the insurer and of the insured or of the person who effects the insurance on behalf of the insured, a marine insurance policy shall specify the property insured and the risk insured against as well as the sums insured, the voyage or period of time covered by the insurance, the date and place of subscription, the amount or rate of the premiums and the dates on which they become due.

1991, c. 64, a. 2527; I.N. 2014-05-01.

IV. — *Assignment of policy*

2528. A marine policy may be assigned either before or after loss.

A marine policy may be assigned by endorsement on the policy or in other customary manner.

1991, c. 64, a. 2528; I.N. 2014-05-01.

2529. Where the insured has alienated or lost his interest in the insured property, and has not, before or at the time of so doing expressly or impliedly agreed to assign the policy, he may not subsequently assign the policy.

1991, c. 64, a. 2529.

2530. The alienation of the insured property does not entail assignment of the insurance except in the case of a transmission by operation of law or by succession in favour of an heir.

1991, c. 64, a. 2530; I.N. 2014-05-01; 2016, c. 4, s. 287.

2531. The assignee may enforce his rights directly against the insurer but the insurer may make any defense arising out of the contract which he would have been entitled to make against the insured.

1991, c. 64, a. 2531.

V. — *Evidence and ratification of the contract*

2532. A contract is inadmissible in evidence unless it is embodied in an insurance policy, but once the policy has been issued, customary memorandums of the contract such as the slip or covering note are admissible in evidence, in particular for the purpose of determining the actual terms of the contract and showing when the proposal was accepted.

1991, c. 64, a. 2532; 2016, c. 4, s. 288.

2533. Where a contract is effected in good faith on behalf of a third person, he may ratify it even after he is aware of a loss.

1991, c. 64, a. 2533; I.N. 2014-05-01.

§ 5. — *Rights and obligations of the parties as regards the premium*

2534. The insurer is not bound to issue the policy until payment or tender of the premium.

1991, c. 64, a. 2534.

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2535. Where an insurance is effected at a premium to be arranged, and no arrangement is made, a reasonable premium is payable.

The same applies where an insurance is effected on the terms that an additional premium is to be arranged in a given event and that event happens but no arrangement is made.

1991, c. 64, a. 2535.

2536. Where a marine policy is effected on behalf of the insured by a broker, the broker is responsible to the insurer for the premium. In other cases, the insured is responsible.

1991, c. 64, a. 2536.

2537. The insurer is responsible to the insured for the amounts payable. In the event of a loss or a return of premium, the insurer is responsible to the insured for such amounts whether or not he has collected the premium from the broker.

1991, c. 64, a. 2537; I.N. 2014-05-01.

2538. Where the consideration for the payment of the premium totally fails and there has been no fraud or illegality on the part of the insured, the premium is returnable to the insured.

Where the consideration for the payment of the premium is apportionable and there is a total failure of any apportionable part of the consideration, a proportionate part of the premium is, under the same conditions, returnable to the insured.

1991, c. 64, a. 2538; I.N. 2014-05-01.

2539. Where the policy is null or is cancelled by the insurer before the commencement of the risk, the premium is returnable provided there has been no fraud or illegality on the part of the insured; but if the risk is not apportionable, and has once attached, the premium is not returnable.

1991, c. 64, a. 2539.

2540. Where the insured property, or part thereof, has never been imperilled, the premium, or a proportionate part thereof, is returnable.

Where the property has been insured “lost or not lost” and has arrived in safety at the time when the contract is concluded, the premium is not returnable unless, at such time, the insurer knew of the safe arrival.

1991, c. 64, a. 2540.

2541. Where the insured has no insurable interest throughout the currency of the risk, the premium is returnable, provided the contract was not effected by way of gaming or wagering.

Where the insured has an interest subject to annulment which is terminated during the currency of the risk, the premium is not returnable.

1991, c. 64, a. 2541.

2542. Where the insured has over-insured under an unvalued contract, a proportionate part of the premium is returnable.

The same applies in the case of over-insurance resulting from several contracts, if effected without the knowledge of the insured. But if the contracts have become effective at different times, and any of the

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contracts has, at any time, borne the entire risk or if an indemnity has been paid by the insurer in respect of the full sum insured thereby, no premium is returnable in respect of that contract.

1991, c. 64, a. 2542; I.N. 2014-05-01.

2543. The broker has a right of retention upon the policy for the amount of the premium and his charges in respect of effecting the policy.

Where the broker has dealt with a person as if that person was acting on his own account, he also has a right of retention upon the policy in respect of any balance on any insurance account which may be due to him from such person, unless, when the debt was incurred, he had good reason to believe that such person was acting only on behalf of another.

1991, c. 64, a. 2543; I.N. 2014-05-01; 2016, c. 4, s. 289.

2544. Where a policy effected by a broker acknowledges the receipt of the premium, the acknowledgement is, in the absence of fraud, conclusive as between the insurer and the insured, but not as between the insurer and the broker.

1991, c. 64, a. 2544.

§ 6. — *Disclosure and representations*

2545. A contract of marine insurance is a contract based upon the utmost good faith.

If the utmost good faith is not observed by either party, the other party may apply to have the contract annulled.

1991, c. 64, a. 2545; I.N. 2014-05-01.

2546. The insured shall disclose to the insurer, before the formation of the contract, all circumstances known to him which would materially influence an insurer in fixing the premium, appreciating the risk or determining whether he will take it; the insured shall make only true representations.

Circumstances requiring disclosure include any communication made to or information received by the insured.

1991, c. 64, a. 2546.

2547. In the absence of inquiry, the insured is not bound to disclose circumstances which diminish the risk and circumstances which it is superfluous to disclose by reason of an express or implied warranty.

Similarly, the insured is not bound to disclose matters of notoriety or circumstances which are known to the insurer or as to which information is waived by the insurer.

1991, c. 64, a. 2547; I.N. 2014-05-01.

2548. A representation as to a matter of fact is deemed true if the difference between what is represented and what is actually correct would not materially influence the judgment of an insurer.

A representation as to a matter of expectation or belief is deemed true if it is made in good faith.

1991, c. 64, a. 2548.

2549. Where insurance is effected for an insured by a representative of the insured, the representative is subject to the same obligations as the insured with respect to representations and disclosures.

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However, no omission is attributable to the representative with respect to circumstances which came to the knowledge of the insured too late to be communicated to him.

1991, c. 64, a. 2549; I.N. 2014-05-01.

2550. The insured and the insurer as well as their representatives are deemed to know every circumstance which, in the ordinary course of business, they ought to know.

1991, c. 64, a. 2550; I.N. 2014-05-01.

2551. A representation may be withdrawn or corrected before the formation of the contract.

1991, c. 64, a. 2551.

2552. Any omission or misrepresentation on the part of the insured nullifies the contract at the instance of the insurer, even with respect to losses not connected with the risks misrepresented or not disclosed.

1991, c. 64, a. 2552; I.N. 2014-05-01; I.N. 2015-11-01.

§ 7. — *Warranties*

2553. A warranty is an undertaking by the insured whereby he affirms or denies the existence of a particular state of facts or promises that some particular thing will or will not be done or that some condition will be fulfilled.

The affirmation or denial of a particular state of facts necessarily implies that the state of facts will not vary.

1991, c. 64, a. 2553; I.N. 2014-05-01.

2554. A warranty shall be exactly complied with whether or not it may materially influence the judgment of an insurer.

Where a warranty is not so complied with, the insurer is discharged from liability as from the time of the breach of warranty with respect to any loss which occurs subsequently; the insured may not avail himself of the defence that the breach has been remedied, and the warranty complied with, before the loss.

1991, c. 64, a. 2554; I.N. 2014-05-01; I.N. 2015-11-01.

2555. The insured is not required to comply with a warranty which has become unlawful or which has ceased, by reason of a change of circumstances, to be applicable to the circumstances of the contract.

1991, c. 64, a. 2555.

2556. A warranty may be express or implied. An express warranty may be in any form of words but shall be written in the policy or contained in a document incorporated into the policy by way of a rider.

An express warranty does not exclude an implied warranty, unless it is inconsistent therewith.

1991, c. 64, a. 2556.

2557. Where insurable property, whether ship or goods, is expressly warranted “neutral”, there is an implied warranty that the property will have a neutral character at the commencement of the risk and that, so far as the insured can control the matter, its neutral character will be preserved during the risk.

Where a ship is expressly warranted “neutral” there is also an implied warranty that, so far as the insured can control the matter, she will carry the necessary papers to establish her neutrality and that she will not

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falsify or suppress her papers or use simulated papers. If any loss occurs through breach of this implied warranty, the insurer may bring an action for the annulment of the contract.

1991, c. 64, a. 2557.

2558. There is no implied warranty as to the nationality of a ship, or that her nationality will not be changed during the risk.

1991, c. 64, a. 2558.

2559. Where the insured property is warranted well or in good safety on a particular day, it is sufficient if it be safe at any time during that day.

1991, c. 64, a. 2559.

2560. In a voyage contract, there is an implied warranty that at the commencement of the voyage the ship will be seaworthy for the purpose of the marine adventure insured.

Where the risk attaches while the ship is in port, there is also an implied warranty that, at the commencement of the risk, she will be fit to encounter the ordinary perils of the port; where the different stages of a voyage require different kinds of or further preparation or equipment for the ship, there is an implied warranty that the ship will be seaworthy at the commencement of each stage.

1991, c. 64, a. 2560; I.N. 2015-11-01; 2016, c. 4, s. 290.

2561. In a time contract there is no implied warranty that the ship is seaworthy.

Where, with the knowledge of the insured, the ship is sent to sea in an unseaworthy state, the insurer is not liable for any loss attributable to such unseaworthiness.

1991, c. 64, a. 2561; 2016, c. 4, s. 290.

2562. A ship is deemed to be seaworthy when she is fit in all respects to encounter the ordinary perils of the seas of the marine adventure insured.

1991, c. 64, a. 2562; I.N. 2015-11-01.

2563. In a contract of insurance on goods or other movables, there is no implied warranty that the goods or movables are seaworthy.

However, in a voyage contract there is an implied warranty that, at the commencement of the voyage, the ship is seaworthy and that she is fit to carry the goods or movables to the destination contemplated.

1991, c. 64, a. 2563; I.N. 2014-05-01; 2016, c. 4, s. 291.

2564. There is an implied warranty that the marine adventure insured is not unlawful and that, so far as the insured can control the matter, it will be carried out in a lawful manner.

1991, c. 64, a. 2564; I.N. 2015-11-01.

§ 8. — *The voyage*

I. — *Commencement*

2565. In a voyage contract there is an implied condition that if, when the contract is made, the ship is not at the place of departure specified therein, the marine adventure will nevertheless commence within a reasonable time.

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If the marine adventure is not so commenced, the insurer may apply for the annulment of the contract unless the insured shows that the delay was caused by circumstances known to the insurer before the contract was made.

1991, c. 64, a. 2565; I.N. 2014-05-01; I.N. 2015-11-01.

2566. Where the ship sails from a place other than the place of departure specified in the contract the risk does not attach.

The same applies where the ship sails for a destination other than that specified in the contract.

1991, c. 64, a. 2566.

II. — *Change of voyage*

2567. There is a change of voyage from such time as, after the commencement of the risk, the determination to voluntarily change the destination specified in the contract is manifested.

The insurer is discharged from liability from the time of the change whether or not the course has in fact been changed when the loss occurs.

1991, c. 64, a. 2567.

III. — *Deviation*

2568. There is a deviation where the ship departs in fact from the course specified in the contract or, if none is specified, where the usual and customary course is departed from.

The insurer is discharged from liability from the time of a deviation without lawful excuse, whether or not the ship has regained her course before any loss occurs.

1991, c. 64, a. 2568; I.N. 2014-05-01.

2569. Where several places of discharge are specified in the contract, the ship may proceed to all or any of them.

However, in the absence of any usage or lawful excuse to the contrary, the ship shall proceed to such of the places as she goes to in the order specified in the contract; if she does not, there is a deviation.

1991, c. 64, a. 2569; I.N. 2014-05-01.

2570. Where several places of discharge within a given area are referred to in the contract in general terms but are not named, the ship shall, in the absence of any usage or lawful excuse to the contrary, proceed to such of them as she goes to in their geographical order; if she does not, there is a deviation.

1991, c. 64, a. 2570.

IV. — *Delay*

2571. In the case of a voyage contract, the marine adventure shall be prosecuted with dispatch and if, without lawful excuse, it is not so prosecuted, the insurer is discharged from liability from the time when the lack of dispatch becomes manifest.

1991, c. 64, a. 2571; I.N. 2014-05-01; I.N. 2015-11-01.

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V. — *Excuses for deviation or delay*

2572. Deviation or delay in prosecuting the voyage is excused where authorized by the contract or necessary in order to comply with an express or implied warranty or where caused by circumstances beyond the control of the master and his employer or necessary for the safety of the insured property.

Deviation or delay is also excused where it occurs for the purpose of saving human life or aiding a ship in distress where human life may be in danger or where necessary for the purpose of obtaining medical or surgical aid for any person on board the ship, or where caused by the barratrous conduct of the master or crew, provided barratry is one of the perils insured against.

1991, c. 64, a. 2572.

2573. When the cause excusing the deviation or delay ceases to operate, the ship shall resume her course and prosecute her voyage with reasonable dispatch.

1991, c. 64, a. 2573; I.N. 2014-05-01.

2574. Where, by the occurrence of a peril insured against, the voyage is interrupted at an intermediate place under such circumstances as, apart from any special stipulation in the contract of affreightment, to justify the master in landing and reshipping the goods or other movables, or in transhipping them, and sending them on to their destination, the liability of the insurer continues.

1991, c. 64, a. 2574; I.N. 2014-05-01.

§ 9. — *Notice of loss*

2575. The notice of loss is governed by the rules applicable in non-marine damage insurance.

1991, c. 64, a. 2575.

2576. The insurer is liable only for losses directly caused by a peril insured against.

The insurer is not liable for any such loss caused by the insured's intentional fault, but he is liable if it is caused by fault on the part of the master or crew.

1991, c. 64, a. 2576; I.N. 2014-05-01.

2577. The insurer on ship or goods is not liable for any loss directly caused by delay, even though the delay is attributable to the occurrence of a peril insured against.

The insurer is also not liable for any injury to machinery not directly caused by maritime perils nor for any loss directly caused by rats or vermin, ordinary wear and tear, ordinary leakage and breakage during a voyage, or the very nature of the insured property or any inherent defect in it.

1991, c. 64, a. 2577; I.N. 2014-05-01.

2578. A loss may be either total or partial.

A total loss may be either an actual total loss or a constructive total loss.

Only a loss contemplated by this subsection may be considered a total loss.

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2579. Unless a different intention appears from the terms of the contract, insurance against total loss includes a constructive total loss as well as an actual total loss.

1991, c. 64, a. 2579; I.N. 2014-05-01; 2016, c. 4, s. 292.

2580. There is an actual total loss where the insured is irretrievably deprived of the insured property or where it is destroyed or so damaged as to cease to be a thing of the kind insured. An actual total loss may be presumed where the ship is missing and no news of her has been received for a reasonable period of time.

1991, c. 64, a. 2580.

2581. There is a constructive total loss where the insured property is abandoned on account of its actual total loss appearing to be unavoidable, or because it could not be preserved from actual total loss without an expenditure which would exceed the value of the insured property.

There is also a constructive total loss where the insured is deprived of the possession of the insured property by a peril insured against and it is either unlikely that he can recover it, or too costly to attempt to do so; there is also constructive total loss where repairing the damage to the insured property would be too costly.

1991, c. 64, a. 2581.

2582. Recovery or repair is presumed to be too costly where the cost would exceed the value of the insured property at the time the expense was incurred or where the cost of repairing the damage and forwarding the goods to their destination would exceed their value on arrival or where the cost of repairing the damage to the ship would exceed the value of the ship when repaired.

1991, c. 64, a. 2582.

2583. In estimating the cost of repairs, no deduction is to be made in respect of general average contributions to those repairs payable by other interests.

However, account is to be taken of the expense of future salvage operations and of any future general average contributions to which the ship would be liable if repaired.

1991, c. 64, a. 2583.

2584. Where there is a constructive total loss, the insured may either treat the loss as a partial loss, or abandon the insured property to the insurer and treat the loss as if it were an actual total loss.

1991, c. 64, a. 2584.

2585. Where the insured brings an action for a total loss and the evidence proves only a partial loss, he may nevertheless recover for a partial loss, unless partial losses are not covered by the contract.

1991, c. 64, a. 2585.

2586. Where goods that have reached their destination are incapable of identification by reason of obliteration of marks or otherwise, the insured has a right of action for partial loss only.

1991, c. 64, a. 2586.

§ 10. — *Abandonment*

2587. Where the insured elects to abandon the insured property, he shall give notice of abandonment, except in the case of total actual loss. If he fails to do so, he has a right of action for partial loss only.

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2588. There are no special requirements as to the form or substance of the notice of abandonment but the insured shall make his intention to effect unconditional abandonment manifest.

1991, c. 64, a. 2588.

2589. Notice of abandonment shall be given with diligence after the receipt of reliable information of the loss.

Where the information is of a doubtful character the insured is entitled to a reasonable time to make inquiry.

1991, c. 64, a. 2589.

2590. Notice of abandonment is unnecessary if, at the time the insured receives information of the loss, there would be no possibility of benefit to the insurer if notice were given to him.

1991, c. 64, a. 2590.

2591. The insurer need not give notice of the abandonment to his reinsurer.

1991, c. 64, a. 2591.

2592. The insurer may either accept or refuse an abandonment validly tendered. He may also waive notice of abandonment.

The acceptance of an abandonment may be either express or implied from the conduct of the insurer, but the mere silence of the insurer is not an acceptance.

1991, c. 64, a. 2592.

2593. The acceptance of the notice admits sufficiency of the notice, renders the abandonment irrevocable and conclusively admits the insurer's obligation to indemnify the insured.

1991, c. 64, a. 2593; I.N. 2014-05-01.

2594. Where the insurer accepts the abandonment, he becomes, from the time of the loss, the owner of the interest of the insured in whatever may remain of the insured property and all rights and obligations incidental thereto.

An insurer who has accepted the abandonment of a ship is entitled to any freight earned after the loss, less the expenses of earning it incurred after the loss. And, where the ship is carrying the ship owner's goods, the insurer is entitled to a reasonable remuneration for the carriage of them subsequent to the loss.

1991, c. 64, a. 2594.

2595. Where the notice of abandonment is properly given, the rights of the insured, particularly the right of recovery for a constructive total loss, are not prejudiced by the fact that the insurer refuses to accept the abandonment.

The insured retains his interest in whatever may remain of the insured property and all incidental rights and obligations, even if the insurer indemnifies him for the loss which gave rise to the abandonment.

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§ 11. — *Kinds of average loss*

2596. A particular average loss is a partial loss of the insured property, caused by a peril insured against, and which is not a general average loss.

1991, c. 64, a. 2596.

2597. Expenses incurred by or on behalf of the insured for the preservation or safety of the insured property, other than general average and salvage charges, are called particular charges.

Particular charges are not included in particular average.

1991, c. 64, a. 2597.

2598. Salvage charges incurred in preventing a loss by perils insured against may be recovered as a loss by those perils.

"Salvage charges" means the charges recoverable under maritime law by a salvor independently of contract. They do not include the expenses of services in the nature of salvage rendered by the insured or by his mandatary, or any person employed for hire by them, for the sole purpose of averting a peril insured against, unless such expenses are properly incurred, in which case they may be recovered as particular charges or as a general average loss, according to the circumstances in which they were incurred.

1991, c. 64, a. 2598; 2016, c. 4, s. 293.

2599. A general average loss is a loss caused by a general average act.

There is a general average act where any extraordinary sacrifice or expense is voluntarily and reasonably made or incurred in time of peril for the purpose of preserving the property imperilled.

1991, c. 64, a. 2599; I.N. 2014-05-01.

2600. Where there is a general average loss, the party on whom it falls is entitled, subject to the conditions imposed by maritime law, to a rateable contribution from the other interested persons, and such contribution is called a general average contribution.

1991, c. 64, a. 2600; I.N. 2014-05-01.

2601. Where the insured has incurred a general average expenditure, he may recover from the insurer in respect of the proportion of the loss which falls upon him, if any; in the case of a general average sacrifice, he may recover from the insurer in respect of the whole loss without having enforced his right of contribution from the other parties.

1991, c. 64, a. 2601.

2602. The insurer is not bound to indemnify for any general average loss or contribution where the loss was not incurred for the purpose of avoiding, or in connection with the avoidance of, a peril insured against.

1991, c. 64, a. 2602; I.N. 2014-05-01.

2603. Where the ship, freight, and cargo, or other movable property, or any two of them, are owned by the same insured, the liability of the insurer in respect of general average losses or contributions is to be determined as if the property were owned by different persons.

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§ 12. — *Measure of indemnity*

2604. The measure of indemnity is the sum recoverable, to the full extent of the insurable value in the case of an unvalued contract or, in the case of a valued contract, to the full extent of the value fixed in the contract.

1991, c. 64, a. 2604; 2016, c. 4, s. 294.

2605. Where there is a loss recoverable under the contract, the insurer, or each insurer if there is more than one, is liable for such proportion of the measure of indemnity as the amount of his subscription bears to the value fixed in the contract in the case of a valued contract, or to the insurable value in the case of an unvalued contract.

1991, c. 64, a. 2605; I.N. 2014-05-01; 2016, c. 4, s. 294.

2606. The measure of indemnity for a total loss is the sum fixed in the contract in the case of a valued contract, or the insurable value of the insured property in the case of an unvalued contract.

1991, c. 64, a. 2606; 2016, c. 4, s. 294.

2607. Where freight is lost, the measure of indemnity is such proportion of the sum fixed in the contract, in the case of a valued contract, or of the insurable value, in the case of an unvalued contract, as the proportion of freight lost bears to the whole insured freight.

1991, c. 64, a. 2607; 2016, c. 4, s. 294.

2608. Where a ship is damaged, but is not totally lost, the measure of indemnity is as follows:

(1) where the ship has been repaired, the insured is entitled to the reasonable cost of the repairs, less the customary deductions, but not exceeding the sum insured in respect of any one casualty;

(2) where the ship has been only partially repaired, the insured is entitled to the reasonable cost of such repairs computed as in paragraph 1, and also to be indemnified for the reasonable depreciation arising from the unrepaired damage, provided that the aggregate amount does not exceed the cost of repairing the whole damage;

(3) where the ship has not been repaired, and has not been sold in her damaged state during the risk, the insured is entitled to be indemnified for the reasonable depreciation arising from the unrepaired damage, but not exceeding the reasonable cost of repairing such damage, computed as in paragraph 1.

1991, c. 64, a. 2608.

2609. Where part of the goods or other movable property insured by a valued contract is totally lost, the measure of indemnity is such proportion of the sum fixed in the contract as the insurable value of the part lost bears to the insurable value of the whole, ascertained as in the case of an unvalued contract.

Where part of the property insured by an unvalued contract is totally lost, the measure of indemnity is the insurable value of the part lost, ascertained as in case of total loss.

1991, c. 64, a. 2609.

2610. Where the whole or any part of the goods or other movable property insured has been delivered damaged at its destination, the measure of indemnity is such proportion of the sum fixed or, as the case may be, of the insurable value, as the difference between the gross sound and damaged values bears to the gross sound value.

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"Gross value" means the wholesale price at destination or, if there is no such price, the estimated value of the property with, in either case, freight, landing charges and duty paid beforehand or, in the case of goods customarily sold in bond, the bonded price.

1991, c. 64, a. 2610.

2611. Where different species of property are insured under a single valuation, the valuation is apportioned over the different species in proportion to their respective insurable values; similarly, the insured value of any part of a species is such proportion of the total insured value of that species as the insurable value of the part bears to the insurable value of the whole.

Where the valuation of the insured value of different species of goods has to be apportioned, and particulars of the invoice value, quality, or description of each separate species cannot be ascertained, the division of the valuation may be made over the net arrived sound values of the goods.

1991, c. 64, a. 2611.

2612. Where the insured has paid, or is liable for, any general average contribution, the measure of indemnity is the full amount of such contribution if the property is insured for its full contributory value; if the property is not insured for its full contributory value or if only part of it is insured, the indemnity is reduced in proportion to the under-insurance.

The amount awarded as compensation for injury suffered by the insured by reason of a particular average loss which constitutes a deduction from the contributory value, and for which the insurer is liable, shall be deducted from the insured value in order to ascertain what the insurer is liable to contribute.

The extent of the insurer's liability for salvage charges is determined on the same principles.

1991, c. 64, a. 2612; I.N. 2014-05-01.

2613. The measure of indemnity recoverable under a civil liability insurance contract is the sum paid or payable to third persons, up to the amount of the coverage.

1991, c. 64, a. 2613; I.N. 2014-05-01; I.N. 2015-11-01.

2614. Where the loss sustained is not expressly provided for in this subsection, the measure of indemnity is ascertained, as nearly as may be, in accordance with this subsection.

1991, c. 64, a. 2614.

2615. Where the insured property is warranted free from particular average, the insured may not recover for a loss of part of the insured property other than a loss incurred by a general average sacrifice, unless the contract is apportionable.

If the contract is apportionable, the insured may recover for a total loss of any apportionable part of the insured property.

1991, c. 64, a. 2615.

2616. Where the insured property is warranted free from particular average, either wholly or under a certain percentage, the insurer is nevertheless liable for salvage charges, and for particular charges and other expenses properly incurred pursuant to the provisions of the suing and labouring clause in order to avert a loss insured against.

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A general average loss may not be added to a particular average loss to make up the percentage stipulated in the contract. Likewise, no regard is had to particular charges and the expenses of and incidental to ascertaining the loss.

1991, c. 64, a. 2616.

2617. Subject to the provisions of this subsection, the insurer is liable for successive losses, even though the total amount of such losses may exceed the sum insured.

However, where a partial loss which has not been the subject of repairs or replacement is followed by a total loss, the insured may only recover under the same contract in respect of the total loss.

The liability of the insurer under the suing and labouring clause is not affected.

1991, c. 64, a. 2617; I.N. 2014-05-01; 2016, c. 4, s. 294.

2618. A suing and labouring clause is deemed to be supplementary to the contract of insurance; the insured may recover from the insurer any expenses properly incurred pursuant to the clause, notwithstanding that the insurer may have paid for a total loss, or that the property may have been warranted free from particular average, either wholly or under a certain percentage.

General average losses and contributions, salvage charges, and expenses incurred for the purpose of averting or diminishing any loss not covered by the contract are not recoverable under the suing and labouring clause.

1991, c. 64, a. 2618.

2619. It is the duty of the insured and of his representatives, in all cases, to take reasonable measures for the purpose of averting or minimizing a loss.

1991, c. 64, a. 2619; I.N. 2014-05-01.

§ 13. — *Miscellaneous provisions*

I. — *Subrogation*

2620. Where the insurer indemnifies the insured for a total loss, either of the whole, or, in the case of goods, of any apportionable part of the insured property, he becomes entitled to take over the interest of the insured in whatever may remain of the property so insured and he is thereby subrogated to all the rights and remedies of the insured in and in respect of the insured property from the time of the event causing the loss.

However, where the insurer indemnifies the insured for a particular average loss, he acquires no right to the insured property, or to any part of it that may remain, but he is thereupon subrogated to all rights and remedies of the insured in or in respect of the property from the time of the event causing the loss, up to the indemnity paid.

1991, c. 64, a. 2620; I.N. 2014-05-01; 2016, c. 4, s. 295.

II. — *Double insurance*

2621. Where two or more insurance policies are effected by or on behalf of the insured on the same marine adventure and interest or any part thereof and the sums insured exceed the indemnity recoverable, the insured is said to be over-insured by double insurance.

1991, c. 64, a. 2621; I.N. 2015-11-01.

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2622. Where the insured is over-insured by double insurance, he may claim payment from the insurers in such order as he may think fit, but in no case is he entitled to receive any sum in excess of the indemnity recoverable.

1991, c. 64, a. 2622.

2623. Where the contract under which the insured claims is a valued contract, the insured shall give credit as against the valuation for any sum received by him under any other contract without regard to the actual value of the insured property.

Where the contract under which the insured claims is an unvalued contract, the insured shall give credit, as against the full insurable value, for any sum received by him under any other contract.

1991, c. 64, a. 2623; 2016, c. 4, s. 296.

2624. Where the insured receives any sum in excess of the indemnity recoverable, he is deemed to hold such sum on behalf of the insurers according to their right of contribution among themselves.

1991, c. 64, a. 2624.

2625. Where the insured is over-insured by double insurance, each insurer is bound, as between himself and the other insurers, to contribute to the loss rateably to the amount for which he is liable under his contract.

If any insurer pays more than his proportion of the loss, he is entitled to recover the excess from the other insurers in the same manner as a surety who has paid more than his proportion of the debt.

1991, c. 64, a. 2625.

III. — *Under-insurance*

2626. Where the insured is insured for an amount less than the insurable value or, in the case of a valued contract, for an amount less than the contract valuation, the insured is his own insurer in respect of the uninsured balance.

1991, c. 64, a. 2626; I.N. 2014-05-01; 2016, c. 4, s. 296.

IV. — *Mutual insurance*

2627. Where two or more persons mutually agree to insure each other against marine losses there is said to be mutual insurance.

Mutual insurance is governed by the provisions of this section except those relating to the premium but such arrangement as may be agreed upon may be substituted for the premium.

1991, c. 64, a. 2627; I.N. 2014-05-01.

V. — *Direct action*

2628. Articles 2500 to 2502 as to the direct action of injured third persons apply to marine insurance. Any stipulation that is inconsistent with those rules is null.

1991, c. 64, a. 2628; I.N. 2014-05-01.

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CHAPTER XVI

GAMING AND WAGERING

2629. Gaming and wagering contracts are valid in the cases expressly authorized by law.

They are also valid where they are related to lawful activities and games requiring only skill or bodily exertion on the part of the parties, unless the amount at stake is immoderate given the circumstances and in view of the condition and means of the parties.

1991, c. 64, a. 2629; I.N. 2014-05-01.

2630. Where gaming and wagering are not expressly authorized by law, the winning party may not exact payment of the debt and the losing party may not recover the sum paid.

The losing party may recover the sum paid, however, in cases of fraud or trickery, or where the losing party is a minor or a person of full age under tutorship or under a protection mandate or not endowed with reason.

1991, c. 64, a. 2630; I.N. 2014-05-01; I.N. 2015-11-01; 2020, c. 11, s. 97.

CHAPTER XVII

TRANSACTION

2631. Transaction is a contract by which the parties prevent a future contestation, put an end to a lawsuit or settle difficulties arising in the execution of a judgment, by way of mutual concessions or reservations.

A transaction is indivisible as to its subject.

1991, c. 64, a. 2631; I.N. 2015-11-01.

2632. No transaction may be made with respect to the status or capacity of persons or to other matters of public order.

1991, c. 64, a. 2632.

2633. A transaction has, between the parties, the authority of *res judicata*.

A transaction is not subject to forced execution until it is homologated.

1991, c. 64, a. 2633; I.N. 2016-01-01 (NCCP); 2016, c. 4, s. 297.

2634. Error of law is not a cause for annulling a transaction. Apart from such exception, a transaction may be annulled for the same causes as contracts in general.

1991, c. 64, a. 2634; I.N. 2015-11-01.

2635. A transaction based on a title that is null is also null, unless the parties have expressly referred to and covered the nullity.

A transaction based on writings later found to be false is also null.

1991, c. 64, a. 2635.

2636. A transaction upon a lawsuit is null if the parties, or one of them, were unaware that a judgment having become final had terminated the litigation.

1991, c. 64, a. 2636; I.N. 2014-05-01; 2016, c. 4, s. 298.

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2637. Where the parties have made a transaction on all matters between them, the subsequent discovery of documents of which they were unaware at the time of the transaction does not constitute a cause for annulling the transaction, unless the documents were withheld by one of the parties or, to his knowledge, by a third person.

However, the transaction is null if it relates to only one subject and if the documents later discovered prove that one of the parties had no rights in it.

1991, c. 64, a. 2637; I.N. 2015-11-01.

CHAPTER XVIII

ARBITRATION AGREEMENTS

2638. An arbitration agreement is a contract by which the parties undertake to submit a present or future dispute to the decision of one or more arbitrators, to the exclusion of the courts.

1991, c. 64, a. 2638.

2639. Disputes over the status and capacity of persons, family matters or other matters of public order may not be submitted to arbitration.

An arbitration agreement may not be opposed on the ground that the rules applicable to settlement of the dispute are in the nature of rules of public order.

1991, c. 64, a. 2639.

2640. An arbitration agreement shall be evidenced in writing; it is deemed to be evidenced in writing if it is contained in an exchange of communications which attest to its existence or in an exchange of proceedings in which its existence is alleged by one party and is not contested by the other party.

1991, c. 64, a. 2640.

2641. A stipulation which places one party in a privileged position with respect to the designation of the arbitrators is null.

1991, c. 64, a. 2641.

2642. An arbitration agreement contained in a contract is considered to be an agreement separate from the other clauses of the contract and where the arbitrators find the contract to be null, the arbitration agreement is not for that reason rendered null.

1991, c. 64, a. 2642; I.N. 2014-05-01.

2643. Subject to the peremptory provisions of law, the arbitration procedure is governed by the contract or, failing that, by the Code of Civil Procedure (chapter C-25.01).

1991, c. 64, a. 2643; I.N. 2014-05-01; I.N. 2016-01-01 (NCCP).

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BOOK SIX

PRIOR CLAIMS AND HYPOTHECS

TITLE ONE

COMMON PLEDGE OF CREDITORS

2644. The property of a debtor is charged with the performance of his obligations and is the common pledge of his creditors.

1991, c. 64, a. 2644.

2645. Any person under a personal obligation charges, for its performance, all his property, movable and immovable, present and future, except property which is exempt from seizure or property which is the subject of a division of patrimony permitted by law.

However, the debtor may agree with his creditor to be bound to fulfil his obligation only from the property they designate.

1991, c. 64, a. 2645; I.N. 2014-05-01.

2646. Creditors may institute judicial proceedings to cause the property of their debtor to be seized and sold.

If the creditors claim together, the price is distributed proportionately to their claims, unless some of them have a legal cause of preference.

1991, c. 64, a. 2646; 2016, c. 4, s. 299.

2647. The legal causes of preference are prior claims and hypothecs.

1991, c. 64, a. 2647; I.N. 2014-05-01.

2648. Property which, under the Code of Civil Procedure (chapter C-25.01), may be exempted or is exempt from seizure and falls within the limits specified by that Code cannot be seized.

1991, c. 64, a. 2648; I.N. 2014-05-01; 2014, c. 1, s. 797.

2649. A stipulation of unseizability is without effect, unless it is made in an act by gratuitous title and is temporary and justified by a serious and legitimate interest. Nevertheless, the property remains liable to seizure to the extent provided in the Code of Civil Procedure (chapter C-25.01).

It may be set up against third persons only if it is published in the appropriate register.

1991, c. 64, a. 2649; 2002, c. 19, s. 15; I.N. 2016-01-01 (NCCP).

TITLE TWO

PRIOR CLAIMS

2650. A prior claim is a claim to which the law attaches the right for a creditor to be preferred over the other creditors, even the hypothecary creditors, according to the origin of his claim.

The priority of a claim is indivisible.

1991, c. 64, a. 2650; I.N. 2014-05-01; 2016, c. 4, s. 300.

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2651. The following are the prior claims and, notwithstanding any agreement to the contrary, they are in all cases collocated in the order here set out:

(1) legal costs and all expenses incurred in the common interest;

(2) the claim of a seller who has not been paid the price of a movable sold to a natural person who does not operate an enterprise;

(3) the claims of persons having the right to retain movable property, provided that the right subsists;

(4) claims of the State for amounts due under fiscal laws;

(5) claims of municipalities, school service centres and school boards for property taxes on taxable immovables as well as claims of municipalities, specially provided for by laws applicable to them, for taxes other than property taxes on immovables and movables for which the taxes are due.

1991, c. 64, a. 2651; 1999, c. 90, s. 41; I.N. 2014-05-01; 2020, c. 1, s. 172.

2652. Prior claims for legal costs and expenses incurred in the common interest may be enforced on movable or immovable property.

1991, c. 64, a. 2652; I.N. 2014-05-01.

2653. Prior claims of the State for sums due under fiscal laws may be executed on movable property.

1991, c. 64, a. 2653.

2654. A creditor who proceeds by seizure in execution or who, as holder of a movable hypothec, has registered a prior notice of his intention to exercise his hypothecary rights, may request from the State that it declare the amount of its prior claim. The request shall be registered and proof of its notification shall be filed at the Personal and Movable Real Rights Registry Office.

Within 30 days following the notification, the State shall declare the amount of its claim and enter it in the register of personal and movable real rights; such a declaration does not have the effect of limiting the priority of the State's claim to the amount entered.

1991, c. 64, a. 2654; I.N. 2014-05-01; 2016, c. 4, s. 301; 2020, c. 17, s. 1.

2654.1. Prior claims of municipalities, school service centres and school boards for property taxes constitute a real right.

They confer on the holder of the claims the right to follow the taxable property into whatever hands it may come.

1999, c. 90, s. 42; I.N. 2014-05-01; I.N. 2015-11-01; 2020, c. 1, s. 173.

2655. Prior claims may be set up against other creditors, or against all third persons if they constitute a real right, without being published.

1991, c. 64, a. 2655; 1999, c. 90, s. 43.

2656. In addition to their personal or, as the case may be, real right of action and the provisional measures provided in the Code of Civil Procedure (chapter C-25.01), prior creditors may exercise their remedies under the law for the enforcement and realization of their prior claim.

1991, c. 64, a. 2656; 1999, c. 90, s. 44; I.N. 2016-01-01 (NCCP).

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2657. Prior claims rank, according to their order among themselves, and without regard to their date, before movable or immovable hypothecs.

Prior claims of the same rank concur in proportion to the amount of each claim.

1991, c. 64, a. 2657; I.N. 2014-05-01.

2658. In a case of distribution or collocation among several prior creditors, the creditor of an indeterminate or unliquidated claim, or a claim suspended by a condition, is collocated according to his rank, but subject to the conditions prescribed in the Code of Civil Procedure (chapter C-25.01).

1991, c. 64, a. 2658; I.N. 2016-01-01 (NCCP); 2016, c. 4, s. 302.

2659. The priority granted by law to certain claims ceases by operation of law when the obligation which is its cause is extinguished.

1991, c. 64, a. 2659.

TITLE THREE

HYPOTHECS

CHAPTER I

GENERAL PROVISIONS

DIVISION I

NATURE OF HYPOTHECS

2660. A hypothec is a real right on movable or immovable property made liable for the performance of an obligation. It confers on the creditor the right to follow the property into whatever hands it may come, to take possession of it, to take it in payment, to sell it or to cause it to be sold and thus to have a preference upon the proceeds of the sale, according to the rank as determined in this Code.

1991, c. 64, a. 2660; I.N. 2014-05-01; I.N. 2015-11-01.

2661. A hypothec is merely an accessory right, and is valid only as long as the obligation whose performance it secures subsists.

1991, c. 64, a. 2661; I.N. 2014-05-01.

2662. A hypothec is indivisible and subsists in its entirety over all the charged property, over each item of that property and over every part of that property, even where the property or obligation is divisible.

1991, c. 64, a. 2662; I.N. 2014-05-01; I.N. 2015-11-01.

2663. A hypothec must be published in accordance with this Book or the Book on Publication of Rights so that the hypothecary rights it confers may be set up against third persons.

1991, c. 64, a. 2663; I.N. 2014-05-01; I.N. 2015-11-01.

DIVISION II

KINDS OF HYPOTHEC

2664. Hypothecation takes place only under the conditions and in accordance with the forms authorized by law.

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A hypothec may be conventional or legal.

1991, c. 64, a. 2664; I.N. 2014-05-01; 2016, c. 4, s. 303.

2665. A hypothec is movable or immovable depending on whether it charges movable or immovable property or a universality of movable or immovable property.

A movable hypothec may be created with or without delivery of the movable hypothecated. Where it is created with delivery, it may also be called a pledge.

1991, c. 64, a. 2665; I.N. 2015-11-01.

DIVISION III

OBJECT AND EXTENT OF HYPOTHECS

2666. A hypothec is a charge on specific corporeal or incorporeal property, whether individual or multiple, or on all the property comprised in a universality.

1991, c. 64, a. 2666; I.N. 2014-05-01.

2667. A hypothec secures the capital, the interest accrued thereon and the costs, other than fees for professional services, legitimately incurred for their recovery or to conserve the charged property.

1991, c. 64, a. 2667; 2002, c. 19, s. 11; I.N. 2014-05-01; I.N. 2016-01-01 (NCCP).

2668. A hypothec may not charge property exempt from seizure.

Neither may a hypothec charge movable property belonging to a debtor which furnishes his principal residence and which is used by and is necessary for the life of the household.

1991, c. 64, a. 2668; I.N. 2014-05-01.

2669. A hypothec granted on the bare ownership does not extend to the full ownership upon extinction of the dismemberment of the right of ownership.

1991, c. 64, a. 2669.

2670. A hypothec on the property of another or on future property begins to charge it only once the grantor acquires title to the hypothecated right.

1991, c. 64, a. 2670; I.N. 2014-05-01.

2671. A hypothec extends to everything united to the property by accession.

1991, c. 64, a. 2671.

2672. Movables charged with a hypothec which are permanently physically attached or joined to an immovable without losing their individuality and without being incorporated with the immovable are considered, for the enforcement of the hypothec, to retain their movable character for as long as the hypothec subsists.

1991, c. 64, a. 2672; I.N. 2014-05-01.

2673. A hypothec subsists on the new movable resulting from the transformation of property charged with a hypothec and extends to property resulting from the mixture or combination of several movables of which

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some are so charged. A person acquiring ownership of the new property, particularly through application of the rules on movable accession, is bound by such hypothec.

1991, c. 64, a. 2673; I.N. 2014-05-01.

2674. A hypothec that charges a universality of property subsists but attaches to property of the same nature which replaces property that has been alienated in the ordinary course of business of an enterprise.

A hypothec that charges certain and determinate property so alienated attaches to the property that replaces it, by the registration of a notice identifying the new property.

If no property replaces the alienated property, the hypothec subsists but attaches only to the sums of money which are proceeds of the alienation, provided they can be identified.

1991, c. 64, a. 2674; I.N. 2014-05-01; I.N. 2015-11-01; 2016, c. 4, s. 304.

2675. A hypothec that charges a universality of property subsists notwithstanding the loss of the hypothecated property where the debtor or the grantor replaces it within a reasonable time, having regard to the quantity and nature of the property.

1991, c. 64, a. 2675; I.N. 2014-05-01.

2676. A hypothec that charges a universality of claims does not extend to the subsequent claims of the person granting the hypothec when such claims result from the sale of his other property by a third person exercising his rights.

Nor does it extend to a claim under an insurance contract on the other property of the grantor.

1991, c. 64, a. 2676; 2002, c. 19, s. 15; I.N. 2014-05-01.

2677. A hypothec on certain and determinate shares of the capital stock of a legal person subsists upon the shares or other securities received or issued on the purchase, redemption, conversion or cancellation or any other transformation of the hypothecated shares. Publication of the hypothec by registration subsists only if the registration is renewed against the shares or other securities received or issued.

The creditor may not object to the transformation by reason of his hypothec.

1991, c. 64, a. 2677; 2008, c. 20, s. 132; I.N. 2014-05-01.

2678. Where what is owed to the creditor is the subject of a tender or deposit in accordance with this Code, the court may, following an application by the debtor making the tender or deposit, authorize attachment of the hypothec to the property tendered or deposited, and may allow the amount initially registered to be reduced.

As soon as the reduction of the initial amount is entered in the appropriate register, the debtor is no longer entitled to withdraw his tender or the property deposited.

1991, c. 64, a. 2678; I.N. 2014-05-01.

2679. A hypothec on an undivided share of property subsists if, by reason of partition or another act declaratory or attributive of ownership, the grantor or his successor retains rights in some part of the property, subject to the Book on Successions.

If the grantor does not retain any rights in the property, the hypothec nevertheless subsists and attaches, according to its rank, to the transfer price payable to the grantor, to the payment resulting from the exercise of a right of withdrawal or a first refusal agreement, or to the equalizing sum payable to the grantor.

1991, c. 64, a. 2679; I.N. 2014-05-01; I.N. 2015-11-01.

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2680. In the case of distribution or collocation among several hypothecary creditors, the creditor of an indeterminate or unliquidated claim, or a claim suspended by a condition, is collocated according to his rank, but subject to the conditions prescribed in the Code of Civil Procedure (chapter C-25.01).

1991, c. 64, a. 2680; I.N. 2016-01-01 (NCCP); 2016, c. 4, s. 305.

CHAPTER II

CONVENTIONAL HYPOTHECS

DIVISION I

THE GRANTOR OF A HYPOTHEC

2681. A conventional hypothec may be granted only by a person having the capacity to alienate the property hypothecated.

It may be granted by the debtor of the obligation secured or by a third person.

1991, c. 64, a. 2681.

2682. A person whose right in property is conditional or subject to annulment may only grant a hypothec subject to the same condition or nullity.

1991, c. 64, a. 2682; I.N. 2014-05-01; I.N. 2015-11-01.

2683. Except where he operates an enterprise and the hypothec is charged on the property of that enterprise, a natural person may grant a movable hypothec without delivery only on road vehicles or other movable property determined by regulation and subject to the conditions determined by regulation.

Where the act constituting the hypothec is accessory to a consumer contract, it is subject to the rules on form and content prescribed by this Book or by regulation.

1991, c. 64, a. 2683; 1998, c. 5, s. 9; I.N. 2014-05-01.

2684. Only a person, partnership or trustee operating an enterprise may grant a hypothec on a universality of property, movable or immovable, present or future, corporeal or incorporeal.

The person or the trustee may thus hypothecate animals, tools or equipment pertaining to the enterprise, claims and accounts receivable, patents and trademarks, or corporeal movables included in the assets of any of his enterprises kept for sale, lease or processing in the manufacture or transformation of property intended for sale, for lease or for use in providing a service.

1991, c. 64, a. 2684; I.N. 2014-05-01; 2015, c. 8, s. 354; I.N. 2015-11-01.

2684.1. Notwithstanding article 2684, a natural person who does not operate an enterprise may grant a hypothec on a universality of present or future claims in regard to the credit balance of a financial account, within the meaning of articles 2713.1 to 2713.9, as well as on a universality of present or future securities or security entitlements, within the meaning of the Act respecting the transfer of securities and the establishment of security entitlements (chapter T-11.002), provided the claims, securities or security entitlements are such as the person may encumber with a hypothec without delivery.

Such a natural person may also grant a hypothec on any other universality of present or future property determined by regulation, provided the property is property that the person may encumber with a hypothec without delivery.

2008, c. 20, s. 133; I.N. 2015-11-01; 2015, c. 8, s. 355.

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2685. Only a person, partnership or trustee operating an enterprise may grant a hypothec on a movable represented by a bill of lading.

1991, c. 64, a. 2685; 2015, c. 8, s. 356; I.N. 2015-11-01.

2686. Only a person, partnership or trustee operating an enterprise may grant a floating hypothec on the property of the enterprise.

1991, c. 64, a. 2686; 2015, c. 8, s. 357; I.N. 2015-11-01.

DIVISION II

OBLIGATIONS SECURED BY HYPOTHECS

2687. A hypothec may be granted to secure any obligation whatever.

1991, c. 64, a. 2687.

2688. A hypothec granted to secure payment of a sum of money is valid even if, when it is granted, the debtor has not received or has received only partially the prestation in consideration of which he has undertaken the obligation.

This rule is applicable in particular to lines of credit and the issue of bonds or other titles of indebtedness.

1991, c. 64, a. 2688; I.N. 2014-05-01.

2689. The act constituting a hypothec must indicate the specific sum for which it is granted.

The same rule applies even where the hypothec is constituted to secure the performance of an obligation of which the value cannot be determined or is uncertain.

1991, c. 64, a. 2689; I.N. 2014-05-01; I.N. 2015-11-01.

2690. The sum for which the hypothec is granted is not considered to be indeterminate where the act, rather than stipulating a fixed rate of interest, contains the necessary particulars for determining the effective rate of interest on the sum.

1991, c. 64, a. 2690; I.N. 2014-05-01.

2691. Where the creditor refuses to hand over the sums of money he has undertaken to lend and for which he holds a hypothec as security, the debtor or the grantor may, at the expense of the creditor, cause the hypothec to be reduced or cancelled, upon payment, in the latter case, of only the amounts that may then be due.

1991, c. 64, a. 2691.

2692. A hypothec securing the performance of obligations of a legal person, partnership or trustee may be granted in favour of the hypothecary representative for all present and future creditors of those obligations. The representative may be one of the creditors or the only creditor of the obligations, or a third person.

The hypothecary representative is appointed by the debtor or grantor or by one of the creditors. The representative is the holder of the hypothec and has the power to exercise all the rights it grants, including that of releasing the hypothec and consenting to cancellation of its registration in the registers kept at the registry office; in exercising those rights, the representative binds the creditors towards third persons.

The hypothecary representative is replaced, if necessary, under the conditions and subject to the terms specified in the hypothecary or other act that appoints the representative or, in the absence of such an act, as determined by the creditor or creditors. If the representative is replaced, the hypothec and other securities

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created in the representative's favour subsist in favour of the representative's successor. However, the latter may not exercise the rights relating to a hypothec published by registration until a notice of replacement expressly mentioning the name of the replaced representative is entered in the registers in which the hypothec was so published.

Except in the case of a movable hypothec with delivery, a hypothec in favour of a hypothecary representative must, on pain of absolute nullity, be granted by notarial act *en minute*, regardless of the nature of the obligations whose performance it secures.

1991, c. 64, a. 2692; 2015, c. 8, s. 358.

DIVISION III

IMMOVABLE HYPOTHECS

2693. An immovable hypothec must, on pain of absolute nullity, be granted by notarial act *en minute*.

1991, c. 64, a. 2693; I.N. 2014-05-01; I.N. 2015-11-01.

2694. An immovable hypothec is valid only so far as the constituting act describes in a precise manner the hypothecated property.

1991, c. 64, a. 2694; I.N. 2014-05-01.

2695. Hypothecs on the present and future rents produced by an immovable and hypothecs on the indemnities paid under the insurance contracts covering the rents are considered to be immovable hypothecs.

Such hypothecs are published in the land register.

1991, c. 64, a. 2695.

DIVISION IV

MOVABLE HYPOTHECS

§ 1. — *Movable hypothecs without delivery*

2696. A movable hypothec without delivery shall, on pain of absolute nullity, be granted in writing.

1991, c. 64, a. 2696.

2697. The act constituting a movable hypothec must contain a sufficient description of the hypothecated property or, in the case of a universality of movables, an indication of the nature of that universality.

1991, c. 64, a. 2697; I.N. 2014-05-01; I.N. 2015-11-01.

2698. A movable hypothec charging the fruits and products of the soil, and the materials and other things forming an integral part of an immovable, takes effect when they become movables with a separate existence. It ranks from its registration in the register of personal and movable real rights.

1991, c. 64, a. 2698; 2016, c. 4, s. 306.

2699. A movable hypothec that charges property represented by a bill of lading or other negotiable instrument or that charges claims may be set up against the creditors of the grantor from the time the creditor has performed his prestation, provided it is registered within the following 10 days.

1991, c. 64, a. 2699; I.N. 2014-05-01; 2016, c. 4, s. 307.

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2700. A movable hypothec on property that is not alienated in the ordinary course of business of an enterprise and that is not registered in a file opened under the description of the property is preserved by filing a notice of preservation of hypothec in the register of personal and movable real rights.

The notice must be registered within 15 days after the creditor is informed in writing of the transfer of the property and the name of the acquirer, or after he consents in writing to the transfer. The creditor transmits a copy of the notice to the acquirer within the same time.

The notice must indicate the name of the debtor or grantor and of the acquirer and contain a description of the property.

1991, c. 64, a. 2700; 1998, c. 5, s. 10; I.N. 2014-05-01; I.N. 2015-11-01; 2016, c. 4, s. 308.

2701. A movable hypothec assumed by an acquirer may be published.

1991, c. 64, a. 2701; 2016, c. 4, s. 309.

2701.1. A movable hypothec constituted by a securities intermediary on securities or security entitlements within the meaning of the Act respecting the transfer of securities and the establishment of security entitlements (chapter T-11.002) is deemed to be published by the sole fact of its constitution, and does not require registration.

If the securities intermediary has constituted two or more movable hypothecs on the same securities or security entitlements, the hypothecs rank concurrently among themselves, regardless of when they were published.

2008, c. 20, s. 134.

§ 2. — *Movable hypothecs with delivery*

2702. A movable hypothec with delivery is granted by physical delivery of the property or title to the creditor or, if the property is already in his hands, by his continuing to physically hold it, with the grantor's consent, to secure his claim.

1991, c. 64, a. 2702; 2008, c. 20, s. 135.

2703. A movable hypothec with delivery is published by the creditor's holding the property or title, and remains so only as long as he continues to hold it.

1991, c. 64, a. 2703.

2704. Holding is continuous even if its exercise is prevented by the act or omission of a third person without the consent of the creditor or is temporarily interrupted by the handing over of the property or title to the grantor or to a third person for evaluation, repair, transformation or improvement.

1991, c. 64, a. 2704; 2016, c. 4, s. 310.

2705. The creditor, with the consent of the grantor, may hold the property through a third person, but if so, detention by the third person effects publication only from the time the third person receives evidence in writing of the hypothec.

1991, c. 64, a. 2705.

2706. A creditor prevented from holding the property may revendicate it from the person holding it, unless he is prevented as a result of the exercise of hypothecary rights or a seizure in execution by another creditor.

1991, c. 64, a. 2706.

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2707. A movable hypothec granted with delivery may be published by registration at a later date, provided publication is not interrupted.

1991, c. 64, a. 2707.

2708. A movable hypothec that charges property represented by a bill of lading or other negotiable instrument or that charges claims may be set up against the creditors of the grantor from the time the creditor has performed his prestation, provided the title is remitted to him within 10 days from that time.

1991, c. 64, a. 2708; I.N. 2014-05-01; 2016, c. 4, s. 311.

2709. Where the title is negotiable by endorsement and delivery, or delivery alone, its remittance to the creditor takes place by endorsement and delivery, or by delivery alone.

1991, c. 64, a. 2709.

§ 3. — *Movable hypothecs on claims*

I. — *Hypothecs on claims in general*

2015, c. 8, s. 359.

2710. A movable hypothec that charges a claim held by the grantor against a third person may be granted with or without delivery.

In either case, however, the creditor may not enforce his hypothec against the debtors of hypothecated claims as long as it has not been set up against them in the same way as an assignment of claims.

1991, c. 64, a. 2710; I.N. 2014-05-01.

2711. *(Repealed).*

1991, c. 64, a. 2711; I.N. 2014-05-01; 2015, c. 8, s. 360.

2712. A hypothec that charges a claim held by the grantor against a third person shall, where the claim is itself secured by a registered hypothec, be published by registration; the creditor shall hand over a copy of a certified statement of registration to the debtor of the hypothecated claim.

1991, c. 64, a. 2712; I.N. 2014-05-01; I.N. 2015-11-01.

2713. In all cases, either the creditor or the grantor may institute an action to recover a hypothecated claim, provided he impleads the other.

1991, c. 64, a. 2713; I.N. 2014-05-01.

II. — *Hypothecs with delivery on certain monetary claims*

2015, c. 8, s. 361.

2713.1. The requirement that the property be delivered to and held by the creditor in order for a movable hypothec with delivery on a monetary claim to be constituted and set up against third persons may, in the cases provided for in the provisions below, be met by the creditor obtaining control of that claim in accordance with those provisions.

A monetary claim is any claim requiring the debtor to reimburse, return or restore an amount of money or make any other payment in respect of an amount of money, except

(1) a claim represented by a negotiable instrument;

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(2) a claim that is a security or security entitlement within the meaning of the Act respecting the transfer of securities and the establishment of security entitlements (chapter T-11.002); and

(3) a claim resulting from the delivery of certain and determinate currency whose repayment, in accordance with the parties' manifest intention, must be made by restitution of the same currency.

2015, c. 8, s. 361.

2713.2. A creditor may obtain control of a monetary claim that the grantor of the hypothec has against him or of a monetary claim that the grantor has against a third person.

2015, c. 8, s. 361.

2713.3. A creditor obtains control of a monetary claim that the grantor of the hypothec has against him if the grantor has consented to the claim's securing the performance of an obligation towards the creditor.

2015, c. 8, s. 361.

2713.4. A creditor obtains control of a monetary claim that the grantor of the hypothec has against a third person if

(1) the claim relates to the credit balance of a financial account maintained by the third person for the grantor, or the claim relates to an amount of money transferred by the grantor to the third person to secure the performance of an obligation towards the creditor; and

(2) the creditor has entered into an agreement, called a control agreement, with the third person and the grantor, under which the third person agrees to comply with the creditor's instructions, without the additional consent of the grantor, as regards the credit balance or the amount of money.

A creditor also obtains control of a monetary claim relating to the credit balance of a financial account if the creditor becomes the account holder.

2015, c. 8, s. 361; 2016, c. 4, s. 312.

2713.5. The third person is not required to enter into a control agreement with the creditor as regards the credit balance or the amount of money, even if the grantor so requests. Nor is the third person required to confirm the existence of such an agreement, unless the grantor so requests.

2015, c. 8, s. 361.

2713.6. A financial account is an account, other than a securities account within the meaning of the Act respecting the transfer of securities and the establishment of security entitlements (chapter T-11.002), to which amounts of money are or may be credited and for which the person maintaining the account, being the debtor of the credit balance, undertakes to consider the account holder as being authorized to exercise the rights relating to that balance.

Banks and financial services cooperatives, as well as brokers, trust companies authorized under the Trust Companies and Savings Companies Act (chapter S-29.02), deposit institutions authorized under the Deposit Institutions and Deposit Protection Act (chapter I-13.2.2) and persons who, in the ordinary course of their business, maintain financial accounts for others are persons maintaining a financial account.

2015, c. 8, s. 361; 2018, c. 23, s. 715.

2713.7. Control of a monetary claim is not affected by the fact that the grantor retains the right to give instructions as regards the claim.

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The creditor may, at any time, withdraw the grantor's right. Such a withdrawal is not subject to any notification or registration formality for publication purposes.

2015, c. 8, s. 361.

2713.8. A movable hypothec with delivery effected by control of a monetary claim obtained by a creditor ranks ahead of any other movable hypothec encumbering that claim, from the time that control is obtained, regardless of when that other hypothec is published.

If two or more movable hypothecs with delivery are granted on a monetary claim that the grantor has against a third person in favour of creditors each of whom has obtained control of the claim under a control agreement, the hypothecs rank among themselves according to when the third person agreed to comply with the creditor's instructions.

A hypothec granted on a monetary claim that the grantor has against the creditor ranks ahead of all other hypothecs with delivery effected by control encumbering that claim. However, if the claim relates to the credit balance of a financial account and another creditor has obtained control of the claim by becoming the account holder, that other creditor's hypothec ranks ahead of the others.

2015, c. 8, s. 361.

2713.9. A natural person who does not operate an enterprise may grant a movable hypothec with delivery effected by control of monetary claims only on those claims that the person may, under the prescribed conditions, encumber with a movable hypothec without delivery.

2015, c. 8, s. 361; I.N. 2016-01-01.

§ 4. — *Movable hypothecs on ships, cargo or freight*

2714. A movable hypothec that charges a ship is effective only if at the time of publication the ship is not registered under the Canada Shipping Act or under an equivalent foreign law.

A movable hypothec may also be granted on the cargo of a registered ship or on the freight, whether or not the property is on board, but in that case it is subject to any rights in the property which other persons may have under such legislation.

1991, c. 64, a. 2714; I.N. 2014-05-01.

§ 5. — *Movable hypothecs with delivery on certain securities or security entitlements*

2008, c. 20, s. 136.

2714.1. In the case of securities and security entitlements within the meaning of the Act respecting the transfer of securities and the establishment of security entitlements (chapter T-11.002), the requirement that the property be delivered to and held by the creditor in order for a movable hypothec with delivery to be constituted and set up against third persons may be met by the creditor obtaining control of the securities or security entitlements in accordance with that Act.

2008, c. 20, s. 136.

2714.2. From the time a creditor secured by a movable hypothec with delivery obtains control of the securities or security entitlements, that hypothec ranks ahead of any other movable hypothec on the same securities or security entitlements, regardless of when that other hypothec is published.

If two or more movable hypothecs with delivery are granted on the same securities in favour of creditors each of whom has obtained control of the securities, the hypothecs rank among themselves according to when the creditors obtained control.

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In the case of hypothecs granted on security entitlements, the hypothec granted in favour of the creditor who obtained control of the security entitlements by becoming or by having another person acting for him become the entitlement holder ranks ahead of the others. The hypothecs granted in favour of creditors who obtained control of the security entitlements under a control agreement rank among themselves according to when the securities intermediary agreed to comply with the creditor's instructions or the instructions of another person acting for the creditor.

2008, c. 20, s. 136; 2015, c. 8, s. 362.

2714.3. A movable hypothec with delivery granted in favour of a securities intermediary on security entitlements to a financial asset credited to a securities account maintained by the securities intermediary for its grantor ranks ahead of any other hypothec on those security entitlements.

2008, c. 20, s. 136.

2714.4. A movable hypothec with delivery encumbering securities represented by a certificate in registered form, even if granted in favour of a creditor who does not have control of the securities, ranks ahead of any movable hypothec without delivery encumbering the same securities, regardless of when the hypothec without delivery is published.

2008, c. 20, s. 136.

2714.5. Except in the case of securities represented by a certificate, a natural person who does not operate an enterprise may grant a movable hypothec with delivery only on those securities or security entitlements that the person may, under the conditions prescribed, encumber with a movable hypothec without delivery.

2008, c. 20, s. 136; I.N. 2015-11-01.

2714.6. Unless otherwise agreed between the grantor and the creditor, a creditor holding a movable hypothec with delivery on securities or security entitlements may alienate the securities or security entitlements or grant a movable hypothec on them in favour of a third person.

2008, c. 20, s. 136.

2714.7. Certificates representing securities within the meaning of the Act respecting the transfer of securities and the establishment of security entitlements (chapter T-11.002) do not have to be negotiable for hypothecary delivery to be validly effected through the physical delivery and holding of the certificates; hypothecary delivery results from the delivery of the certificates in accordance with that Act.

2008, c. 20, s. 136.

DIVISION V

FLOATING HYPOTHECS

2715. A hypothec is a floating hypothec when some of the effects are suspended until, the debtor or grantor having defaulted, the creditor brings about crystallization of the hypothec by serving a notice of default and crystallization of the hypothec on the debtor or grantor.

The floating character of the hypothec shall be expressly stipulated in the act.

1991, c. 64, a. 2715; I.N. 2014-05-01.

2716. A floating hypothec has effect only if it was published beforehand and, if immovables are charged, only if it was registered against each of them.

It may not be set up against third persons except by registration of the notice of crystallization.

1991, c. 64, a. 2716; I.N. 2014-05-01; I.N. 2015-11-01.

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2717. Any condition or restriction stipulated in the constituting act as to the right of the grantor to alienate, hypothecate or dispose of the charged property has effect between the parties even before crystallization.

1991, c. 64, a. 2717; I.N. 2014-05-01.

2718. A floating hypothec on more than one claim has effect in respect of the debtors of hypothecated claims as soon as the notice of crystallization is registered, provided the notice is published in accordance with the rules of the Code of Civil Procedure (chapter C-25.01) for notification by public notice.

The notice need not be published if the hypothec and the notice of crystallization have been set up against the debtors of the hypothecated claims in the same way as an assignment of claims.

1991, c. 64, a. 2718; I.N. 2014-05-01; 2014, c. 1, s. 798.

2719. By crystallization, a floating hypothec has the effects of a movable or immovable hypothec with respect to whatever rights the grantor may have at that time in the charged property; if the property includes a universality, the hypothec also charges the property acquired by the grantor after crystallization.

1991, c. 64, a. 2719; I.N. 2014-05-01.

2720. The sale of an enterprise by the grantor may not be set up against the holder of a floating hypothec. The same applies to a merger or reorganization of an enterprise.

1991, c. 64, a. 2720.

2721. A creditor holding a floating hypothec that charges a universality of property may, from registration of the notice of crystallization, take possession of the property to administer it in preference to any other creditor having published his hypothec after the date of registration of the floating hypothec.

1991, c. 64, a. 2721; I.N. 2014-05-01.

2722. Where there are several floating hypothecs on the same property, crystallization of one of them enables the creditors holding the others to register their own notice of crystallization at the registry office.

1991, c. 64, a. 2722.

2723. Where the default of the debtor has been remedied, the creditor requires the registrar to cancel the notice of crystallization.

The effects of crystallization cease with the cancellation, and the effects of the hypothec are again suspended.

1991, c. 64, a. 2723.

CHAPTER III

LEGAL HYPOTHECS

2724. Only the following claims may give rise to a legal hypothec:

(1) claims of the State for sums due under fiscal laws, as well as certain other claims of the State or of legal persons established in the public interest, specially provided for in specific Acts;

(2) claims of persons having taken part in the construction or renovation of an immovable;

(3) the claim of a syndicate of co-owners for payment of the common expenses;

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(4) claims under a judgment.

1991, c. 64, a. 2724; I.N. 2014-05-01; I.N. 2015-11-01; 2019, c. 28, s. 68.

2725. The legal hypothecs of the State, including those for sums due under fiscal laws, and the hypothecs of legal persons established in the public interest may charge movable or immovable property.

Such hypothecs take effect only from their registration in the appropriate register. Application for registration is made by filing a notice indicating the legislation granting the hypothec, the property of the debtor on which the creditor intends to enforce it, and stating the cause and the amount of the claim. The notice shall be served on the debtor.

Registration by the State of a legal movable hypothec for sums due under fiscal laws does not prevent it from enforcing its prior claim.

1991, c. 64, a. 2725; I.N. 2014-05-01.

2726. A legal hypothec in favour of the persons having taken part in the construction or renovation of an immovable may not charge any other immovable. It exists only in favour of the architect, engineer, supplier of materials, workman and contractor or subcontractor for the work requested by the owner of the immovable, or for the materials or services supplied or prepared by them for the work. It is not necessary to publish a legal hypothec for it to exist.

1991, c. 64, a. 2726; 1992, c. 57, s. 716; I.N. 2014-05-01; 2016, c. 4, s. 313.

2727. A legal hypothec in favour of persons having taken part in the construction or renovation of an immovable subsists, even if it has not been published, for 30 days after the work has been completed.

It subsists if, before the 30 days expire, a notice describing the charged immovable and indicating the amount of the claim is registered. The notice shall be served on the owner of the immovable.

It is extinguished six months after the work is completed, unless, to preserve the hypothec, the creditor publishes an action against the owner of the immovable or registers a prior notice of the exercise of a hypothecary right.

1991, c. 64, a. 2727; I.N. 2014-05-01.

2728. The hypothec secures the increase in value given to the immovable by the work, materials or services supplied or prepared for the work. However, where those in favour of whom it exists did not themselves enter into a contract with the owner, the hypothec is limited to the work, materials or services supplied after written notice of the contract to the owner. A workman is not bound to give notice of his contract.

1991, c. 64, a. 2728; I.N. 2014-05-01.

2729. The legal hypothec of a syndicate of co-owners charges the fraction of the co-owner who has defaulted for more than 30 days on payment of his common expenses, and has effect only from registration of a notice indicating the nature of the claim, the amount owing on the day the notice is registered, and the expected amount of charges and claims for the current financial year and the next two years.

1991, c. 64, a. 2729; I.N. 2014-05-01; 2019, c. 28, s. 69.

2730. Every creditor in whose favour a judgment awarding a sum of money has been rendered by a court having jurisdiction in Québec may acquire a legal hypothec on the movable or immovable property of his debtor.

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He may acquire it by registering a notice describing the property charged with the hypothec and specifying the amount of the obligation, and, in the case of an annuity or support, the amount of the instalments and, where applicable, the basis of indexation. The notice must be served on the debtor.

The notice must be filed with a copy of the judgment, unless the purpose of the notice is to acquire a legal hypothec on immovable property following a judgment rendered in a family matter. In that case, the notice must instead reproduce the pertinent extract from the operative part of the judgment and, as the case may be, the pertinent extract from the agreement or draft agreement to which the operative part refers. In addition, the accuracy of the content of the notice must be certified by a notary or an advocate. If the notice is notarial, the mere signature of the notary is sufficient certification.

1991, c. 64, a. 2730; 2000, c. 42, s. 5; 2016, c. 4, s. 314; 2020, c. 17, s. 2.

2731. Except in the case of the legal hypothec of the State or of a legal person established in the public interest, the court, on application of the owner of the property charged with a legal hypothec, may determine which property the hypothec may charge, reduce the number of properties or allow the applicant to substitute other security, sufficient to secure payment, for the hypothec; it may thereupon order cancellation of the registration of the legal hypothec.

1991, c. 64, a. 2731; I.N. 2014-05-01.

2732. A creditor who has registered his legal hypothec retains his right to follow it on movable property which is not alienated in the ordinary course of business of an enterprise, as though he were the holder of a conventional hypothec.

1991, c. 64, a. 2732; I.N. 2014-05-01.

CHAPTER IV

CERTAIN EFFECTS OF HYPOTHECS

DIVISION I

GENERAL PROVISIONS

2733. A hypothec does not divest the grantor or the possessor, who continue to enjoy their rights over the charged property and may dispose of it, subject to the rights of the hypothecary creditor.

1991, c. 64, a. 2733; I.N. 2014-05-01.

2734. Neither the grantor nor his successor may destroy or deteriorate the hypothecated property or materially reduce its value except by normal use or in case of necessity.

Where he suffers a loss, the creditor may, in addition to his other remedies, and even though his claim is neither liquid nor due, recover compensatory damages up to the amount of his claim and with the same right of hypothec; the amount so collected is imputed to his claim.

1991, c. 64, a. 2734; I.N. 2014-05-01; I.N. 2015-11-01.

2735. Hypothecary creditors may institute judicial proceedings to have their hypothec recognized and interrupt prescription, even though their claims are neither liquid nor due.

1991, c. 64, a. 2735; I.N. 2014-05-01; 2016, c. 4, s. 315.

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DIVISION II

RIGHTS AND OBLIGATIONS OF CREDITORS WHO HOLD OF HYPOTHECATED PROPERTY

2016, c. 4, s. 316.

2736. The creditor of a movable hypothec with delivery shall do whatever is necessary to preserve the charged property he holds; he may not use it without the permission of the grantor.

1991, c. 64, a. 2736; I.N. 2014-05-01.

2737. The fruits and revenues of the hypothecated property are collected by the creditor.

Unless otherwise stipulated, the creditor hands over the fruits collected to the grantor, and imputes the revenues collected, first to expenses, then to any interest owing to him, and lastly to the capital of the debt.

1991, c. 64, a. 2737; I.N. 2014-05-01.

2738. Where shares of the capital stock of a legal person are redeemed for cash by the issuer, the creditor who receives the price imputes it as if it were revenue.

1991, c. 64, a. 2738; I.N. 2014-05-01.

2739. The creditor is not liable for loss of the hypothecated property owing to superior force or as a result of its age, perishable nature, or normal and authorized use.

1991, c. 64, a. 2739; I.N. 2014-05-01; 2016, c. 4, s. 317.

2740. The grantor is bound to repay to the creditor his disbursements made for the preservation of the property.

1991, c. 64, a. 2740; I.N. 2014-05-01.

2741. The grantor may not recover possession of the hypothecated property until performance of his obligation, unless the creditor abuses the property.

A creditor bound by a judgment to return the property loses his hypothec.

1991, c. 64, a. 2741; I.N. 2014-05-01.

2742. An heir of the debtor who has paid his share of the debt may not demand his share of the hypothecated property until the whole debt is paid.

An heir of the creditor who receives his share of the debt may not return the hypothecated property to the prejudice of any unpaid coheir.

1991, c. 64, a. 2742; I.N. 2014-05-01.

DIVISION III

RIGHTS AND OBLIGATIONS OF CREDITORS HOLDING HYPOTHECATED CLAIMS

2743. A creditor holding a hypothec on a claim collects the revenues it produces, together with the capital falling due while the hypothec is in effect; he also gives an acquittance for the sums he collects.

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Unless otherwise stipulated, he imputes the amounts collected to payment of the obligation, even if it is not yet due, in accordance with the general rules for payment.

1991, c. 64, a. 2743; I.N. 2014-05-01.

2744. The creditor may, in the act constituting the hypothec, authorize the grantor to collect repayments of capital or the revenues from the hypothecated claims as they fall due.

1991, c. 64, a. 2744.

2745. The creditor may at any time withdraw the authorization to collect that he gave to the grantor. To do so he shall notify the grantor and the debtor of the hypothecated rights that he will himself thenceforth collect the sums due. The withdrawal of authorization shall be registered.

1991, c. 64, a. 2745; 1998, c. 5, s. 11; I.N. 2014-05-01.

2746. While the hypothec is in effect, the creditor is not bound to institute judicial proceedings to recover the capital or interest of the hypothecated rights, but he shall inform the grantor within a reasonable time of any irregularity in the payment of any sums due on the rights.

1991, c. 64, a. 2746; I.N. 2014-05-01.

2747. The creditor remits to the grantor any sums collected over and above the obligation owed in capital, interest and costs, notwithstanding any stipulation by which, on whatever ground, the creditor may keep them.

1991, c. 64, a. 2747; I.N. 2014-05-01.

CHAPTER V

EXERCISE OF HYPOTHECARY RIGHTS

DIVISION I

GENERAL PROVISION

2748. In addition to their personal right of action and the provisional measures provided in the Code of Civil Procedure (chapter C-25.01), creditors may exercise only the hypothecary rights provided in this chapter for the enforcement and realization of their security.

Thus, where their debtor is in default and their claim is liquid and due, they may exercise the following hypothecary rights: they may take possession of the charged property to administer it, take it in payment of their claim, cause it to be sold under judicial authority or sell it themselves.

1991, c. 64, a. 2748; I.N. 2014-05-01; I.N. 2015-11-01; I.N. 2016-01-01 (NCCP).

DIVISION II

GENERAL CONDITIONS FOR THE EXERCISE OF HYPOTHECARY RIGHTS

2749. Creditors may not exercise their hypothecary rights before the period determined in article 2758 for surrender of the property has expired.

1991, c. 64, a. 2749; I.N. 2015-11-01.

2750. Earlier ranking creditors take priority over later ranking creditors when exercising their hypothecary rights.

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An earlier ranking creditor may, however, be bound to pay the costs incurred by a later ranking creditor if, after being notified of the exercise of a hypothecary right by the latter, he fails to invoke the priority of his rights within a reasonable time.

1991, c. 64, a. 2750; I.N. 2014-05-01.

2751. The creditor may exercise his hypothecary rights in whatever hands the property lies.

1991, c. 64, a. 2751; I.N. 2014-05-01; I.N. 2015-11-01.

2752. Where property charged with a hypothec subsequently is the subject of a usufruct, the hypothecary rights must be exercised against the bare owner and the usufructuary simultaneously, or notice must be given to the one against whom the rights were not exercised first.

1991, c. 64, a. 2752; I.N. 2014-05-01; I.N. 2015-11-01.

2753. A creditor whose hypothec charges more than one property may exercise his hypothecary rights simultaneously or successively against such property as he sees fit.

1991, c. 64, a. 2753; I.N. 2014-05-01.

2754. Where later ranking creditors are secured by a hypothec enforceable on only one of the items of property charged in favour of the same creditor, that creditor's hypothec is divided, if two or more of the items of property are sold under judicial authority and the proceeds to be distributed are sufficient to pay his claim, in proportion to what remains to be distributed out of the respective proceeds of the items of property.

1991, c. 64, a. 2754; I.N. 2014-05-01; I.N. 2015-11-01.

2755. The holder of a floating hypothec may not exercise his hypothecary rights until after registration of the notice of crystallization.

1991, c. 64, a. 2755; I.N. 2014-05-01.

2756. *(Repealed).*

1991, c. 64, a. 2756; 2008, c. 20, s. 137.

DIVISION III

PRELIMINARY MEASURES

§ 1. — *Prior notice*

2757. A creditor intending to exercise a hypothecary right must file a prior notice at the registry office, together with evidence that it has been served on the debtor and, where applicable, on the grantor and on any other person against whom he intends to exercise his right.

The registration of the notice must be notified in accordance with the Book on Publication of Rights.

1991, c. 64, a. 2757; I.N. 2014-05-01; I.N. 2015-11-01; 2016, c. 4, s. 318.

2758. A prior notice of the exercise of a hypothecary right must disclose any failure by the debtor to perform his obligations, and contain a reminder, where applicable, that the debtor or a third person has the right to remedy the default. It must also disclose the amount of the claim in capital, and in interest, if any, and the nature of the hypothecary right which the creditor intends to exercise, furnish a description of the charged property, and demand from the person against whom the hypothecary right is to be exercised that he surrender the property before the expiry of the period specified in the notice.

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That period is 20 days after registration of the notice in the case of movable property, 60 days in the case of immovable property, or 10 days if the creditor intends to take possession of the property; however, the period is 30 days in the case of a notice relating to movable property charged with a hypothec constituted by an act accessory to a consumer contract.

1991, c. 64, a. 2758; 1998, c. 5, s. 12; I.N. 2014-05-01; I.N. 2015-11-01.

2759. A creditor holding a hypothec on securities or security entitlements within the meaning of the Act respecting the transfer of securities and the establishment of security entitlements (chapter T-11.002) may sell the securities or security entitlements or otherwise dispose of them without being required to give a prior notice, obtain their surrender or comply with the time limits prescribed by this Title, if the agreement between the creditor and the grantor so permits and, where the creditor does not have control of the securities or security entitlements, if they are, or are of a type, dealt in or traded on securities exchanges or financial markets.

A creditor who so disposes of securities or security entitlements acts on behalf of the grantor and is not bound to declare the creditor's quality to the acquirer. The creditor imputes the proceeds of the disposition to payment of the costs incurred to dispose of the securities or security entitlements, to payment of the claims that take precedence over the creditor's rights and, finally, to payment of the creditor's claim; the creditor remits any surplus to the grantor. The disposition purges the real rights to the extent provided by the Code of Civil Procedure (chapter C-25.01) in respect of the effect of a sale under judicial authority.

The rules of this Title pertaining to a sale by a creditor are applicable in all other respects to the disposition of securities or security entitlements by a creditor, with the necessary modifications.

1991, c. 64, a. 2759; 2008, c. 20, s. 138; I.N. 2014-05-01; 2014, c. 1, s. 799; I.N. 2016-01-01; I.N. 2016-01-01 (NCCP); 2016, c. 4, s. 319.

2760. The volontary alienation of property charged with a hypothec, effected after the creditor has registered a prior notice of the exercise of a hypothecary right, may not be set up against the creditor unless the acquirer, with the consent of the creditor, personally assumes the debt, or unless a sum sufficient to cover the amount of the debt, interest due and the costs incurred by the creditor is deposited.

1991, c. 64, a. 2760; I.N. 2014-05-01.

§ 2. — *Rights of the debtor or person against whom a hypothecary right is exercised*

2761. A debtor or a person against whom a hypothecary right is exercised, or any other interested person, may defeat exercise of the right by paying the creditor the amount owing to him or by remedying the omission or breach set forth in the prior notice and any subsequent omission or breach, and, in either case, by paying the costs incurred.

This right may be exercised before the property is taken in payment or sold, or, if the right exercised is taking in possession, at any time.

1991, c. 64, a. 2761; I.N. 2014-05-01.

2762. A creditor having given prior notice of the exercise of a hypothecary right is not entitled to demand any indemnity from the debtor except the interest owing and the costs incurred.

Notwithstanding any stipulation to the contrary, the costs incurred exclude professional fees payable by the creditor for services required by the creditor in order to recover the capital and interest secured by the hypothec or to preserve the charged property.

1991, c. 64, a. 2762; 2002, c. 19, s. 12; I.N. 2014-05-01; I.N. 2016-01-01 (NCCP).

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§ 3. — *Surrender*

2763. Surrender is voluntary or forced.

1991, c. 64, a. 2763.

2764. Surrender is voluntary where, before the period indicated in the prior notice expires, the person against whom the hypothecary right is exercised abandons the property to the creditor in order that the creditor may take possession of it or consents in writing to turn it over to the creditor at an agreed time.

If the hypothecary right exercised is taking in payment, voluntary surrender shall be recorded in an act made by the person surrendering the property and accepted by the creditor.

1991, c. 64, a. 2764; 2000, c. 42, s. 6; I.N. 2014-05-01; 2016, c. 4, s. 320.

2765. Surrender is forced where the court orders it after ascertaining the existence of the claim, the debtor's default, the refusal to surrender voluntarily and the absence of a valid cause for objection.

The judgment fixes the period within which surrender shall be effected, determines the manner of effecting it and designates the person in whose favour it is carried out.

1991, c. 64, a. 2765.

2766. If the good faith of the creditor or his capacity to administer or ability to sell the property for which he has applied for surrender is challenged, the court may order the creditor to furnish security to guarantee performance of his obligations.

1991, c. 64, a. 2766; I.N. 2014-05-01; 2016, c. 4, s. 321.

2767. Surrender is also forced where the court, upon application by the creditor, orders surrender of the property before the period indicated in the prior notice expires, where there is reason to fear that otherwise recovery of his claim may be endangered, or where the property may decline or depreciate rapidly. In the latter cases, the creditor is authorized to exercise his hypothecary rights immediately.

The application need not be served on the person against whom the hypothecary right is exercised, but the order shall be served on him. If the order is subsequently rescinded, the creditor is bound to return the property or pay back the price of alienation.

1991, c. 64, a. 2767; I.N. 2014-05-01; I.N. 2015-11-01; 2016, c. 4, s. 322.

2768. A creditor who has obtained surrender of the property has simple administration thereof until the hypothecary right he intends to exercise has in fact been exercised.

1991, c. 64, a. 2768.

2769. A person against whom the hypothecary right is exercised and who is not liable for the debt becomes personally liable therefor if he fails to surrender the property within the time allotted by the judgment.

1991, c. 64, a. 2769; I.N. 2014-05-01.

2770. Where a person against whom the hypothecary right is exercised has a prior claim by reason of his right to retain the movable property, he is bound to surrender it, subject to his priority.

1991, c. 64, a. 2770; I.N. 2014-05-01.

2771. A person against whom the hypothecary right is exercised may, where he has received the property in payment of his prior or hypothecary claim ranking earlier than the claim contemplated by the prior notice,

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or where he has paid prior or hypothecary claims ranking earlier, require that the creditor himself sell the property or cause it to be sold under judicial authority; in that case, he is bound to surrender the property only subject to the creditor giving him security that the property will be sold at a price sufficient to ensure full payment of his earlier ranking prior or hypothecary claims.

1991, c. 64, a. 2771; I.N. 2014-05-01; I.N. 2015-11-01.

2772. Real rights which a person against whom the hypothecary right is exercised had in the property when he acquired it, or that he extinguished while it was in his possession, revive after surrender unless they have been cancelled.

1991, c. 64, a. 2772; I.N. 2014-05-01.

DIVISION IV

TAKING POSSESSION FOR PURPOSES OF ADMINISTRATION

2773. A creditor who holds a hypothec on the property of an enterprise may temporarily take possession of the hypothecated property and administer it or generally delegate its administration to a third person. The creditor or the person to whom he has delegated the administration acts in such a case as administrator of the property of others charged with full administration.

1991, c. 64, a. 2773; I.N. 2015-11-01.

2774. The taking of possession of property does not affect the rights of the lessee.

1991, c. 64, a. 2774; I.N. 2014-05-01.

2775. The taking of possession terminates when the claim of the creditor is satisfied in capital, interest and costs, when the exercise of his right is defeated, when he publishes a prior notice of the exercise of another hypothecary right, and under the same circumstances as the termination of the administration of the property of others. The bankruptcy of the person against whom the hypothecary right is exercised does not terminate the taking of possession.

1991, c. 64, a. 2775; I.N. 2014-05-01.

2776. When the possession ends, the creditor shall render account of his administration and, unless he has published a prior notice of the exercise of another hypothecary right, return the property in his possession to the person against whom the hypothecary right was exercised, or to his successors, at the place agreed on beforehand or, failing that, at the place where it is.

He registers a notice of return of the property in the appropriate register.

1991, c. 64, a. 2776; I.N. 2014-05-01.

2777. A creditor who has, through his administration, obtained payment of the debt, is bound to remit to the person against whom the hypothecary right was exercised, in addition to the property, any surplus remaining in his hands after payment of the debt, the expenses of the administration and the costs incurred to exercise possession of the property.

1991, c. 64, a. 2777; I.N. 2014-05-01.

DIVISION V

TAKING IN PAYMENT

2778. Where, at the time of registration of the creditor's prior notice, the debtor has already discharged one-half or more of the obligation secured by the hypothec, the creditor shall obtain authorization from the

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court before taking the property in payment, unless the person against whom the right is exercised has voluntarily surrendered the property.

1991, c. 64, a. 2778; I.N. 2014-05-01.

2779. Later ranking hypothecary creditors or the debtor may, within the time allotted for surrender, require the creditor to abandon the taking in payment and sell the property himself or cause it to be sold under judicial authority; they must first have registered a notice to that effect, reimbursed the creditor for the costs he has incurred and advanced the amounts needed for the sale of the property.

The notice shall be served on the creditor, the grantor or the debtor, and the person against whom the hypothecary right is exercised, and its registration is declared in accordance with the Book on Publication of Rights.

Later ranking creditors who require the creditor to proceed with the sale shall also furnish him with security that the property will be sold at a price sufficient to ensure full payment of his claim.

1991, c. 64, a. 2779; 1992, c. 57, s. 716; 2002, c. 19, s. 15; I.N. 2014-05-01; I.N. 2015-11-01.

2780. A creditor required to sell shall proceed to do so unless he prefers to pay the later ranking creditors who registered the notice, or, if the notice was registered by the debtor, unless the court authorizes the creditor to take the property in payment on such conditions as it determines.

If the creditor does not act, the court may allow the person who registered the notice requiring the sale, or any other person it designates, to proceed with it.

1991, c. 64, a. 2780; I.N. 2014-05-01; 2016, c. 4, s. 323.

2781. Where the default has not been remedied or the payment has not been made in the time allotted for surrender, the creditor takes the property in payment by the effect of the judgment of surrender, or by an act voluntarily made by the person against whom the hypothecary right is exercised, and accepted by the creditor, if neither the later ranking creditors nor the debtor required him to proceed with the sale.

The judgment of surrender or the act voluntarily made and accepted constitutes the creditor's title of ownership.

1991, c. 64, a. 2781; 2000, c. 42, s. 7; I.N. 2014-05-01; I.N. 2015-11-01.

2782. Taking in payment extinguishes the obligation.

A creditor who has taken property in payment may not claim what he pays to a prior or hypothecary creditor whose claim is preferred to his. In such a case, he is not entitled to subrogation against his former debtor.

1991, c. 64, a. 2782.

2783. A creditor who has taken property in payment becomes the owner of it from the time of registration of the prior notice. He takes it as it then stood, but free of all hypothecs published after his.

Real rights created after registration of the prior notice may not be set up against the creditor if he did not consent to them.

1991, c. 64, a. 2783; 1992, c. 57, s. 716; I.N. 2014-05-01.

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DIVISION VI

SALE BY THE CREDITOR

2784. A creditor who holds a hypothec on the property of an enterprise and who has filed a prior notice at the registry office indicating his intention to sell the charged property himself may, after obtaining surrender of the property, proceed with the sale by agreement, by a call for tenders or by auction.

1991, c. 64, a. 2784; 2016, c. 4, s. 324.

2785. The creditor shall sell the property without unnecessary delay, at a commercially reasonable price, and in the best interest of the person against whom the hypothecary right is exercised.

If there is more than one property, he may sell them together or separately.

1991, c. 64, a. 2785.

2786. A creditor who sells the property himself acts in the name of the owner and is bound to declare his quality to the acquirer at the time of the sale.

1991, c. 64, a. 2786; I.N. 2014-05-01.

2787. A creditor who proceeds by a call for tenders may do so by invitation or by a public call for tenders.

Sufficient information shall be included in the call for tenders to enable any interested person to make an offer at the proper time and place.

The creditor is bound to accept the highest offer unless the conditions attached to it render it less advantageous than another lower offer, or unless the price offered is not commercially reasonable.

1991, c. 64, a. 2787; 2014, c. 1, s. 800.

2788. A creditor who proceeds with an auction sale shall hold it at the date, time and place fixed in the notice of sale served on the person against whom the hypothecary right is exercised and on the grantor, and notified to the other creditors who have published their right as regards the property.

He shall also inform, as to the measures he takes, any interested person who so requests.

1991, c. 64, a. 2788; I.N. 2014-05-01; 2016, c. 4, s. 325.

2789. The creditor imputes the proceeds of the sale to payment of the costs of exercising the right, payment of the claims that take precedence over his rights, and, finally, payment of his claim.

If other creditors have rights to assert, the creditor who sold the property renders account of the proceeds of the sale to the clerk of the competent court and remits what remains of the price after imputation; where no such creditors exist, he shall, within 10 days, render account of the proceeds of the sale to the owner of the property and remit any surplus to him; the rendering of account may be contested in the manner established in the Code of Civil Procedure (chapter C-25.01).

Where the proceeds of the sale are insufficient to pay his claim and costs, the creditor retains a claim against his debtor for the balance due to him.

1991, c. 64, a. 2789; I.N. 2014-05-01; I.N. 2016-01-01 (NCCP); 2016, c. 4, s. 326.

2790. The acquirer takes the property as subject to the real rights charging it at the time of registration of the prior notice, except for the hypothec of the creditor who sold the property and the claims which ranked ahead of the latter's rights.

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Real rights created after registration of the prior notice may not be set up against the acquirer if he did not consent to them.

1991, c. 64, a. 2790; I.N. 2014-05-01.

DIVISION VII

SALE UNDER JUDICIAL AUTHORITY

I.N. 2015-11-01.

2791. A sale is under judicial authority where the court designates the person who will proceed with it, fixes the conditions and charges of the sale, indicates whether it may be made by agreement, a call for tenders or auction and, if it considers it expedient, after enquiring as to the value of the property, fixes the upset price.

The person in charge of selling the property must be independent from any interested persons and have the qualifications needed to conduct the sale.

1991, c. 64, a. 2791; I.N. 2015-11-01; 2014, c. 1, s. 801; I.N. 2016-01-01 (NCCP); 2016, c. 4, s. 327.

2792. No creditor may require that the sale be subject to his hypothec.

1991, c. 64, a. 2792.

2793. The person in charge of selling the property is required to inform the interested persons, on their request, of any steps taken and to comply with the rules of Titles III and IV of Book VIII of the Code of Civil Procedure (chapter C-25.01) on sales under judicial authority, including as regards publication in the sales register, and the distribution of the proceeds of execution, adapted as required.

The person acts in the name of the owner and is bound to declare his quality to the acquirer.

1991, c. 64, a. 2793; I.N. 2014-05-01; 2014, c. 1, s. 802.

2794. Sale under judicial authority purges the real rights to the extent provided by the Code of Civil Procedure (chapter C-25.01).

1991, c. 64, a. 2794; I.N. 2014-05-01; I.N. 2015-11-01; 2014, c. 1, s. 803; I.N. 2016-01-01 (NCCP).

CHAPTER VI

EXTINCTION OF HYPOTHECS

2795. Hypothecs are extinguished by the loss of the charged property, a change in its nature, its withdrawal from commerce or its expropriation, where those events concern the property as a whole.

1991, c. 64, a. 2795; I.N. 2014-05-01.

2796. Where movable property is incorporated into an immovable, the movable hypothec may subsist as an immovable hypothec, notwithstanding the change of nature of the property, provided it is registered in the land register; it is ranked according to the rules set out in the Book on Publication of Rights.

1991, c. 64, a. 2796; I.N. 2014-05-01.

2797. A hypothec is extinguished by the extinction of the obligation whose performance it secures. In the case of a line of credit or in any other case where the debtor obligates himself again under a provision of the

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act constituting the hypothec, the hypothec, unless cancelled, subsists notwithstanding the extinction of the obligation.

1991, c. 64, a. 2797; I.N. 2014-05-01.

2798. A movable hypothec is extinguished not later than 10 years after the date of its registration or registration of a notice giving it effect or renewing it.

Pledge is extinguished upon termination of detention.

1991, c. 64, a. 2798.

2799. An immovable hypothec is extinguished not later than 30 years after the date of its registration or registration of a notice giving it effect or renewing it.

This rule does not apply in the case of hypothecs securing the price of emphyteusis, a rent constituted for the price of an immovable, a life annuity or a usufruct for life, hypothecs given in favour of La Financière agricole du Québec or the Société d'habitation du Québec, or hypothecs in favour of a hypothecary representative for present or future creditors to secure performance of the obligations of a legal person, partnership or trustee.

1991, c. 64, a. 2799; 2000, c. 42, s. 8; 2000, c. 53, s. 67; 2015, c. 8, s. 363.

2800. The legal hypothec of a syndicate of co-owners on the fraction of a co-owner is extinguished three years after it is registered, unless the syndicate, in order to preserve it, publishes an action against the owner who has defaulted or registers a prior notice of the exercise of a hypothecary right.

1991, c. 64, a. 2800; I.N. 2014-05-01.

2801. Where a hypothecary creditor takes the hypothecated property in payment, the hypothec of the later ranking creditors is not extinguished except by registration of the act voluntarily made and accepted or of the judgment of surrender.

1991, c. 64, a. 2801; 2000, c. 42, s. 9; I.N. 2014-05-01.

2802. Hypothecs are also extinguished by the other causes provided by law.

1991, c. 64, a. 2802; I.N. 2014-05-01.

BOOK SEVEN

EVIDENCE

TITLE ONE

GENERAL RULES OF EVIDENCE

CHAPTER I

GENERAL PROVISIONS

2803. A person seeking to assert a right shall prove the facts on which his claim is based.

A person who claims that a right is null, has been modified or is extinguished shall prove the facts on which he bases his claim.

1991, c. 64, a. 2803; I.N. 2014-05-01.

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2804. Evidence is sufficient if it renders the existence of a fact more probable than its non-existence, unless the law requires more convincing proof.

1991, c. 64, a. 2804.

2805. Good faith is always presumed, unless the law expressly requires that it be proved.

1991, c. 64, a. 2805.

CHAPTER II

JUDICIAL NOTICE

2806. No proof is required of a matter of which judicial notice shall be taken.

1991, c. 64, a. 2806.

2807. Judicial notice shall be taken of the law in force in Québec.

However, statutory instruments in force in Québec but not published in the *Gazette officielle du Québec* or in any other manner prescribed by law, international treaties and agreements applicable to Québec but not embodied in a text of law, and customary international law, shall be pleaded.

1991, c. 64, a. 2807; I.N. 2014-05-01.

2808. Judicial notice shall be taken of any fact that is so generally known that it cannot reasonably be questioned.

1991, c. 64, a. 2808; I.N. 2014-05-01; I.N. 2015-11-01.

2809. Judicial notice may be taken of the law of other provinces or territories of Canada and of that of a foreign state, provided it has been pleaded. The court may also require that proof be made of such law; this may be done, among other means, by expert testimony or by the production of a certificate drawn up by a jurisconsult.

Where such law has not been pleaded or its content has not been established, the court applies the law in force in Québec.

1991, c. 64, a. 2809; 2002, c. 19, s. 15.

2810. The court may, in any matter, take judicial notice of the facts in dispute in the presence of the parties or where the parties have been duly called. It may conduct any observations it considers necessary and go to the scene, if need be.

1991, c. 64, a. 2810; I.N. 2014-05-01.

TITLE TWO

MEANS OF PROOF

1991, c. 64, Tit. II; I.N. 2014-05-01.

2811. A fact or juridical act may be proved by a writing, by testimony, by presumption, by admission or by the production of real evidence, according to the rules set forth in this Book and in the manner provided in the Code of Civil Procedure (chapter C-25.01) or in any other Act.

1991, c. 64, a. 2811; I.N. 2014-05-01; I.N. 2016-01-01 (NCCP).

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CHAPTER I

WRITINGS

DIVISION I

COPIES OF STATUTES

2812. Copies of statutes which have been or are in force in Canada, attested by a competent public officer or published by an authorized publisher, make proof of the existence and content of such statutes, and neither the signature or seal appended to such a copy nor the quality of the officer or publisher need be proved.

1991, c. 64, a. 2812.

DIVISION II

AUTHENTIC ACTS

2813. An authentic act is one that has been received or attested by a competent public officer in accordance with the laws of Québec or of Canada, with the formalities required by law.

An act whose material appearance satisfies such requirements is presumed to be authentic.

1991, c. 64, a. 2813; I.N. 2014-05-01.

2814. The following documents in particular are authentic if they conform to the requirements of the law:

(1) official documents of the Parliament of Canada or the Parliament of Québec;

(2) official documents issued by the government of Canada or of Québec, such as letters patent, orders and proclamations;

(3) records of the courts of justice having jurisdiction in Québec;

(4) records of and official documents issued by municipalities and other legal persons established in the public interest by an Act of Québec;

(5) public records required by law to be kept by public officers;

(6) notarial acts;

(7) minutes of boundary-marking operations.

1991, c. 64, a. 2814; I.N. 2014-05-01; I.N. 2016-01-01 (NCCP).

2815. A copy of the original of an authentic act or, where the original is lost, a copy of an authentic copy of such an act is authentic if it is attested by the public officer who is its depositary.

1991, c. 64, a. 2815; I.N. 2014-05-01.

2816. In the event that the original of a document, entered in a register required to be kept by law and retained by the officer in charge of the register, is lost or is in the possession of the adverse party or of a third person without collusion on the part of the party invoking it, a copy of the document is also authentic if it is attested by the public officer who is its depositary or, if it has been deposited or filed in the Archives nationales, by the Keeper of the Archives nationales du Québec.

1991, c. 64, a. 2816; I.N. 2014-05-01.

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2817. An extract which reproduces verbatim part of an authentic act is itself authentic if it is certified by the depositary of the act, provided the extract bears its date of issue and indicates the date, nature and place of execution of the original act and, where such is the case, the names of the parties and of the public officer who drew it up.

1991, c. 64, a. 2817; I.N. 2014-05-01.

2818. The recital, in an authentic act, of the facts which the public officer had the task of observing or recording makes proof against all persons.

1991, c. 64, a. 2818.

2819. To be authentic, a notarial act shall be signed by all the parties; it then makes proof against all persons of the juridical act which it sets forth and of those declarations of the parties which directly relate to the act.

Where the parties are unable to sign, their declaration or consent shall be given before a witness who signs. Minors, persons of full age who are unable to give consent and persons who have an interest in the act may not be witnesses.

1991, c. 64, a. 2819.

2820. An authentic copy of a document makes proof against all persons of its conformity to the original and substitutes for it.

An authentic extract makes proof of its conformity to the part of the document which it reproduces.

1991, c. 64, a. 2820; I.N. 2014-05-01.

2821. Improbation is necessary only to contradict the recital in an authentic act of the facts which the public officer had the task of observing.

Improbation is not required to contest the quality of the public officer or witnesses or the signature of the public officer.

1991, c. 64, a. 2821; I.N. 2014-05-01.

DIVISION III

SEMI-AUTHENTIC ACTS

2822. An act purporting to be issued by a competent foreign public officer makes proof of its content against all persons and neither the quality nor the signature of the officer need be proved.

Similarly, a copy of a document of which the foreign public officer is the depositary makes proof of its conformity to the original against all persons and substitutes for the original, if it purports to be issued by that officer.

1991, c. 64, a. 2822; I.N. 2014-05-01.

2823. A power of attorney under a private writing made outside Québec also makes proof against all persons where it is certified by a competent public officer who has verified the identity and signature of the mandator.

1991, c. 64, a. 2823.

2824. Acts, copies and powers of attorney mentioned in this section may be deposited with a notary, who may then issue copies of them.

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Such a copy makes proof of its conformity to the deposited document and substitutes for it.

1991, c. 64, a. 2824; I.N. 2014-05-01.

2825. Where an act or copy issued by a foreign public officer or a power of attorney certified by a foreign public officer has been contested, the person invoking it has the burden of proving that it is authentic.

1991, c. 64, a. 2825.

DIVISION IV

PRIVATE WRITINGS

2826. A private writing is a writing setting forth a juridical act and bearing the signature of the parties; it is not subject to any other formality.

1991, c. 64, a. 2826.

2827. A signature is the affixing by a person, to a writing, of his name or a mark distinctive to him which he regularly uses to signify his consent.

1991, c. 64, a. 2827; 2001, c. 32, s. 77; I.N. 2014-05-01; 2016, c. 4, s. 328.

2828. A person who invokes a private writing has the burden of proving it.

However, a writing set up against the person by whom it purports to have been signed or his heirs is considered to be acknowledged unless it is contested in the manner provided in the Code of Civil Procedure (chapter C-25.01).

1991, c. 64, a. 2828; I.N. 2014-05-01; I.N. 2016-01-01 (NCCP).

2829. A private writing makes proof, with respect to the persons against whom it is proved, of the juridical act which it sets forth and of the statements of the parties directly relating to the act.

1991, c. 64, a. 2829; I.N. 2014-05-01.

2830. A private writing does not make proof of its date against third persons but that date may be established against them, by any means.

However, acts executed in the ordinary course of business of an enterprise are presumed to have been made on the date they bear.

1991, c. 64, a. 2830; I.N. 2014-05-01.

DIVISION V

OTHER WRITINGS

2831. An unsigned writing regularly used in the ordinary course of business of an enterprise to evidence a juridical act makes proof of its content.

1991, c. 64, a. 2831.

2832. A writing that is neither authentic nor semi-authentic that relates a fact may be admitted into evidence as testimony or as an admission against its author, subject to the rules of this Book.

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2833. A domestic paper stating that a payment has been received or containing a mention that the entry compensates for the lack of a title in favour of the person for whose benefit it sets forth an obligation makes proof against its author.

1991, c. 64, a. 2833; I.N. 2014-05-01.

2834. A release, although unsigned and undated, inscribed by a creditor on the title of his debt or on a copy thereof which has always remained in his possession makes proof against him.

The release is not admissible in proof of payment, however, if it has the effect of withdrawing the debt from the rules governing prescription.

1991, c. 64, a. 2834.

2835. A person who invokes an unsigned writing shall prove that it originates from the person whom he claims to be its author.

1991, c. 64, a. 2835.

2836. Writings contemplated by this section may be contradicted by any means.

1991, c. 64, a. 2836; I.N. 2014-05-01.

DIVISION VI

MEDIA FOR WRITINGS AND TECHNOLOGICAL NEUTRALITY

2001, c. 32, s. 78.

2837. A writing is a means of proof whatever the medium, unless the use of a specific medium or technology is required by law.

Where a writing is in a medium that is based on information technology, the writing is referred to as a technology-based document within the meaning of the Act to establish a legal framework for information technology (chapter C-1.1).

1991, c. 64, a. 2837; 2001, c. 32, s. 78.

2838. In addition to meeting all other requirements of the law, the integrity of a copy of a statute, an authentic writing, a semi-authentic writing or a private writing drawn up in a medium based on information technology must be ensured for it to make proof in the same way as a writing of the same kind drawn up as a paper-based document.

1991, c. 64, a. 2838; 2001, c. 32, s. 78; I.N. 2014-05-01; 2016, c. 4, s. 329.

2839. The integrity of a document is ensured if it is possible to verify that the information it contains has not been altered and has been maintained in its entirety, and that the medium used provides stability and the required perennity to the information.

Where the medium or technology used does not allow the integrity of the document to be confirmed or denied, the document may, depending on the circumstances, be admitted as testimonial evidence or real evidence and serve as a commencement of proof.

1991, c. 64, a. 2839; 1992, c. 57, s. 716; 2001, c. 32, s. 78; I.N. 2014-05-01.

2840. It is not necessary to prove that the medium of a document or that the processes, systems or technology used to communicate by means of a document ensure its integrity, unless the person contesting the

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admission of the document establishes, upon a preponderance of evidence, that the integrity of the document has been affected.

1991, c. 64, a. 2840; 2001, c. 32, s. 78.

DIVISION VII

COPIES AND DOCUMENTS RESULTING FROM A TRANSFER

2001, c. 32, s. 78.

2841. A document may be reproduced either by generating a copy in the same medium or in a medium that is based on the same technology, or by transferring the information contained in the document to a medium based on different technology.

Where it reproduces an original document or a technology-based document fulfilling the functions of an original as provided for in section 12 of the Act to establish a legal framework for information technology (chapter C-1.1), a copy, provided it is certified, or a document resulting from the transfer of information, provided it is documented, may legally stand in lieu of the reproduced document.

In the case of a document in the possession of the State, a legal person, a partnership or an association, certification is effected by a person in authority or the person responsible for conserving the document.

1991, c. 64, a. 2841; 2001, c. 32, s. 78; I.N. 2014-05-01.

2842. A certified copy is supported, if necessary, by a statement establishing the circumstances and the date of the reproduction, attesting that the copy contains the same information as the reproduced document and indicating the means used to ensure the integrity of the copy. The statement is made by the person responsible for document reproduction or by the person who reproduced the document.

A document resulting from the transfer of information is supported, if necessary, by the documentation referred to in section 17 of the Act to establish a legal framework for information technology (chapter C-1.1).

1991, c. 64, a. 2842; 2001, c. 32, s. 78.

CHAPTER II

TESTIMONY

2843. Testimony is a statement whereby a person relates facts of which he has personal knowledge or whereby an expert gives his opinion.

To make proof, testimony shall be given by deposition in a judicial proceeding unless otherwise agreed by the parties or provided by law.

1991, c. 64, a. 2843.

2844. Proof by testimony may be adduced by a single witness.

A child who, in the opinion of the judge, does not understand the nature of an oath, may be permitted to testify without that formality, if the judge considers that the child is sufficiently mature to be able to relate the facts of which he had knowledge, and that he understands the duty to tell the truth. However, a judgment may not be based upon such testimony alone.

1991, c. 64, a. 2844; I.N. 2014-05-01.

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2845. The probative force of testimony is left to the appraisal of the court.

1991, c. 64, a. 2845.

CHAPTER III

PRESUMPTIONS

2846. A presumption is an inference drawn by the law or the court from a known fact to an unknown fact.

1991, c. 64, a. 2846; I.N. 2014-05-01.

2847. A legal presumption is one that is specially attached by law to certain facts; it exempts the person in whose favour it exists from making any other proof.

A presumption concerning presumed facts is simple and may be rebutted by proof to the contrary; a presumption concerning deemed facts is absolute and irrebuttable.

1991, c. 64, a. 2847.

2848. The authority of *res judicata* is an absolute presumption; it applies only to the object of the judgment when the demand is based on the same cause and is between the same parties acting in the same qualities and the thing applied for is the same.

However, a judgment deciding a class action has the authority of *res judicata* with respect to the parties and the members of the group who have not excluded themselves therefrom.

1991, c. 64, a. 2848; I.N. 2014-05-01; 2016, c. 4, s. 330.

2849. Presumptions which are not established by law are left to the discretion of the court which shall take only serious, precise and concordant presumptions into consideration.

1991, c. 64, a. 2849.

CHAPTER IV

ADMISSIONS

2850. An admission is the acknowledgment of a fact which may produce legal consequences against the person who makes it.

1991, c. 64, a. 2850.

2851. An admission may be express or implied.

An admission cannot, however, arise from silence alone, except in the cases provided by law.

1991, c. 64, a. 2851; I.N. 2014-05-01.

2852. An admission made by a party to a dispute or by an authorized mandatary makes proof against the party if it is made in the proceeding in which it is invoked. It may not be revoked, unless it is proved to have been made through an error of fact.

The probative force of any other admission is left to the appraisal of the court.

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2853. An admission may not be divided unless it contains facts which are foreign to the issue joined, the part of the admission objected to is implausible or contradicted by indications of bad faith or by contrary evidence, or the facts contained in the admission are unrelated to each other.

1991, c. 64, a. 2853; I.N. 2014-05-01; 2016, c. 4, s. 331.

2853.1. An apology may not constitute an admission.

Furthermore, it may not be admitted into evidence, affect the determination of fault or liability, interrupt prescription or cancel or reduce the insurance coverage to which the insured or a third person is entitled.

Any express or implied expression of sympathy or regret constitutes an apology.

2020, c. 13, s. 1.

CHAPTER V

PRODUCTION OF REAL EVIDENCE

1991, c. 64, c. V; I.N. 2014-05-01.

2854. The production of real evidence is a means of proof which allows the judge to make his own findings. Such real evidence may consist of an object, as well as the representation for the senses of an object, fact or place.

1991, c. 64, a. 2854; I.N. 2014-05-01.

2855. The production of real evidence does not have probative force until its authenticity has been established by separate proof. However, where the real evidence produced is a technology-based document within the meaning of the Act to establish a legal framework for information technology (chapter C-1.1), authenticity need only be established in cases to which the third paragraph of section 5 of that Act applies.

1991, c. 64, a. 2855; 2001, c. 32, s. 79; I.N. 2014-05-01.

2856. The court may draw any inference it considers reasonable from the production of real evidence.

1991, c. 64, a. 2856; I.N. 2014-05-01.

TITLE THREE

ADMISSIBILITY OF EVIDENCE AND MEANS OF PROOF

1991, c. 64, Tit. III; I.N. 2014-05-01.

CHAPTER I

EVIDENCE

2857. Evidence of any fact relevant to a dispute is admissible and may be produced by any means.

1991, c. 64, a. 2857; I.N. 2014-05-01.

2858. The court shall, even of its own motion, reject any evidence obtained under such circumstances that fundamental rights and freedoms are violated and whose use would tend to bring the administration of justice into disrepute.

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The latter criterion is not taken into account in the case of violation of the right of professional secrecy.

1991, c. 64, a. 2858; I.N. 2014-05-01.

2858.1. Where a matter contains allegations of sexual violence or spousal violence, the following facts are presumed to be irrelevant:

(1) any fact relating to the reputation of the person who is the alleged victim of the violence;

(2) any fact related to the sexual behaviour of that person, other than a fact pertaining to the proceeding, and that is invoked to attack the person's credibility;

(3) the fact that the person did not ask that the behaviour cease;

(4) the fact that the person did not file a complaint or exercise a recourse regarding the violence;

(5) any fact in connection with the delay in reporting the alleged violence; and

(6) the fact that the person maintained relations with the alleged perpetrator of the violence.

Any debate relating to the admissibility in evidence of any such fact is an issue of law and is to be held in camera, despite section 23 of the Charter of human rights and freedoms (chapter C-12).

2024, c. 37, s. 13.

CHAPTER II

MEANS OF PROOF

1991, c. 64, c. II; I.N. 2014-05-01.

2859. The court may not of its own motion raise a ground of inadmissibility resulting from the provisions of this chapter where a party who is present or represented has failed to raise it.

1991, c. 64, a. 2859; I.N. 2014-05-01.

2860. A juridical act set forth in a writing or the content of a writing shall be proved by the production of the original or a copy which legally stands in lieu of it.

However, where a party acting in good faith and with diligence is unable to produce the original of a writing or a copy which legally stands in lieu of it, proof may be made by any means.

In the case of technology-based documents, the functions of the original are fulfilled by a document meeting the requirements of section 12 of the Act to establish a legal framework for information technology (chapter C-1.1) and the functions of the copy standing in lieu of the original are fulfilled by a certified copy of the document meeting the requirements of section 16 of that Act.

1991, c. 64, a. 2860; 2001, c. 32, s. 80; I.N. 2014-05-01.

2861. Where a party has been unable, for a valid reason, to procure written proof of a juridical act, such an act may be proved by any means.

1991, c. 64, a. 2861; I.N. 2014-05-01.

2862. Proof of a juridical act may not be made, between the parties, by testimony where the value in dispute exceeds $1,500.

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However, in the absence of proof in writing and regardless of the value in dispute, proof may be made by testimony of any juridical act where there is a commencement of proof; proof may also be made by testimony, against a person, of a juridical act executed by him in the ordinary course of business of an enterprise.

1991, c. 64, a. 2862; I.N. 2014-05-01.

2863. The parties to a juridical act set forth in a writing may not contradict or vary the terms of the writing by testimony unless there is a commencement of proof.

1991, c. 64, a. 2863.

2864. Proof by testimony is admissible to interpret a writing, to complete a clearly incomplete writing or to impugn the validity of the juridical act which the writing sets forth.

1991, c. 64, a. 2864.

2865. A commencement of proof may arise from an admission or writing of the adverse party, his testimony or the production of real evidence, where it renders plausible the alleged fact.

1991, c. 64, a. 2865; I.N. 2014-05-01; 2016, c. 4, s. 332.

2866. No evidence is admissible to rebut a legal presumption where, by reason of such presumption, the law annuls certain acts or disallows judicial proceedings, unless the law has reserved the right to make proof to the contrary.

However, where the presumption is not of public order, it may be rebutted by an admission made in the proceeding in which the presumption is invoked.

1991, c. 64, a. 2866; I.N. 2014-05-01; 2016, c. 4, s. 333.

2867. An admission made outside the proceeding in which it is invoked is proved by the means admissible as proof of the fact which is its subject.

1991, c. 64, a. 2867; I.N. 2015-11-01.

2868. Proof by the production of real evidence is admissible in accordance with the relevant rules on admissibility as proof of the object, the fact or the place represented by it.

1991, c. 64, a. 2868; I.N. 2014-05-01.

CHAPTER III

CERTAIN STATEMENTS

2869. A statement made by a person who does not testify in the judicial proceeding or made by a witness prior to the judicial proceeding is admissible as testimony if the parties consent thereto; a statement that meets the requirements of this chapter or of the law is also admissible as testimony.

1991, c. 64, a. 2869; I.N. 2014-05-01.

2870. A statement made by a person who does not appear as a witness, concerning facts to which he could have legally testified, is admissible as testimony on application and after notice is given to the adverse party, provided the court authorizes it.

The court shall, however, ascertain that it is impossible for the declarant to appear as a witness, or that it is unreasonable to require him to do so, and that the reliability of the statement is sufficiently guaranteed by the circumstances in which it is made.

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Reliability is presumed to be sufficiently guaranteed with respect in particular to documents drawn up in the ordinary course of business of an enterprise, to documents entered in a register required by law to be kept, and spontaneous statements that are contemporaneous to the occurrence of the facts.

1991, c. 64, a. 2870; I.N. 2014-05-01.

2871. Previous statements by a person who appears as a witness, concerning facts to which he may legally testify, are admissible as testimony if their reliability is sufficiently guaranteed.

1991, c. 64, a. 2871.

2872. Statements made in written form shall be proved by producing the writing.

No other statement may be proved except by the testimony of the declarant or of the persons having had personal knowledge of it, unless otherwise provided in articles 2873 and 2874.

1991, c. 64, a. 2872; I.N. 2014-05-01.

2873. A statement recorded in writing by a person other than the declarant may be proved by producing the writing if the declarant has acknowledged that the writing faithfully reproduces his statement.

The same rule applies where the writing was drawn up at the request of the declarant or by a person acting in the performance of his duties, if there is reason to presume, having regard to the circumstances, that the writing faithfully reproduces the statement.

1991, c. 64, a. 2873; I.N. 2014-05-01.

2874. A statement recorded on magnetic tape or by any other reliable recording technique may be proved by such means, provided its authenticity is separately proved. However, where the recording is a technology-based document within the meaning of the Act to establish a legal framework for information technology (chapter C-1.1), authenticity need only be established in cases to which the third paragraph of section 5 of that Act applies.

1991, c. 64, a. 2874; 2001, c. 32, s. 81.

CHAPTER IV

PROOF OF CERTAIN FACTS

2024, c. 37, s. 14.

2874.1. In the course of an action for damages for injury resulting from an act that constitutes a criminal offence, the filing of a copy of the judgment of guilty rendered against the perpetrator of the offence, having become final, is sufficient as proof of the fault.

2024, c. 37, s. 14.

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BOOK EIGHT

PRESCRIPTION

TITLE ONE

RULES GOVERNING PRESCRIPTION

CHAPTER I

GENERAL PROVISIONS

2875. Prescription is a means of acquiring or of being released by the lapse of time and according to the conditions determined by law: prescription is called acquisitive in the first case and extinctive in the second.

1991, c. 64, a. 2875; I.N. 2014-05-01.

2876. That which is not an object of commerce, is non-transferable or is inappropriable, by reason of its nature or the purpose to which it has been appropriated, cannot be prescribed.

1991, c. 64, a. 2876; I.N. 2014-05-01.

2877. Prescription takes effect in favour of or against everyone, including the State, subject to express provision of law.

1991, c. 64, a. 2877; I.N. 2014-05-01.

2878. The court may not, of its own motion, raise the plea of prescription.

However, it shall, of its own motion, declare a remedy forfeit where so provided by law. Such forfeiture is never presumed; it results only where expressly provided for in a text.

1991, c. 64, a. 2878; I.N. 2014-05-01.

2879. The period of time required for prescription is reckoned by full days. The day on which prescription begins to run is not counted in computing such period.

Prescription is acquired only when the last day of the period has elapsed. Where the last day is a Saturday or a holiday, prescription is acquired only on the following working day.

1991, c. 64, a. 2879; I.N. 2016-01-01 (NCCP).

2880. Dispossession determines the beginning of the period of acquisitive prescription.

The day on which the right of action arises determines the beginning of the period of extinctive prescription.

1991, c. 64, a. 2880; I.N. 2014-05-01.

2881. Prescription may be pleaded at any stage of judicial proceedings, even in appeal, unless the party who has not pleaded prescription has, in light of the circumstances, demonstrated his intention of renouncing it.

1991, c. 64, a. 2881.

2882. A ground of defence that may be raised to defeat an action may still be invoked, even if the time for using it by way of a direct action has expired, provided such ground could have constituted a valid defence to an action at the time when it could have served as the basis of a direct action.

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Acceptance of such a ground does not revive a direct action that is prescribed.

1991, c. 64, a. 2882; I.N. 2014-05-01.

CHAPTER II

RENUNCIATION OF PRESCRIPTION

2883. Prescription may not be renounced in advance, but prescription acquired or the benefit of the time elapsed in the case of prescription that has begun to run may be renounced.

1991, c. 64, a. 2883; I.N. 2014-05-01.

2884. No prescriptive period other than that provided by law may be agreed upon.

1991, c. 64, a. 2884.

2885. Renunciation of prescription is either express or tacit; tacit renunciation results from an act or omission which implies the abandonment of the acquired right.

However, renunciation of acquired prescription with respect to immovable real rights shall be published at the Land Registry Office.

1991, c. 64, a. 2885; I.N. 2014-05-01; 2016, c. 4, s. 334; 2020, c. 17, s. 27.

2886. A person who may not alienate may not renounce acquired prescription.

1991, c. 64, a. 2886; I.N. 2014-05-01.

2887. Any person who has an interest in the acquisition of prescription may plead it, even if the debtor or the possessor renounces it.

1991, c. 64, a. 2887.

2888. Following renunciation, prescription begins to run again for the same period.

1991, c. 64, a. 2888.

CHAPTER III

INTERRUPTION OF PRESCRIPTION

2889. Prescription may be interrupted naturally or civilly.

1991, c. 64, a. 2889.

2890. Acquisitive prescription is interrupted naturally where the possessor is deprived of the enjoyment of the property for more than one year.

1991, c. 64, a. 2890.

2891. Extinctive prescription is interrupted naturally where the holder of a right, having failed to avail himself of it, exercises that right.

1991, c. 64, a. 2891.

2892. The filing of a judicial application before the expiry of the prescriptive period constitutes a civil interruption, provided the demand is served on the person to be prevented from prescribing not later than 60 days following the expiry of the prescriptive period.

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Cross demands, interventions, seizures and oppositions are considered to be judicial applications. The notice expressing the intention by one party to submit a dispute to arbitration is also considered to be a judicial application, provided it describes the subject matter of the dispute to be submitted and is notified in accordance with the rules and time limits applicable to judicial applications.

1991, c. 64, a. 2892; I.N. 2015-11-01; 2014, c. 1, s. 804.

2893. Any demand by a creditor to share in a distribution with other creditors also interrupts prescription.

1991, c. 64, a. 2893; I.N. 2014-05-01.

2894. Interruption does not occur if the demand is dismissed, or if the proceedings are discontinued or peremptied.

1991, c. 64, a. 2894; I.N. 2014-05-01.

2895. Where the demand of a party is dismissed without a decision having been made on the merits of the matter and where, on the date of the judgment, the prescriptive period has expired or will expire in less than three months, the demanding party has an additional period of three months from notification of the judgment in which to assert his right.

The same applies to arbitration; the three-month period then runs from the time the award is made, from the end of the arbitrators' mandate, or from the notification of the judgment annulling the award.

1991, c. 64, a. 2895; I.N. 2014-05-01; I.N. 2016-01-01 (NCCP).

2896. An interruption resulting from a judicial application continues until the judgment has become final or, as the case may be, until a transaction has intervened between the parties.

The interruption has effect with regard to all the parties with respect to any right arising from the same source.

1991, c. 64, a. 2896; I.N. 2014-05-01; I.N. 2015-11-01; 2016, c. 4, s. 335.

2897. An interruption which results from the bringing of a class action benefits all the members of the group who have not requested their exclusion from the group.

1991, c. 64, a. 2897.

2898. Acknowledgement of a right, as well as renunciation of the benefit of the time elapsed, interrupts prescription.

1991, c. 64, a. 2898; I.N. 2014-05-01; I.N. 2015-11-01.

2899. A judicial application or any other act of interruption against the principal debtor or against a surety interrupts prescription with regard to both.

1991, c. 64, a. 2899; I.N. 2015-11-01.

2900. Interruption with regard to one of the creditors or debtors of a solidary or indivisible obligation has effect with regard to the others.

1991, c. 64, a. 2900.

2901. Interruption with regard to one of the joint creditors or debtors of a divisible obligation has no effect with regard to the others.

1991, c. 64, a. 2901.

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2902. Interruption with regard to one of the coheirs of a solidary creditor or debtor of a divisible obligation has effect, with regard to the other solidary creditors or debtors, only as regards the portion of that heir.

1991, c. 64, a. 2902.

2903. After its interruption, prescription begins to run again for the same period.

1991, c. 64, a. 2903; I.N. 2014-05-01.

CHAPTER IV

SUSPENSION OF PRESCRIPTION

2904. Prescription does not run against persons if it is impossible in fact for them to act by themselves or to be represented by others.

1991, c. 64, a. 2904.

2905. Prescription does not run against a child yet unborn.

Nor does it run against a minor or a person of full age under tutorship or under a protection mandate with respect to remedies he may have against his representative or against the person entrusted with his custody, or with respect to remedies he may have against any person for bodily injury resulting from an act which could constitute a criminal offence.

1991, c. 64, a. 2905; 2013, c. 8, s. 6; 2020, c. 11, s. 98.

2906. Married or civil union spouses do not prescribe against each other during their community of life.

Similarly, parental union spouses do not prescribe against each other.

1991, c. 64, a. 2906; 2002, c. 6, s. 59; 2016, c. 4, s. 336; 2024, c. 22, s. 16.

2907. Prescription does not run against an heir with respect to his claims against the succession.

1991, c. 64, a. 2907.

2908. An application for leave to bring a class action suspends prescription in favour of all the members of the group for whose benefit it is made or, as the case may be, in favour of the group described in the judgment granting the application.

The suspension lasts until the application for leave is dismissed, the judgment granting the application for leave is set aside or the authorization granted by the judgment is declared lapsed; however, a member requesting to be excluded from the action or who is excluded therefrom by the description of the group made by the judgment on the application for leave, a judgment in the course of the proceeding or the judgment on the action ceases to benefit from the suspension of prescription.

In the case of a judgment, however, prescription runs again only when the judgment is no longer susceptible of appeal.

1991, c. 64, a. 2908; 2014, c. 1, s. 805; I.N. 2016-01-01 (NCCP); 2016, c. 4, s. 337.

2909. Suspension of prescription of solidary claims and indivisible claims produces its effects with respect to creditors and debtors and their heirs in accordance with the rules applicable to interruption of prescription of such claims.

1991, c. 64, a. 2909; I.N. 2014-05-01.

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TITLE TWO

ACQUISITIVE PRESCRIPTION

CHAPTER I

CONDITIONS OF ACQUISITIVE PRESCRIPTION

2910. Acquisitive prescription is a means of acquiring a right of ownership, or one of its dismemberments, through the effect of possession.

1991, c. 64, a. 2910.

2911. Acquisitive prescription requires possession conforming to the conditions set out in the Book on Property.

1991, c. 64, a. 2911; I.N. 2014-05-01.

2912. A successor by particular title may join to his possession that of his predecessors in order to complete prescription.

A successor by universal title or by general title continues the possession of his predecessor.

1991, c. 64, a. 2912.

2913. Detention cannot serve as the basis for prescription, even if it extends beyond the term agreed upon.

1991, c. 64, a. 2913; I.N. 2014-05-01.

2914. A precarious title may be interverted by a title originating from a third person or by an act performed by the holder which is incompatible with precarious holding.

Interversion renders the possession effective for prescription, from the time the owner learns of the new title or of the act of the holder.

1991, c. 64, a. 2914; I.N. 2014-05-01.

2915. Third persons may prescribe against the owner of property during its dismemberment or when it is held precariously.

1991, c. 64, a. 2915.

2916. The institute and his successors by universal title or by general title do not prescribe against the substitute before the opening of the substitution.

1991, c. 64, a. 2916.

CHAPTER II

PERIODS OF ACQUISITIVE PRESCRIPTION

2917. The period for acquisitive prescription is 10 years, except as otherwise determined by law.

1991, c. 64, a. 2917; I.N. 2014-05-01.

2918. A person who has for 10 years possessed an immovable as its owner may acquire the ownership of it only upon a judicial application.

1991, c. 64, a. 2918; 2000, c. 42, s. 10; I.N. 2015-11-01.

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2919. The possessor in good faith of movable property acquires the ownership of it by three years running from the dispossession of the owner.

Until the expiry of that period, the owner may revendicate the movable property, unless it has been acquired under judicial authority.

1991, c. 64, a. 2919.

2920. To prescribe, a subsequent acquirer need have been in good faith only at the time of the acquisition, even where his effective possession began only after that time.

The same applies where there is joinder of possession, with respect to each previous acquirer.

1991, c. 64, a. 2920.

TITLE THREE

EXTINCTIVE PRESCRIPTION

2921. Extinctive prescription is a means of extinguishing a right owing to its non-use or of pleading a peremptory exception to an action.

1991, c. 64, a. 2921; I.N. 2014-05-01.

2922. The period for extinctive prescription is 10 years, except as otherwise determined by law.

1991, c. 64, a. 2922; I.N. 2014-05-01.

2923. Actions to enforce immovable real rights are prescribed by 10 years.

However, an action to retain or obtain possession of an immovable may be brought only within one year of the disturbance or dispossession.

1991, c. 64, a. 2923; I.N. 2014-05-01.

2924. A right resulting from a judgment is prescribed by 10 years if it is not exercised.

However, such a right is not subject to prescription if it results from a judgment obtained against the person who is liable for injury resulting from a criminal offence as defined in the Act to assist persons who are victims of criminal offences and to facilitate their recovery (chapter P-9.2.1). Execution of such a judgment is nevertheless prescribed by three years from the death of the person liable for the injury.

1991, c. 64, a. 2924; 2024, c. 37, s. 22.

2925. An action to enforce a personal right or movable real right is prescribed by three years, if the prescriptive period is not otherwise determined.

1991, c. 64, a. 2925; I.N. 2014-05-01.

2926. Where the right of action arises from moral, bodily or material injury appearing progressively or tardily, the period runs from the day the injury appears for the first time.

1991, c. 64, a. 2926; I.N. 2014-05-01.

2926.1. An action for damages for bodily injury resulting from an act which could constitute a criminal offence is prescribed by 10 years from the date the person who is a victim becomes aware that the injury suffered is attributable to that act. Nevertheless, such an action cannot be prescribed if the injury results from violent behaviour suffered during childhood, sexual violence or spousal violence. Conversion therapy, as

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defined by section 1 of the Act to protect persons from conversion therapy provided to change their sexual orientation, gender identity or gender expression (chapter P-42.2), constitutes violent behaviour suffered during childhood within the meaning of this article.

However, an action against an heir, a legatee by particular title or a successor of the author of the act or against the liquidator of the author's succession must, under pain of forfeiture, be instituted within three years after the author's death, unless the defendant is sued for the defendant's own fault or as a principal. Likewise, an action brought for injury suffered by the person who is a victim must, under pain of forfeiture, be instituted within three years after the death of the person who is a victim.

2013, c. 8, s. 7; I.N. 2015-11-01; 2020, c. 13, s. 2; 2020, c. 28, s. 6; 2021, c. 13, s. 175; 2022, c. 22, s. 120.

2927. The prescriptive period for an action in nullity of contract runs from the day the person invoking the cause of nullity becomes aware of such cause or, in the case of violence or fear, from the day it ceases.

1991, c. 64, a. 2927; I.N. 2014-05-01.

2928. An application by a surviving spouse to have the compensatory allowance determined is prescribed by one year from the death of his spouse.

1991, c. 64, a. 2928; I.N. 2014-05-01.

2929. An action for defamation is prescribed by one year from the day on which the defamed person learned of the defamation.

1991, c. 64, a. 2929.

2930. Notwithstanding any provision to the contrary, where an action is based on the obligation to make reparation for bodily injury caused to another, the requirement that notice be given prior to bringing the action or that the action be instituted within a period that is less than that provided for in this Book, cannot defeat a prescriptive period provided for in this Book.

1991, c. 64, a. 2930; 2013, c. 8, s. 8; 2020, c. 13, s. 3.

2931. In the case of a contract of successive performance, prescription runs with respect to payments due, even though the parties continue to perform one or another of their obligations under the contract.

1991, c. 64, a. 2931; I.N. 2014-05-01.

2932. The prescriptive period for an action to reduce an obligation that is performed successively runs from the day the obligation becomes due, whether the obligation arises from a contract, the law or a judgment.

1991, c. 64, a. 2932; I.N. 2014-05-01.

2933. No holder may be released by prescription from the prestation attached to his detention; however, its extent may be prescribed, as may the arrears.

1991, c. 64, a. 2933; I.N. 2014-05-01.

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BOOK NINE

PUBLICATION OF RIGHTS

TITLE ONE

NATURE AND SCOPE OF PUBLICATION

CHAPTER I

GENERAL PROVISIONS

2934. The publication of rights is effected by their registration in the register of personal and movable real rights or in the land register, unless some other mode is expressly permitted by law.

Registration benefits the persons whose rights are thereby published.

1991, c. 64, a. 2934.

2934.1. The registration of rights in the land register is effected by indicating summarily the nature of the document presented to the Land Registrar and making a reference to the application pursuant to which registration is effected.

The registration is valid only for the rights requiring or admissible for publication that are mentioned in the application, or where the application is in the form of a summary, in the accompanying document.

2000, c. 42, s. 11; 2020, c. 17, s. 27.

2935. Any person, even a minor or a person under tutorship to a person of full age or under a protection mandate, may request the publication of a right, on his own behalf or on behalf of another.

1991, c. 64, a. 2935; 2020, c. 11, s. 99.

2936. Any renunciation or restriction of the right to publish a right which shall or may be published, as well as any penal clause relating thereto, is without effect.

1991, c. 64, a. 2936.

2937. Publication of a right may be renewed at the request of any interested person.

1991, c. 64, a. 2937.

CHAPTER II

RIGHTS REQUIRING OR ADMISSIBLE FOR PUBLICATION

2000, c. 42, s. 12.

2938. The acquisition, creation, recognition, modification, transmission or extinction of an immovable real right requires publication.

Renunciation of a succession, legacy, community of property, partition of the value of acquests or of the family or parental union patrimony, and the judgment annulling renunciation, also require publication.

Other personal rights and movable real rights require publication to the extent prescribed or expressly authorized by law. Modification or extinction of a published right shall also be published.

1991, c. 64, a. 2938; 2024, c. 22, s. 17.

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2939. Restrictions on the right to dispose of property, other than purely personal restrictions, as well as rights of resolution, resiliation or eventual extinction of a right which shall or may be published, and any transfer or transmission of such rights, also shall or may be published.

1991, c. 64, a. 2939; 1992, c. 57, s. 716; I.N. 2014-05-01; 2016, c. 4, s. 338.

2940. Transfers of authority over immovables between the governments of Québec and Canada may be published.

Transfers of authority between the government of Canada or of Québec and legal persons established in the public interest may also be published.

Registration of a transfer is obtained by filing a notice describing the immovable to be transferred and specifying the extent of the authority transferred, the term of the transfer and under which Act it is made.

1991, c. 64, a. 2940; I.N. 2014-05-01.

TITLE TWO

EFFECTS OF PUBLICATION

CHAPTER I

SETTING UP OF RIGHTS

2941. Publication of rights allows them to be set up against third persons, determines their rank and, where the law so provides, gives them effect.

Rights produce their effects between the parties even if they are not published, unless the law expressly provides otherwise.

1991, c. 64, a. 2941; I.N. 2015-11-01; 2016, c. 4, s. 339.

2942. The publication of a right is renewed by notice, in the manner prescribed in the regulations under this Book; such renewal preserves the opposability of the right at its initial rank.

1991, c. 64, a. 2942; I.N. 2014-05-01.

2943. A right registered in a register in regard to property is presumed known to any person acquiring or publishing a right in the same property.

A person who does not consult the appropriate register and, in the case of a right registered in the land register, the application to which the registration refers, as well as the accompanying document if the application is in the form of a summary, may not invoke good faith to rebut the presumption.

1991, c. 64, a. 2943; 2000, c. 42, s. 13; I.N. 2014-05-01; 2016, c. 4, s. 340.

2943.1. The registration in the land register of a real right established by agreement or of an agreement concerning a real right takes effect only from the registration of the title of the grantor or last holder of the right.

This rule does not apply where the right of the grantor or last holder was acquired without a title, in particular by natural accession, or where the title concerned is an original title of the State.

2000, c. 42, s. 14.

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2944. Registration of a right in the register of personal and movable real rights or the land register entails, as against all persons, a simple presumption of the existence of that right.

1991, c. 64, a. 2944; 2000, c. 42, s. 15; I.N. 2014-05-01.

CHAPTER II

RANKING OF RIGHTS

2945. Unless otherwise provided by law, rights rank according to the date, hour and minute entered on the memorial of presentation or, if the application concerning them is presented for registration in the land register, entered in the book of presentation, provided that the entries have been made in the appropriate registers.

Where publication by delivery is authorized by law, rights rank according to the time at which the property or title is delivered to the creditor.

1991, c. 64, a. 2945; 2000, c. 42, s. 16; I.N. 2014-05-01.

2946. Where two acquirers of an immovable hold their title from the same predecessor in title, the right is acquired by the acquirer who first publishes his right.

1991, c. 64, a. 2946.

2947. Where several registrations concerning the same property and rights of the same nature are requested at the same time, the rights rank concurrently.

1991, c. 64, a. 2947.

2948. An immovable hypothec ranks only from registration of the grantor's title, but after the seller's hypothec created in the grantor's act of acquisition.

If several hypothecs have been registered before the grantor's title, they rank in the order of their respective registrations.

1991, c. 64, a. 2948; I.N. 2014-05-01.

2949. A hypothec charging a universality of immovables ranks, with respect to each immovable, only from the time of registration of the hypothec against each.

Registration of a hypothec against immovables acquired subsequently is obtained by presenting a notice containing the description of the immovable acquired and a reference to the act constituting the hypothec, and setting forth the specific sum for which the hypothec was granted.

However, if the hypothec was not published in the land book for the registration division in which the immovable acquired subsequently is located, its registration is obtained by means of a summary of the act constituting the hypothec, containing the description of the acquired immovable.

1991, c. 64, a. 2949; 2000, c. 42, s. 17; I.N. 2014-05-01.

2950. A hypothec charging a universality of movables ranks, with respect to each movable included in the universality, only from registration thereof in the register, under the description of the grantor and under the indication of the nature of the universality.

1991, c. 64, a. 2950; I.N. 2014-05-01.

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2951. A hypothec that charged a movable subsequently incorporated into an immovable and that has become an immovable hypothec, may not be set up against third persons before its registration in the land register.

Between the hypothec that charged the movable subsequently incorporated into the immovable and the immovable hypothec concerning that immovable, the first of the hypothecs to be registered in the land register has priority of rank.

Registration in the land register of the hypothec that charged the movable is obtained by presenting a notice containing the description of the immovable concerned, a reference to the act constituting the hypothec and its registration in the register of personal and movable real rights, and setting forth the specific sum for which the hypothec was granted.

1991, c. 64, a. 2951; I.N. 2014-05-01.

2952. Legal hypothecs in favour of persons having taken part in the construction or renovation of an immovable are ranked before any other published hypothec, for the increase in value given to the immovable; such hypothecs rank concurrently among themselves, in proportion to the value of each claim.

1991, c. 64, a. 2952; I.N. 2014-05-01.

2953. Hypothecs that charge movables that have been transformed, mixed or combined so as to form a new movable take the rank of the first hypothec published against any property having served to form the new movable, provided that the publication of the hypothec charging the movable that was transformed, mixed or combined has been renewed against the new movable; if that is the case, the hypothecs rank concurrently, in proportion to the value of each movable thus transformed, mixed or combined.

1991, c. 64, a. 2953; 2002, c. 19, s. 15; I.N. 2014-05-01; 2016, c. 4, s. 341.

2954. A movable hypothec acquired on the movable of another or on a future movable ranks from the time of its publication but after the seller's hypothec, if any, created in the grantor's act of acquisition, provided that hypothec is published within 15 days after the sale.

1991, c. 64, a. 2954; I.N. 2014-05-01; 2016, c. 4, s. 341.

2955. Registration of the notice of crystallization determines the rank of a floating hypothec.

If several floating hypothecs are the subject of notices of crystallization, they rank among themselves from their respective registrations, regardless of the registration of the notices of crystallization.

1991, c. 64, a. 2955.

2956. Cession of rank between hypothecary creditors shall be published.

Where it occurs, the rank of the creditors is interverted to the extent of their respective claims, but in such a manner as not to prejudice any intermediate creditors.

1991, c. 64, a. 2956; I.N. 2014-05-01.

CHAPTER III

OTHER EFFECTS

2957. Publication does not interrupt prescription.

1991, c. 64, a. 2957; 2000, c. 42, s. 18.

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2958. Rights published after the registration of the notice of execution the minutes of the creditor's seizure of an immovable may not be set up against that creditor, provided the seizure is followed by a sale under judicial authority.

1991, c. 64, a. 2958; 2014, c. 1, s. 806.

2959. Registration of a hypothec preserves, in favour of the creditor, the same rank for the interest due for the current year and the three preceding years as for the capital.

Similarly, the registration of an annuity preserves, in favour of the annuitant, the same rank for the periodic payments for the current year and the arrears for the three preceding years as for the prestation.

1991, c. 64, a. 2959.

2960. The creditor or annuitant has a hypothec for the surplus of interest due or arrears of annuity only from the time of registration of a notice setting forth the amount claimed.

However, interest due or arrears owing at the time of registration of the hypothec or annuity are preserved by the registration if the amount is stated in the application.

1991, c. 64, a. 2960.

2961. Substitution has no effect with respect to property acquired in replacement of substituted property unless the substitution is mentioned in the act of acquisition and is published.

Publication of the substitution does not affect the rights of third persons who have already published the rights they derive from the institute under an act by onerous title.

1991, c. 64, a. 2961; I.N. 2014-05-01.

2961.1. The registration of reservations of ownership or rights of redemption, or of any transfer thereof, where it concerns a universality composed of movable property that is of the same kind and that may be sold or transferred in the ordinary course of business between persons who operate enterprises, preserves all the rights of the seller or transferee not only in that property but also in any property of the same kind for which reservations of ownership, rights of redemption or transfers between those persons are granted subsequent to the registration. However, such reservations, rights or transfers may not be set up against a third person who acquires any such property in the ordinary course of business of the seller's enterprise.

The registration is effective for a period of 10 years; the period may be extended if the registration is renewed.

These rules also apply to the registration of rights of ownership under leasing contracts and of rights under leases with a term of more than one year, or of any transfer thereof, where the registration concerns a universality composed of movable property that is of the same kind and that may be the subject of such contracts in the ordinary course of business between persons who operate enterprises.

1998, c. 5, s. 13; I.N. 2014-05-01; I.N. 2015-11-01.

CHAPTER IV

PROTECTION OF THIRD PERSONS IN GOOD FAITH

2962. *(Repealed).*

1991, c. 64, a. 2962; 2000, c. 42, s. 19.

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2963. Notice given or knowledge acquired of a right that has not been published never compensates for the absence of publication.

1991, c. 64, a. 2963; I.N. 2014-05-01.

2964. Absence of publication may be set up by any interested person against any person, even a minor or a person under tutorship to a person of full age or under a protection mandate, and against the State.

1991, c. 64, a. 2964; 2020, c. 11, s. 100.

2965. Every interested person may apply to the court, in cases of error, to obtain the correction or cancellation of a registered entry.

1991, c. 64, a. 2965.

CHAPTER V

ADVANCE REGISTRATION

2966. Any judicial application concerning a real right which shall or may be published in the land register may, by means of a notice, be the subject of an advance registration.

A judicial application concerning a movable real right entered in the register of personal and movable real rights may also, by means of a notice, be the subject of an advance registration.

1991, c. 64, a. 2966; I.N. 2015-11-01.

2967. Where a person is, through no fault of his own, prevented from publishing a right arising from a will by reason of the concealment, destruction or contestation of the will or of any other obstacle, he may, to preserve that right, make an advance registration of the right he claims by presenting a notice within one year after the testator's death.

1991, c. 64, a. 2967.

2968. Rights which are the subject of a judgment or transaction terminating an action are deemed published from the time of their advance registration, provided they are published within 30 days after the judgment becomes final or the transaction takes place.

Rights under a will that was prevented from being published are also deemed published from the time of their advance registration, provided the will is published within 30 days after the obstacle has ceased or after the will is obtained or probated, and at the latest within three years from the opening of the succession.

1991, c. 64, a. 2968; I.N. 2014-05-01; I.N. 2015-11-01; 2016, c. 4, s. 342.

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TITLE THREE

MODALITIES OF PUBLICATION

2016, c. 4, s. 343.

CHAPTER I

REGISTERS OF RIGHTS

DIVISION I

GENERAL PROVISIONS

2969. A land register and a register of mentions are kept in the Land Registry Office, together with any other register the keeping of which is prescribed by law or by the regulations under this Book.

In addition, a register of personal and movable real rights is kept in the Personal and Movable Real Rights Registry Office.

The Land Registrar and the Personal and Movable Real Rights Registrar are charged, respectively, with keeping such registers.

1991, c. 64, a. 2969; 1998, c. 5, s. 14; 2000, c. 42, s. 20.

2970. Publication of rights concerning an immovable is made in the land register, in the land book for the registration division in which the immovable is situated.

Rights concerning a movable and any other rights are published by registration in the register of personal and movable real rights; if the movable real right also pertains to an immovable, registration shall also be made in the land register in accordance with the standards applicable to that register and determined by this Book or by the regulations under this Book.

1991, c. 64, a. 2970; 2000, c. 42, s. 21.

2971. The registers and other documents kept for publication purposes by the registrars are public documents; the consultation procedure is prescribed by the regulations under this Book.

1991, c. 64, a. 2971; 2000, c. 42, s. 22; 2020, c. 17, s. 3.

2971.1. No one may use the information contained in the registers and other documents kept by the registrars in such a manner as to injure the reputation or invade the privacy of a person identified in such a register or document.

1998, c. 5, s. 15; 2000, c. 42, s. 23; I.N. 2014-05-01; 2020, c. 17, s. 4.

DIVISION II

LAND REGISTER

2972. The land register contains one land book for each registration division in Québec.

Each land book contains an index of immovables, a register of real rights of State resource development, a register of public service networks and immovables situated in territory without a cadastral survey and an

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index of names. The index of names comprises all the entries that cannot be made in the index of immovables or the other registers kept by the Land Registrar.

1991, c. 64, a. 2972; 2000, c. 42, s. 24.

2972.1. The index of immovables contains one land file for each immatriculated immovable on the cadastral plan for the registration division.

2000, c. 42, s. 24.

2972.2. The register of real rights of State resource development contains one land file, opened under a serial number, for each such real right in the registration division the *situs* of which is not immatriculated.

The register of public service networks and immovables situated in territory without a cadastral survey contains one land file, opened under a serial number, for each such non-immatriculated network or immovable, in the registration division, even if two or more networks or immovables belong to the same owner.

A directory of real right holders completes the two registers.

2000, c. 42, s. 24; I.N. 2014-05-01.

2972.3. Land files relating to immovables, rights or networks situated in territory without a cadastral survey and, where permitted by law, in territory with a cadastral survey, are opened in the manner prescribed in the regulations.

2000, c. 42, s. 24.

2972.4. Each land file contained in the index of immovables, the register of real rights of State resource development or the register of public service networks and immovables situated in territory without a cadastral survey lists the entries made concerning the immovable, the real rights or the network concerned.

2000, c. 42, s. 24.

2973. *(Repealed).*

1991, c. 64, a. 2973; 2000, c. 42, s. 25.

2974. *(Repealed).*

1991, c. 64, a. 2974; 2000, c. 42, s. 25.

2975. *(Repealed).*

1991, c. 64, a. 2975; 2000, c. 42, s. 25.

2976. *(Repealed).*

1991, c. 64, a. 2976; 2000, c. 42, s. 25.

2977. *(Repealed).*

1991, c. 64, a. 2977; 2000, c. 42, s. 25.

2978. The owner of several immovables not immatriculated but contiguous, charged with the same real rights and situated in the same registration division, may require the Land Registrar to consolidate the files opened for each immovable into a single file.

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The same applies to the holder of a real right of State resource development of which the *situs* is not immatriculated, provided the real rights of development are of the same nature, of the same duration, contiguous and charged with the same real rights.

The owner or holder presents an application containing the description of the immovable resulting from the consolidation and identifying the related land files and any subsisting entries to be carried over to the new land file. The registrar indicates the correspondence between the old and the new land files and carries over the entries.

1991, c. 64, a. 2978; 2020, c. 17, s. 5.

2979. Upon any parcelling of an immovable which has not been immatriculated, new land files are opened.

The document evidencing the parcelling shall include a declaration containing a description of the immovables concerned and identifying the original land file and the entries to be carried over to the new land files.

The registrar establishes the correspondence between the old and the new land files and carries over the entries.

1991, c. 64, a. 2979; I.N. 2014-05-01.

DIVISION III

REGISTER OF MENTIONS

2000, c. 42, s. 26.

2979.1. The register of mentions contains, in the cases prescribed by law, the mentions and entries required by law or by the regulations under this Book in connection with entries made in the land register or the other registers kept by the Land Registrar.

2000, c. 42, s. 26.

DIVISION IV

REGISTER OF PERSONAL AND MOVABLE REAL RIGHTS

2000, c. 42, s. 26.

2980. The register of personal and movable real rights consists, with respect to personal rights, of files kept in alphabetical, alphanumerical or numerical order, under the description of the persons named in the application for registration and, with respect to movable real rights, of files kept by categories of property or of universalities, under the designation of the movables charged or the indication of the nature of the universality, or of files under the name of the grantor.

Rights under a lease on movable property are registered in files kept solely under the description of the lessee named in the application whenever a file is otherwise kept under the identification number of the leased property.

The registrations pertaining to the person or the movable property are listed in each file.

1991, c. 64, a. 2980; 2000, c. 42, s. 27.

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CHAPTER II

APPLICATIONS FOR REGISTRATION

DIVISION I

GENERAL RULES

2981. Applications for registration in the land register, in addition to identifying the holders and grantors of the rights to be registered, contain, in particular, the description of the property concerned and the mentions prescribed by law or by the regulations under this Book.

Applications for registration in the register of personal and movable real rights identify the holders and grantors of the rights, state the nature of the rights, describe the property concerned and mention any other fact that is relevant for registration purposes, as prescribed by law or by the regulations under this Book.

1991, c. 64, a. 2981; 2000, c. 42, s. 28.

2981.1. Unless an application for registration in the land register concerns an immovable for which a land file under a serial number has been opened, the application must include the name of the registration division in which the immovable is situated.

2000, c. 42, s. 29; I.N. 2014-05-01.

2981.2. An application for registration in the land register of a hypothec, a restriction on the right to dispose of property or a right with a fixed term may fix the date after which the registration ceases to have effect.

An application for registration in the register of personal and movable real rights of a hypothec or of such a restriction or right must fix the date after which the registration ceases to have effect.

2000, c. 42, s. 29; I.N. 2014-05-01.

2982. An application for registration in the land register is presented at the Land Registry Office on a technological medium.

The application is made by presenting the act itself or an authentic extract of the act, by presenting a summary of the document or, where the law so provides, by means of a notice.

In all cases, before an application for registration and the accompanying documents may be presented, information concerning, among other things, the nature of the act or rights to be registered, the identity of the parties to the act or of the holder of the rights and, if applicable, the description of the immovables concerned must be entered on the form made available by the Land Registrar.

1991, c. 64, a. 2982; 2000, c. 42, s. 30; I.N. 2014-05-01; 2013, c. 27, s. 29; I.N. 2014-10-01; 2020, c. 17, s. 6.

2982.1. An application for registration in the land register made by presenting a document resulting from a transfer of information to a technological medium may not be accepted by the registrar unless the signature of the notary, advocate, land surveyor or bailiff who made the transfer is affixed in accordance with the regulations made under this Book.

Documentation attesting that the transfer was made in accordance with section 17 of the Act to establish a legal framework for information technology (chapter C-1.1) must be attached to the application for registration.

2013, c. 27, s. 30; 2020, c. 17, s. 7.

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2983. A single copy of an application for registration in the register of personal and movable real rights is filed in the Personal and Movable Real Rights Registry Office; application is made by the presentation of a notice, unless otherwise provided by law or the regulations.

1991, c. 64, a. 2983; 2000, c. 42, s. 31.

2984. Applications for registration are signed, certified and presented in the manner prescribed by law, this Title or the regulations.

Applications for registration are drawn up exclusively in French.

1991, c. 64, a. 2984; 2022, c. 14, s. 129.

2985. Every person requiring registration in the land register is bound to present, with the summary, the act, the extract or any other document it summarizes, for the purposes of conservation and consultation.

1991, c. 64, a. 2985; 1992, c. 57, s. 716; I.N. 2014-05-01.

2986. Whatever the form of the application for registration in the register of personal and movable real rights, only those rights which are set out in the application and which shall be entered in the register are published therein.

Nevertheless, where authorized by regulation, reference in the registration to the document under which registration is required is permitted to identify the *situs* of the right or the extent of the right.

1991, c. 64, a. 2986; 2000, c. 42, s. 32.

2987. Where an application for registration is made by the presentation of a summary, that summary may not be used to summarize non-complementary or unrelated documents.

However, one summary is sufficient where the right intended to be published is evidenced in several documents.

1991, c. 64, a. 2987.

DIVISION II

CERTIFICATES

2988. A notary who executes an act giving rise to the registration of a right in or the removal of a right from the land register, or the reduction of an entry, certifies, merely by signing the document, that he has verified the identity, quality and capacity of the parties, and that the document represents the will expressed by the parties.

1991, c. 64, a. 2988; 2000, c. 42, s. 33; I.N. 2014-05-01.

2989. A land surveyor who draws up minutes of voluntary boundary-marking operations, even done informally, certifies, merely by signing the document, that he has verified the identity, quality and capacity of the parties and that the document represents the will expressed by the parties.

1991, c. 64, a. 2989; 2000, c. 42, s. 34; I.N. 2016-01-01 (NCCP).

2990. Officers of justice, municipal clerks or secretaries, and others who draw up public authentic acts other than adjudicative acts, must certify that they have verified the identity of the parties to the acts drawn up by them which require publication by registration in the land register.

1991, c. 64, a. 2990; 2000, c. 42, s. 35; I.N. 2014-05-01.

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2991. A private writing giving rise to the registration of a right in or the removal of a right from the land register, or the reduction of an entry, must indicate the date and place it is drawn up and be accompanied by a certificate of a notary or advocate certifying that he has verified the identity, quality and capacity of the parties and the validity of the act as to form, and that the document represents the will expressed by the parties.

1991, c. 64, a. 2991; 2000, c. 42, s. 36; I.N. 2014-05-01.

2992. Where registration in the land register is required by means of a summary, the notary or advocate who draws up the summary of the document also certifies that the summary is accurate.

If the notice is notarial, the mere signature of the notary is sufficient certification.

1991, c. 64, a. 2992; 2013, c. 27, s. 31; I.N. 2014-05-01; I.N. 2015-11-01.

2993. Unless implicit in the signature of the notary or land surveyor, the certification is recorded in a declaration which must contain, in addition to the date on which it is made, the name and quality of the declarant and the place where the declarant exercises his functions or practises his profession.

1991, c. 64, a. 2993; 1995, c. 33, s. 30; 2000, c. 42, s. 37; I.N. 2014-05-01.

2994. Where an act requiring or admissible for publication by registration in the land register cannot be certified as required, the court may authorize publication of the rights evidenced in the act despite the lack of certification.

The application for registration must be accompanied by a copy of the judgment; the application is not admissible unless the judgment has become final.

1991, c. 64, a. 2994; 2000, c. 42, s. 38; I.N. 2014-05-01; 2016, c. 4, s. 344.

2995. No certificate of verification is required for the registration in the register of personal and movable real rights.

For registration in the land register of declarations of family residence, immovable leases or notices prescribed by law, the certificate of verification of the documents presented may be replaced by the documents being signed in the presence of two witnesses who sign them, including one under oath, except for the registration of any of the following notices: a notice required for the registration of a legal or movable hypothec, a notice required for the registration of a right, for the cancellation or reduction of an entry resulting from a judgment in a family matter or for the cancellation of a declaration of family residence, the cadastral notice for the registration of a right, the notice for a change of name of the holder or grantor of a published right, the notice for the transmission of the titles of indebtedness of a dissolved business corporation or the notice for the replacement of a hypothecary representative for present or future creditors.

1991, c. 64, a. 2995; 2015, c. 8, s. 364; 2020, c. 17, s. 8; 2025, c. 8, s. 53.

DIVISION III

SPECIAL REGISTRATION RULES

2996. The minutes of the boundary-marking operations are accompanied by the related plan, and the boundary determination report may be attached. If the minutes were homologated by a judgment, they are presented with the application for registration of the judgment. The minutes must include an express statement that the boundaries between the properties coincide with the boundaries between the corresponding lots on the cadastre.

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In the absence of such a statement, registration in the land register shall be refused until an amendment to the plan is indicated in the land register and notice of the amendment relating to the lots concerned is registered in that register.

1991, c. 64, a. 2996; 2000, c. 42, s. 39; I.N. 2014-05-01; 2014, c. 1, s. 807; I.N. 2016-01-01.

2997. Where the deposit of a plan at the Land Registry Office is required by an Act, publication of the plan is obtained by presenting the plan and a notice describing the immovable represented on the plan.

This provision does not apply to cadastral plans.

1991, c. 64, a. 2997; 2000, c. 42, s. 40; I.N. 2014-05-01; 2020, c. 17, s. 27.

2998. The rights of an heir or of a legatee by particular title in an immovable of the succession are published by registration of a declaration made by notarial act *en minute*.

However, with respect to movable property, the right of an heir or of a legatee by particular title may be registered only if the registration concerns the transmission of a hypothecary claim or of a restriction on the right to dispose of property, or an advance registration. The declaration takes the form of a notice in which, where applicable, reference is made to the will.

1991, c. 64, a. 2998; I.N. 2014-05-01.

2999. The declaration sets forth the name and last domiciliary address, the date and place of death, the nationality and civil status, and the matrimonial or civil union regime, if any, of the deceased.

It also sets forth whether the succession is legal or testate, the quality as heir, legatee by particular title or married, civil union or parental union spouse, the degree of relationship between each of the heirs and the deceased, any renunciations, the description of the property and of the persons concerned, and the right of each in the property.

1991, c. 64, a. 2999; 2002, c. 6, s. 60; I.N. 2014-05-01; 2020, c. 17, s. 9; 2024, c. 22, s. 18.

2999.1. Registration of rights under a lease on an immovable other than a dwelling or of the assignment of such a lease may be obtained, in addition to the other modes provided for in this Book, by presenting a notice to the Land Registrar.

The notice must refer to the lease concerned, identify the lessor and the lessee and contain the description of the immovable in which the leased premises are situated. It must also, unless the registration concerns the assignment of the lease or the extinction of rights under the lease, indicate, in particular, the effective date of the lease and the date of expiry, if any, or the particulars needed to determine such dates, as well as any lease renewal rights.

The accuracy of the content of the notice must in all cases be certified by a notary or an advocate. If the notice is notarial, the mere signature of the notary is sufficient certification.

1999, c. 49, s. 2; 2000, c. 42, s. 41; 2013, c. 27, s. 32; I.N. 2014-05-01; I.N. 2015-11-01; 2016, c. 4, s. 345.

2999.1.1. For land registration purposes, the registration of rights resulting from a judgment in a family matter is obtained by filing a notice with the Land Registrar.

The notice must indicate the right whose registration is required and contain the description of the immovable, the pertinent extract from the operative part of the judgment and, as the case may be, the pertinent extract from the agreement or draft agreement to which the operative part refers.

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The accuracy of the content of the notice must be certified by a notary or an advocate. If the notice is notarial, the mere signature of the notary is sufficient certification.

2020, c. 17, s. 10.

2999.2. A notice of replacement of a hypothecary representative for present or future creditors presented to the Land Registrar must be given by the replaced representative and that representative's successor, or only by the latter if the notice specifies that the conditions and terms established for the replacement have been met.

2015, c. 8, s. 365.

3000. Notices of forced sales, notices of sale under judicial authority and other notices prescribed in the Book on Prior Claims and Hypothecs that concern an immovable must be published in the land register.

Where an immovable is sold by way of a forced sale or a sale following the exercise of a hypothecary right, no copy of the act evidencing the sale may be issued before the sale is published, at the acquirer's expense, by the person entrusted with the sale.

1991, c. 64, a. 3000; 1998, c. 5, s. 16; I.N. 2014-05-01; 2014, c. 1, s. 808.

3001. The person entrusted with an auction sale for non-payment of property taxes is bound to present, within 10 days after the adjudication, a list identifying each immovable sold, its acquirer and last owner and indicating the mode of acquisition and the registration number of the title of the last owner.

The sale is registered with the mention that it was an adjudication for non-payment of property taxes.

1991, c. 64, a. 3001; I.N. 2014-05-01.

3002. An application based on a judgment ordering the correction of an entry in the land register or pronouncing the recognition of a right of ownership in an immovable may be made only if the judgment has become final.

1991, c. 64, a. 3002; 2016, c. 4, s. 346.

3003. Where a hypothec is transferred by subrogation or assignment, the subrogation or assignment is published in the land register or in the register of personal and movable real rights, according to the immovable or movable nature of the hypothec.

A certified statement of registration must be furnished to the debtor, together with the application for registration in the case of registration in the land register and, if such application is in the form of a summary, the accompanying document.

If these formalities are not observed, the subrogation or assignment may not be set up against a subsequent assignee who has complied with them.

1991, c. 64, a. 3003; 2000, c. 42, s. 42; I.N. 2014-05-01; I.N. 2015-11-01.

3004. Where subrogation to a hypothecary claim is acquired by operation of law, publication of the subrogation is effected by registering the act from which it derives; if there is no act, publication of the subrogation is effected by presenting a notice stating the causes of the subrogation.

1991, c. 64, a. 3004.

3004.1. Registration in the land register of the assignment of two or more claims is obtained by presenting separate applications for each of them, unless the claims relate to the same immovable or the same debtor.

2025, c. 8, s. 54.

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3004.2. Where a business corporation is dissolved by declaration of its sole shareholder, registration of the transmission of its claims under section 313 of the Business Corporations Act (chapter S-31.1) is obtained by presenting a notice stating the dissolution of the corporation and the transmission of its rights to its shareholder and referring to the certificate of dissolution.

2025, c. 8, s. 54.

3005. A summary certified by a notary may set forth the lot number assigned to the immovable in which the right is held in the cadastre or the original survey, or the number of the land file under a serial number with, if applicable, a description of the immovable by metes and bounds, or may state the geographic coordinates or the plane rectangular coordinates by which the immovable may be described, even if such information does not appear in the document summarized.

A summary certified by an advocate or a notary may include, even if the act contains no mention thereof, the name of the municipality or registration division in which the immovable is situated as well as the declarations required by law for certain transfers of immovables.

1991, c. 64, a. 3005; 2000, c. 42, s. 43; 2002, c. 19, s. 13; I.N. 2014-05-01; 2020, c. 17, s. 11.

3006. Where the law prescribes that the application shall, upon presentation, be accompanied by other documents, any such documents drawn up in a language other than French shall themselves be accompanied by a translation authenticated in Québec.

1991, c. 64, a. 3006; I.N. 2014-05-01; 2022, c. 14, s. 130.

CHAPTER III

DUTIES AND FUNCTIONS OF THE REGISTRAR

3006.1. The Land Registrar receives applications and enters the exact date, hour and minute of their presentation in the book of presentation, together with the particulars required to identify each application.

Subsequently, in the order of presentation of the applications and with all possible diligence, the registrar makes the entries, mentions and references prescribed by law or by the regulations under this Book, in the appropriate register. The entries, mentions and references required by applications for the registration of rights are made day by day, giving priority in all cases to those entries, mentions and references over any that are required by applications to strike or reduce an earlier entry.

2000, c. 42, s. 44; I.N. 2014-05-01; 2020, c. 17, s. 12.

3007. The Personal and Movable Real Rights Registrar receives the applications and issues to the person presenting them a memorial on which he indicates the exact date, hour and minute of presentation, as well as the particulars necessary for identifying the application.

Subsequently, day by day, in the order of presentation of applications, and with all possible diligence, he makes the entries prescribed by law or by the regulations under this Book in the register.

1991, c. 64, a. 3007; 2000, c. 42, s. 45; I.N. 2014-05-01.

3008. The registrar ascertains that the application presented in support of an entry in a register contains the prescribed particulars and meets the requirements prescribed by law and the regulations under this Book and, where applicable, that the documents which must accompany it are also presented.

1991, c. 64, a. 3008; I.N. 2014-05-01.

3009. Where the application for registration in the land register has been certified by an advocate or a notary, the identity and capacity of the parties are held to have been verified and the summary of the

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document is held to be accurate. The same rule applies to the identity and capacity of the parties to minutes of boundary-marking operations certified by a land surveyor.

The identity of the parties is also held to have been verified where it is certified by one of the persons mentioned in article 2990.

The identity of parties to any other application for registration in the land register or in the register of personal and movable real rights is presumed to be accurate and their capacity is held to have been verified.

1991, c. 64, a. 3009; I.N. 2014-05-01; I.N. 2016-01-01 (NCCP).

3010. Where the application presented is not admissible or contains inaccuracies or irregularities, the registrar makes no entry in the registers, but informs the applicant of the reasons for refusing registration.

1991, c. 64, a. 3010.

3010.1. In an application or its accompanying documents and on the written request of any person named in them or of his successors, the Land Registrar redacts that person's name, the name of any other person and any particular relating to a physical or psychological impairment of those persons.

However, the name of a creditor, debtor or other holder of a right that is the subject of the application or any other particular required for publication purposes may not be redacted.

2020, c. 17, s. 13.

3011. The registrar remits to the applicant a certified statement of the entry he has made in the register, on the basis of the application presented. As regards land registration, a duplicate of the certified statement is appended to the application kept by the Land Registrar.

1991, c. 64, a. 3011; 2000, c. 42, s. 46; 2020, c. 17, s. 14.

3012. Applications are deemed presented from the time they are received by the registrar of the registry office where they are to be presented.

Applications received in bulk are deemed presented simultaneously; however, they bear the date, hour and minute of receipt of the last application so received. If several applications are delivered to the Personal and Movable Real Rights Registry Office by the same mail delivery or are presented by the same bearer, they are also deemed presented simultaneously.

Applications delivered to the registry office outside the hours for presenting documents or when the office is closed are deemed presented at the time the office's activities resume.

1991, c. 64, a. 3012; 2000, c. 42, s. 47; 2020, c. 17, s. 15.

3013. *(Repealed).*

1991, c. 64, a. 3013; 2000, c. 42, s. 48.

3014. Before registering in the appropriate register a subrogation, an assignment or a transmission of a claim, a prior notice of the exercise of a hypothecary right, or the renewal of the publication of a right, the registrar shall verify the registration number, if any, of the title of indebtedness. If the number is inaccurate, he refuses registration.

Where the registration is made in the land register, a mention of the subrogation, assignment, transmission or renewal, together with its registration number, is entered in the register of mentions.

1991, c. 64, a. 3014; 2000, c. 42, s. 49; I.N. 2014-05-01; 2016, c. 4, s. 347; 2025, c. 8, s. 55.

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3014.1. Upon registration in the land register of a hypothec on a claim secured by an immovable hypothec, a mention of the hypothec, together with its registration number, is entered in the register of mentions.

2000, c. 42, s. 50.

3015. The registrar, upon receiving notice of a change of name of the holder or grantor of a published right containing a reference to the registration number of that right, shall enter the change in the appropriate register, establish the correspondence between the former name and the new name and indicate the registration number of the right concerned.

The notice presented for a registration in the register of personal and movable real rights must be accompanied by a copy of the document evidencing the change of name.

The notice presented for a registration in the land register must refer to the document evidencing the change of name, indicate the date of the change and designate the immovable concerned. The accuracy of the content of the notice must, in addition, be certified by a notary or an advocate. If the notice is notarial, the mere signature of the notary is sufficient certification.

1991, c. 64, a. 3015; I.N. 2014-05-01; 2023, c. 24, s. 169; 2025, c. 8, s. 56.

3016. Where the registrar notes a clerical error in a register, a certified statement or a mention in the margin of a document, or the omission of an entry or of a mention in a register or in the margin of a document, he corrects the error or makes the entry or mention in the manner prescribed by regulation.

Any interested person may, upon noting such an error or omission, request the registrar to make the appropriate correction, entry or mention; if an applicant notes such an error or omission, he is bound to make such a request.

In all cases, the registrar indicates the date, hour and minute the correction, entry or mention is made.

1991, c. 64, a. 3016; 2000, c. 42, s. 51.

3017. The registrar is bound to notify, as soon as possible, each person having required registration of his address, that the property in which he holds a published right is the subject of a notice of intention to exercise a hypothecary right or a prior notice of sale for non-payment of property taxes. He does the same where a notice requires the abandonment of a taking in payment or where the immovable has been adjudicated for non-payment of property taxes or is under seizure; where applicable, the registrar indicates the place and date of the sale.

Such notification shall be sent to the Attorney General in the case of any property charged with a hypothec or in the case of a prior claim that was published in favour of the State. It must also be sent to La Financière agricole du Québec and the Société d'habitation du Québec in the case of an immovable charged with hypothecs published in their favour.

A person having required the registration of an address is deemed to have been notified upon simple proof that the information required from the registrar has been transmitted to that address.

1991, c. 64, a. 3017; 2000, c. 42, s. 52; 2013, c. 27, s. 33; I.N. 2014-05-01; I.N. 2015-11-01; 2014, c. 1, s. 809.

3018. The registrar may not, except for purposes prescribed by regulation, use the registers, or the other documents he keeps, for purposes other than ensuring, in accordance with the law, the publication of the rights registered or mentioned therein, particularly so they may be set up against third persons or to determine their rank or give them effect.

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Nor may the registrar use the registers or documents to furnish to any person a list of owners, hypothecary creditors or other holders of rights, a list of debtors or grantors of rights or a list of the property held by a person. Furthermore, no search by reference to a person's name is permitted in the registers and documents kept by the Land Registrar, unless it concerns a notice of address, is carried out in the index of names or concerns an immovable, a real right of State resource development or public service network which is not immatriculated.

1991, c. 64, a. 3018; 1998, c. 5, s. 17; 2000, c. 42, s. 53; I.N. 2014-05-01; I.N. 2015-11-01; 2016, c. 4, s. 348; 2020, c. 17, s. 27.

3019. The registrar is bound to issue to any person who applies therefor a certified statement of the real rights, or of the hypothecs or charges, subsisting against a specific immovable or its owner or, where the application concerns the register of personal and movable real rights, a certified statement of the rights entered in that register; the statement indicates the date, hour and minute at which the register was last updated and, if it is issued by the Land Registrar, refers to the application.

The registrar is also bound to issue, to any person requesting it, a copy of the documents kept by him for publication purposes or a certified statement of a particular entry.

1991, c. 64, a. 3019; 2000, c. 42, s. 54; I.N. 2014-05-01; 2020, c. 17, s. 16.

3020. The registrar is not liable for any injury which may result from information furnished by him as a result of an error not due to his act or omission in the identification of a person or the description of property.

1991, c. 64, a. 3020; I.N. 2014-05-01.

3021. Registrars are bound

(1) to keep, in their original medium or in any other medium, the documents transmitted to them and required for publication purposes;

(2) to make entries in the registers so as to ensure the integrity of the information;

(3) to protect the entries in the registers against any alteration;

(4) to establish and keep in a separate safe place, a copy of the registers and other documents kept on a technological medium;

(5) for archival purposes, to maintain a record of entries in the register of personal and movable real rights which no longer have effect;

(6) *(subparagraph repealed).*

Registrars may not dispose of the registers and documents or be required to produce a copy of them outside the registry office except in judicial proceedings in improbation or in contestation of the authenticity of a document.

In addition, they may not correct or amend the cadastral plans; if there are omissions or errors in the description, dimensions or number of any lot, or in the name of the owner, the mode of acquisition or the registration number of the title, they shall report the error or omission to the Minister responsible for the cadastre who may, where necessary, correct the original and the copy and certify the correction.

1991, c. 64, a. 3021; 2000, c. 42, s. 55; 2013, c. 27, s. 34; I.N. 2014-05-01; 2020, c. 17, s. 17.

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3021.1. The Land Registrar is bound to keep, for archival purposes, all registers and documents in paper form, including those which were reproduced on a technological medium pursuant to a ministerial order under the Act respecting registry offices (chapter B-9).

2013, c. 27, s. 35; 2020, c. 17, s. 18.

CHAPTER IV

REGISTRATION OF ADDRESSES

3022. The prior or hypothecary creditors or their successors, holders of real rights, married, civil union or parental union spouses having published a declaration of family residence or beneficiaries under such a declaration, or any other interested person, may require their addresses to be registered, in the manner prescribed by regulation, in order to receive notification from the registrar of certain events affecting their rights. However, they may not require that their address be registered in connection with a right published in the index of names of the land register.

Registration of an address in the land register is valid for a period of 30 years; it may be renewed. Registration of an address in the register of personal and movable real rights is valid for as long as the publication of the right to which it relates subsists.

Applications for the registration of an address do not require certification.

1991, c. 64, a. 3022; 2000, c. 42, s. 56; 2002, c. 6, s. 61; I.N. 2014-05-01; 2024, c. 22, s. 19.

3023. A person for whose benefit an address has been registered may, by means of a notice, require the registrar to effect a change in the address or in the person's name, or in the reference to the registration number of the address.

The person may also, by means of a notice, require the registrar to enter in the register an omitted reference to the registration number of the address.

1991, c. 64, a. 3023; 2000, c. 42, s. 57; I.N. 2014-05-01.

3023.1. To describe an immovable in an application presented pursuant to the provisions of this chapter, it is sufficient to indicate the lot number assigned to the immovable in the cadastre or the number of the land file under a serial number concerning the immovable.

However, the immovable need not be described in a notice to change the address or name of a person that is registered in the register.

2000, c. 42, s. 58; I.N. 2014-05-01.

CHAPTER V

REGULATIONS

3024. The Government may, by regulation, take any measure necessary for the implementation of the provisions of this Book; it may, in particular, establish the standards of presentation of applications for registration and determine the form and content thereof; it may also determine the form and content of documents, notices, certificates and declarations which are not governed by the law.

The Government may also determine the standards and criteria which allow the particulars identifying a movable to be specified, the categories and abbreviations which may be used in the description of a movable and the manner of opening, keeping and closing files.

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The Government may also determine the form, medium and content of any register or file kept by a registrar, the medium in which applications are preserved, the method of numbering the land files of immovables, the manner of making various entries in the registers. It also fixes the business days and business hours of the registry offices, the procedure for consulting registers and the formalities for the issuance of statements or certificates.

1991, c. 64, a. 3024; 1992, c. 57, s. 716; I.N. 2014-05-01; I.N. 2015-11-01.

3025. Where required by the circumstances, the Land Registrar may change the business hours of the registry office or close the registry office temporarily.

1991, c. 64, a. 3025; 2000, c. 42, s. 59; 2020, c. 17, s. 19.

TITLE FOUR

IMMATRICULATION OF IMMOVABLES

CHAPTER I

CADASTRAL PLAN

3026. The immatriculation of an immovable consists in determining its relative position on a cadastral plan, indicating its boundaries, measurements and area and assigning a number to it.

Immatriculation is completed by the identification of the owner, an indication of the mode of acquisition, the registration number of the title and, where applicable, the correspondence between the old and new cadastral numbers, or between the serial number of the file for the immovable, and the new cadastral number.

1991, c. 64, a. 3026; 2000, c. 42, s. 60; I.N. 2015-11-01.

3027. The cadastral plan is drawn up according to law and forms part of the land register; it is presumed accurate.

In the case of discrepancy between the boundaries, measurements and area shown on the plan and those mentioned in the documents presented, those on the plan are presumed accurate.

1991, c. 64, a. 3027; 2000, c. 42, s. 61; I.N. 2014-05-01; 2020, c. 17, s. 20.

3028. The cadastral plan comes into force on the day the land file is opened in the land register.

The opening of a land file shall be made, with all possible diligence, in the order of receipt of each cadastral plan.

1991, c. 64, a. 3028; 2000, c. 42, s. 62; I.N. 2014-05-01.

3028.1. The publication of a hypothec on an immovable represented on a cadastral plan established pursuant to section 1 of the Cadastre Act (chapter C-1) must, except if the hypothec has been entered in the land file opened under a serial number for that immovable, be renewed within two years following the opening of the land file in the index of immovables.

If the publication is not renewed, the rights preserved by the initial registration have no effect with respect to other creditors or subsequent acquirers whose rights are duly published.

2000, c. 42, s. 63; I.N. 2014-05-01; 2016, c. 4, s. 349.

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3029. Every cadastral plan shall be submitted to the minister responsible for the cadastre, who, if satisfied that the plan is made according to law and is accurate, transmits a copy certified by him for deposit at the Land Registry Office; he also sends a copy to the office of the municipality where the immovable is situated.

1991, c. 64, a. 3029; 2000, c. 42, s. 64; I.N. 2014-05-01; 2020, c. 17, s. 27.

3030. Except where it pertains to an immovable situated in territory without a cadastral survey, no right of ownership may be published in the land register unless the immovable concerned is identified by a separate lot number on the cadastre.

No declaration of co-ownership or of co-emphyteusis may be registered unless the immovable is the subject of a cadastral plan that contains the immatriculation of the private and common portions.

1991, c. 64, a. 3030; I.N. 2014-05-01.

3031. The *situs* of a real right of State resource development which the law declares to be property separate from the land to which the right pertains, such as a mining right, or the *situs* of a railway network or a network of cable communications, water or gas distribution, power lines, petroleum products pipelines or sewage conduits may be immatriculated.

However, connections between a network and the immovables served by it are not shown on the cadastral plan.

1991, c. 64, a. 3031; 1995, c. 33, s. 31; I.N. 2014-05-01; 2016, c. 4, s. 350.

3032. From the day a cadastral plan comes into force, the number assigned to a lot is its sole description and is sufficient in any document referring to the lot.

Where the right which is to be published pertains to an immovable composed of several whole lots, each lot shall be individually described.

1991, c. 64, a. 3032; I.N. 2014-05-01.

3033. From the day a cadastral plan comes into force, any person who draws up an act which shall or may be published is bound to describe immovables by the number assigned to them on the cadastral plan.

Failing such description, the application for registration of a right shall be refused, unless a notice containing the description of the immovable is presented, with the act itself or an extract or summary thereof, in accordance with the rules established in this Book.

The cadastral notice for registration of the right shall be made in the manner prescribed in the regulations made under this Book.

1991, c. 64, a. 3033; 1992, c. 57, s. 716; I.N. 2014-05-01; I.N. 2015-11-01.

3034. When, on an application from the owner of an immovable situated in a territory without a cadastral survey or of a network or the holder of a real right of State resource development, a land file is opened under a serial number, that number is the sole description of the immovable to which the file applies, and is sufficient in any document making reference thereto.

After the file is opened, any person who draws up an act which shall or may be published is bound to describe the immovable to which the file applies by the number assigned to it, and to indicate that the immovable corresponds, wholly or in part, to the immovable for which the file was opened. If this indication does not appear in the application, the registration shall be refused.

1991, c. 64, a. 3034; 2000, c. 42, s. 65; I.N. 2014-05-01.

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3035. In no case may the registrar accept an application concerning an immovable situated in territory without a cadastral survey, or a network or a real right of State resource development, if the application does not contain the description of the land file concerned or is not accompanied by a notice making reference to the file, except where the application includes or is accompanied by an application for the opening of a file.

No application for the opening of a file is necessary, if the application concerning the immovable, network or right does not evidence any real right established by agreement or any agreement relating to a real right; however, until a land file is opened, registration may only be effected in the index of names.

A real right of State resource development cannot give rise to the opening of a land file under a serial number unless ownership of the right is declared by law to be separate from ownership of the land subject to the right.

1991, c. 64, a. 3035; 2000, c. 42, s. 66; I.N. 2014-05-01; 2016, c. 4, s. 351.

3036. In territory without a cadastral survey and also in territory with a cadastral survey if permitted by law, an immovable shall be described by metes and bounds and by its measurements; an indication of the elements useful for locating the relative position of the immovable and a statement that no land file exists, shall also be included in the description.

The description of an immovable by reference to the original survey or by means of geographic coordinates or plane rectangular coordinates is nevertheless admissible in a territory without a cadastral survey, provided that the description, which must also state that no land file exists, allows the immovable to be properly identified and its relative position to be properly located. Where the description of an immovable by reference to the original survey refers to parts of lots, it must be completed by a description by metes and bounds and the measurements of each of those parts.

1991, c. 64, a. 3036; 2002, c. 19, s. 14.

3037. Where an immovable consists of parts of several lots, each part of a lot shall be described by metes and bounds and its measurements.

The description of a part of lot as the remainder after separation of other parts of the lot, or by reference to the names of the owners of its adjoining properties, is not admissible.

1991, c. 64, a. 3037.

3038. The description of a railway network, or a network of cable communications, water or gas distribution, power lines, petroleum products pipelines or sewage conduits includes, in addition to an indication of its general nature,

(1) if the network is immatriculated, the cadastral number assigned to it;

(2) if the network is not immatriculated, the description of the cadastres traversed by it or, in territory without a cadastral survey, a description sufficient to identify it, unless a land file has been opened for the network.

In an application for the opening of a land file for a network which is not immatriculated, a description shall be given of the cadastres or territory served by it.

1991, c. 64, a. 3038; 1995, c. 33, s. 32; I.N. 2014-05-01; 2016, c. 4, s. 352.

3039. The *situs* of a real right of State resource development which has been immatriculated is described by the immatriculation number assigned to it. That number and the indication of the nature of the right are sufficient in any document which refers to it.

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The assignment of an immatriculation number includes the description of the immovables on which the real right of State resource development is exercised, in order that the relevant correspondences be entered in the land register.

1991, c. 64, a. 3039; I.N. 2014-05-01.

3040. The *situs* of a real right of State resource development which is not immatriculated is described by the mention of the nature of the right and a description of the place where it is exercised, unless a land file has been opened for the *situs* of the right in question.

The number of the land files of the immovables on which the right is exercised shall be included in the application for the opening of the land file of that right, so that the relevant correspondences may be entered in the land register, either in the index of immovables or in the register of public service networks and immovables situated in territory without a cadastral survey; the right may be set up against third persons only from the time the relevant correspondences are entered in the register.

1991, c. 64, a. 3040; 2000, c. 42, s. 68; I.N. 2014-05-01.

3041. The immatriculation of the private and common portions of a vertical divided co-ownership may not take place before the foundation and main walls of the building in which they are situated allow measurement of their limits.

1991, c. 64, a. 3041; I.N. 2014-05-01.

3042. A person authorized to expropriate shall, in territory with a cadastral survey, submit to the minister responsible for the cadastre a plan, approved by that person for the owner, in order that the required part and the remainder be immatriculated; the approval, signed by the expropriating party, is received *en minute* by a land surveyor and refers to the minute number of the plan. In addition, in the case of a plan involving a renumbering, the expropriating party shall give notice of the deposit to every person having caused his address to be registered, but the consent of the creditors and the beneficiary under a declaration of family residence is not required to obtain the new cadastral numbering.

No transfer under the Act respecting expropriation (chapter E-25) nor cession of the required part of the lot may be registered before the plan comes into force.

The first paragraph also applies to municipalities authorized by law to appropriate for public utility, without formality or indemnity, a right of ownership in superficies as to the surface or the subsoil of an immovable.

1991, c. 64, a. 3042; 2000, c. 42, s. 69; 2010, c. 4, s. 2; I.N. 2014-05-01; 2016, c. 4, s. 353; 2023, c. 27, s. 240.

CHAPTER II

AMENDMENTS TO THE CADASTRE

3043. Any person may submit a plan, approved by him, to the minister responsible for the cadastre in order to amend the plan of a lot he owns or in which he has acquired a right of ownership otherwise than by agreement; the approval, signed by the owner, is received *en minute* by a land surveyor and refers to the minute number of the plan concerned. The owner may also request the numbering of a lot, the striking out or replacement of the existing numbering or obtain a new numbering.

The acceptance by the minister of a plan the purpose of which is to amend the plan of a lot in which a right of ownership has been acquired by a person otherwise than by agreement compensates for the absence of the approval of any other person having rights in the lot represented on the plan.

The minister may also, in case of error, correct a plan or change the number of a lot, supply any omitted number or strike out or replace the existing numbering. He shall in such a case notify the amendment to the

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owner registered in the land register and to any person having caused his address to be registered. Such notification includes reasons and is accompanied by extracts from the old and the new cadastral plans.

Upon the parcelling of a lot, the parts resulting therefrom shall be immatriculated simultaneously.

1991, c. 64, a. 3043; 2000, c. 42, s. 70; 2010, c. 4, s. 3; I.N. 2014-05-01; I.N. 2015-11-01.

3044. The consent of the hypothecary creditors and of the beneficiary under a declaration of family residence is required for the owner to obtain a cadastral amendment involving a renumbering.

The consent is given by notarial act *en minute*, and shall be published.

1991, c. 64, a. 3044; 2000, c. 42, s. 71; 2010, c. 4, s. 4; I.N. 2014-05-01; 2016, c. 4, s. 354.

3045. The Land Registrar indicates in the register, under the number of the lot concerned, the nature of any amendment made to the plan which does not affect the cadastral number.

When opening a land file required by a cadastral renumbering, the Registrar establishes, where applicable, according to the information on the plan, the correspondence between the old lot number or the old serial number of the land file and the new lot number.

1991, c. 64, a. 3045; 2000, c. 42, s. 72; 2020, c. 17, s. 21.

CHAPTER III

Repealed, 2000, c. 42, s. 73.

2000, c. 42, s. 73.

3046. *(Repealed).*

1991, c. 64, a. 3046; 2000, c. 42, s. 73.

3047. *(Repealed).*

1991, c. 64, a. 3047; 2000, c. 42, s. 73.

3048. *(Repealed).*

1991, c. 64, a. 3048; 2000, c. 42, s. 73.

3049. *(Repealed).*

1991, c. 64, a. 3049; 2000, c. 42, s. 73.

3050. *(Repealed).*

1991, c. 64, a. 3050; 2000, c. 42, s. 73.

3051. *(Repealed).*

1991, c. 64, a. 3051; 2000, c. 42, s. 73.

3052. *(Repealed).*

1991, c. 64, a. 3052; 2000, c. 42, s. 73.

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3053. *(Repealed).*

1991, c. 64, a. 3053; 2000, c. 42, s. 73.

CHAPTER IV

PARTS OF LOTS

3054. Rights set forth in an application evidencing the acquisition of a part of a lot may not be registered in the land register until a cadastral amendment assigns

(1) a separate cadastral number to the acquired part and to the remainder; or

(2) a separate cadastral number, where the acquired part is amalgamated with a contiguous lot, to the immovable resulting from the amalgamation and to the immovable resulting from the parcelling.

1991, c. 64, a. 3054; 2000, c. 42, s. 74; I.N. 2014-05-01.

3055. *(Repealed).*

1991, c. 64, a. 3055; 1996, c. 26, s. 85; 2000, c. 42, s. 75; I.N. 2014-05-01; 2020, c. 17, s. 22.

3056. *(Repealed).*

1991, c. 64, a. 3056; 2020, c. 17, s. 22.

TITLE FIVE

CANCELLATION

CHAPTER I

CAUSES OF CANCELLATION

3057. Cancellation arises from an entry made in the appropriate register to strike an earlier registration.

To cancel a registration in the land register, the entry is made in the register of mentions.

1991, c. 64, a. 3057; 2000, c. 42, s. 76; I.N. 2014-05-01.

3057.1. Unless otherwise provided by law, cancellation is obtained by presenting an application made in accordance with the rules applicable to the land register or the register of personal and movable real rights. However, applications for cancellation of a registration in the land register may be presented in the form of a summary only in the cases determined by law.

Cancellation is voluntary or, failing that, judicial; it may also be legal.

2000, c. 42, s. 76.

3057.2. Cancellation arising from an entry in the register of mentions must be noted in the land register, except in the index of names.

2000, c. 42, s. 76.

3058. Where the law or the application for registration sets the date after which the registration ceases to have effect, the registration expires by operation of law at midnight on the expiry date of the period fixed by

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law or the application and, where applicable, entered in the register, if the registration has not been renewed before that time.

1991, c. 64, a. 3058; 2000, c. 42, s. 77; I.N. 2014-05-01.

3059. The registration of a right is cancelled with the consent of the holder or beneficiary of the right.

Nevertheless, the registration in the land register of a hypothec or of a restriction on the right to dispose of property, or of any other right with a fixed term, which has expired because the date after which it ceases to have effect has passed, or the registration of a hypothec which is extinguished by the lapse of the time prescribed by law, may be cancelled on presentation of an application made by any interested person; the registration in the register of personal and movable real rights of a hypothec, or of such a restriction or right which, according to the register, has expired, or the registration of an address that no longer has effect, may be cancelled by the registrar on his own initiative. The cancellation of a registration in the register of personal and movable real rights must give reasons and be dated.

1991, c. 64, a. 3059; 2000, c. 42, s. 78; I.N. 2014-05-01.

3060. *(Repealed).*

1991, c. 64, a. 3060; 2000, c. 42, s. 79.

3061. The registration of the legal hypothec of persons having participated in the construction or renovation of an immovable is cancelled, on the application of any interested person, where, within six months after the later of the date of registration and the date of completion of the work, no action has been brought and published or no prior notice of the exercise of a hypothecary right has been published; the application must state the reasons for the cancellation and be presented with proof that it was served upon the creditors at least 10 days before its presentation to the Land Registrar.

The registration of the legal hypothec of a syndicate of co-owners on a fraction of the co-ownership is cancelled, on the application of any interested person, upon the expiry of three years after its date, unless an action has previously been brought and published.

However, where an action has been brought and published, cancellation is obtained by registering the judgment dismissing the action or ordering the cancellation, or by filing a certificate of the clerk of the court attesting that the action has been discontinued.

1991, c. 64, a. 3061; 2000, c. 42, s. 80; I.N. 2014-05-01; 2020, c. 17, s. 27.

3062. Registration of a declaration of family residence is cancelled, on the application of any interested person, only in the following cases: where the married, civil union or parental union spouses consent, where one of the spouses has died and his succession has been liquidated, where the spouses are separated from bed and board, are divorced or have ceased to be in a parental union for more than 120 days, where the civil union has been dissolved, the marriage or civil union has been annulled, or where the immovable has been alienated with the consent of the spouses or with the authorization of the court.

Except where the spouses consent to the cancellation and where the application is based on a judgment, the application shall be accompanied, as the case may be, by a death certificate and a certified declaration of the liquidation of the succession, the prior notice of intention to apply for cancellation of the registration, together with proof of its service on the other spouse, or a copy of or extract from a notarial act attesting the end of the parental union or an extract from the joint notarial declaration dissolving a civil union. An application that is based on a judgment is made by presenting a notice reproducing the pertinent extract from the operative part of the judgment. The accuracy of the content of the notice must be certified by a notary or an advocate. If the notice is notarial, the mere signature of the notary is sufficient certification.

1991, c. 64, a. 3062; 2002, c. 6, s. 62; I.N. 2014-05-01; I.N. 2015-11-01; 2020, c. 17, s. 23; 2024, c. 22, s. 20.

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3063. The court may order the cancellation of a registration effected without right or irregularly, or on the basis of a title that is null or that is irregular as to form or where the registered right has been annulled, resolved, resiliated or extinguished by prescription or otherwise.

Cancellation is also ordered where the immovable against which a declaration of family residence had been registered has ceased to be used for that purpose.

1991, c. 64, a. 3063; I.N. 2014-05-01; 2016, c. 4, s. 355.

3064. *(Repealed).*

1991, c. 64, a. 3064; 2000, c. 42, s. 81.

3065. Total acquittance of a claim entails consent to cancellation. Partial acquittance entails consent to only an equivalent reduction.

The creditor is bound to register the acquittance if he receives a sufficient amount to pay the registration fee and the costs of sending the application to the registry office; he may not claim any other amount, notwithstanding any stipulation to the contrary.

1991, c. 64, a. 3065; I.N. 2014-05-01.

3066. Reduction of a hypothec securing a claim to be paid with a sum of money deposited for that purpose is made by registering the judgment declaring the tender to be valid and specifying, where applicable, the person entitled to the sum of money deposited, or by registering the judgment authorizing, at the debtor's request, the reduction of the hypothec and its transfer onto the property tendered or deposited.

1991, c. 64, a. 3066.

CHAPTER II

CERTAIN CASES OF CANCELLATION

3066.1. Registration of the address of a co-owner in indivision may be cancelled on the application of any interested person. It may also be cancelled on the registrar's own initiative if the registrar becomes aware that the undivided co-ownership has ended.

The application for cancellation must refer to the act constituting the undivided co-ownership and the act terminating the undivided co-ownership with respect to the co-owner and contain the description of the co-owner and the registration number of his address in the register.

2000, c. 42, s. 82; 2013, c. 27, s. 36.

3066.2. A notice of advance registration of a judicial application is cancelled upon registration of a judgment dismissing the demand or ordering the cancellation, or upon presentation of a certificate of the clerk of the court stating that the demand has been discontinued.

A notice of advance registration of rights arising from a will is cancelled upon the application of any interested person, if the will was not published within three years of the date of opening of the succession. The application must be accompanied by the act of death of the testator.

2000, c. 42, s. 82; I.N. 2014-05-01; I.N. 2015-11-01.

3067. Registration of a right ending at death or of a hypothec securing it may not be cancelled without the consent of the holder or beneficiary; after his death, the person requiring the cancellation shall present the act of death and an affidavit as to the identity of the deceased.

1991, c. 64, a. 3067; I.N. 2016-01-01 (NCCP).

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3068. Registration of a hypothec in favour of the State is cancelled or reduced by filing a certificate of the Attorney General or Deputy Attorney General of Québec, or of a person designated by the Attorney General, stating that the hypothec is extinguished or reduced.

It is also cancelled or reduced by filing a certificate of the Minister of Revenue, or a person designated by the Minister of Revenue, stating that the hypothec is extinguished or reduced, if the hypothec was created by virtue of an Act under the administration of that Minister.

It may further be cancelled or reduced by filing a copy of an order of the Government, certified by the clerk of the Executive Council.

1991, c. 64, a. 3068; 2010, c. 31, s. 81; 2016, c. 4, s. 356.

3069. Registration of rights extinguished by the exercise of hypothecary rights, by sale under judicial authority or by definitive sale of the property for failure to pay property taxes is cancelled following registration of the sale or of the taking in payment. All registrations of, as applicable, notices of execution minutes of seizure, notices and prior notices of sale, notices of intention to pursue a remedy or the exercise of a right and notices requiring abandonment of the taking in payment under the Book on Prior Claims and Hypothecs are thereupon cancelled by the registrar.

Where the sale is not proceeded with, registration of notices of execution minutes of seizure and notices is cancelled only upon the filing of a certificate evidencing that fact issued by bailiff, by the person designated to conduct the sale or, if applicable, by the court clerk.

Applications for cancellation in the land register of the registrations referred to in this article may be in the form of a summary of the document.

1991, c. 64, a. 3069; 1992, c. 57, s. 716; 2000, c. 42, s. 83; I.N. 2014-05-01; 2014, c. 1, s. 810.

3070. Registration of the prior notice of sale for non-payment of property taxes and of the adjudication is cancelled following the registration of the definitive sale made by the municipal or school authority or by the act evidencing the redemption of the immovable.

Registration of the prior notice of sale for non-payment of property taxes is also cancelled following the production of the list of immovables that have not been sold.

The cancellation of a registration under this article may be applied for by means of a summary of the document.

1991, c. 64, a. 3070; 2000, c. 42, s. 84; I.N. 2014-05-01.

3071. Where a real right of State resource development is not exempt from registration, its registration is cancelled when the minister responsible for the Act governing the right notifies the Land Registrar of the abandonment or revocation of the right.

In the notice, the minister shall include the description of the abandoned or revoked right and identify the land file concerned; the abandonment or revocation is entered on the land file concerned and on the land file of the immovable on which the right was exercised.

Where the abandonment or revocation concerns a right of which the *situs* has been immatriculated, the registrar informs the minister responsible for the cadastre so that he may, by virtue of his office, cancel the immatriculation of the right.

1991, c. 64, a. 3071; I.N. 2014-05-01; 2020, c. 17, s. 27.

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CHAPTER III

FORMALITIES AND EFFECTS OF CANCELLATION

3072. Applications for the reduction of an entry are made in accordance with the rules applicable to the appropriate register.

1991, c. 64, a. 3072; 2020, c. 17, s. 24.

3072.1. Applications for the cancellation of a registration or the reduction of an entry in the land register need not contain the description of the property concerned, except where a reduction in the *situs* of the registered right is applied for.

2000, c. 42, s. 85.

3072.2. Cancellation of registration or reduction of entries in the land register in respect of two or more hypothecs is obtained by presenting separate applications for each of them, unless the hypothecs relate to the same immovable or the same debtor.

2025, c. 8, s. 57.

3073. An application based on a judgment ordering the cancellation of a published right or the reduction of an entry is not admissible unless the judgment has become final.

Provisional execution of a judgment relating to the cancellation of a registration or correction or reduction of an entry is not admissible.

The clerk of the court is bound to issue a certificate attesting that no appeal lies from the judgment, that no appeal was taken, the time for appeal having expired, or that no motion in revocation of judgment was filed within 30 days from the date of the judgment.

1991, c. 64, a. 3073; I.N. 2014-05-01; 2016, c. 4, s. 357; 2020, c. 17, s. 25.

3073.1. For land registration purposes, an application based on a judgment in a family matter that orders the cancellation of a published right or the reduction of an entry is made by filing a notice with the Land Registrar.

The notice must contain the pertinent extract from the operative part of the judgment and, as the case may be, the pertinent extract from the agreement or draft agreement to which the operative part refers.

The accuracy of the content of the notice must be certified by a notary or an advocate. If the notice is notarial, the mere signature of the notary is sufficient certification.

2020, c. 17, s. 26.

3074. Cancellation of the registration of a principal right authorizes cancellation of the registration of rights accessory to that right and of all references to such registrations.

1991, c. 64, a. 3074.

3074.1. In land registration matters, the registrar may, on his own initiative, cancel the registration of an address that no longer has effect because of the cancellation of the registration of a principal right.

2013, c. 27, s. 37.

3075. Registration of cancellation effected without right or as the result of an error may be cancelled by order of the court on the application of any interested person.

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In no case does registration of such an order affect the rights of a third person in good faith who published his right after a cancellation made without right or as the result of an error.

1991, c. 64, a. 3075; I.N. 2014-05-01.

3075.1. Any application presented to the Land Registrar, including an application under article 3069 or 3070, for both the registration of a right and the cancellation of a registration or the reduction of an entry in the land register must indicate expressly, in the manner prescribed by regulation, for what purposes the application is presented.

In the absence of such indication, the registrar is only bound to proceed with the registration of the right.

2000, c. 42, s. 86; I.N. 2014-05-01; 2020, c. 17, s. 27.

BOOK TEN

PRIVATE INTERNATIONAL LAW

TITLE ONE

GENERAL PROVISIONS

3076. The rules contained in this Book apply subject to those rules of law in force in Québec which are applicable by reason of their particular object.

1991, c. 64, a. 3076.

3077. Where a State comprises several territorial units having different legislative jurisdictions, each territorial unit is regarded as a State.

Where a State comprises several legal systems applicable to different categories of persons, any reference to the law of that State is a reference to the legal system prescribed by the rules in force in that State; in the absence of such rules, any such reference is a reference to the legal system most closely connected with the situation.

1991, c. 64, a. 3077; I.N. 2014-05-01.

3078. Characterization is made according to the legal system of the court seized of the matter; however, characterization of property as movable or immovable is made according to the law of the place where it is situated.

Where a legal institution is unknown to the court or known to it under a different designation or with a different content, foreign law may be taken into account.

1991, c. 64, a. 3078; I.N. 2015-11-01.

3079. Where legitimate and manifestly preponderant interests so require, effect may be given to a mandatory provision of the law of another State with which the situation is closely connected.

In deciding whether to do so, consideration is given to the purpose of the provision and the consequences of its application.

1991, c. 64, a. 3079; I.N. 2014-05-01.

3080. Where, under the provisions of this Book, the law of a foreign State applies, the law in question is the internal law of that State, but not its rules governing conflict of laws.

1991, c. 64, a. 3080; I.N. 2014-05-01.

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3081. The provisions of the law of a foreign State do not apply if their application would be manifestly inconsistent with public order as understood in international relations.

1991, c. 64, a. 3081; I.N. 2014-05-01.

3082. Exceptionally, the law designated by this Book is not applicable if, in the light of all attendant circumstances, it is clear that the situation is only remotely connected with that law and is much more closely connected with the law of another State. This provision does not apply where the law is designated in a juridical act.

1991, c. 64, a. 3082; I.N. 2014-05-01.

TITLE TWO

CONFLICT OF LAWS

CHAPTER I

PERSONAL STATUS

DIVISION I

GENERAL PROVISIONS

3083. The status and capacity of a natural person are governed by the law of his domicile.

The status and capacity of a legal person are governed by the law of the State under which it is constituted, subject, with respect to its activities, to the law of the place where they are carried on.

1991, c. 64, a. 3083; I.N. 2014-05-01.

3084. In cases of emergency or serious inconvenience, the law of the court seized of the matter may be applied provisionally to ensure the protection of a person or of his property.

1991, c. 64, a. 3084; I.N. 2015-11-01.

DIVISION II

SPECIAL PROVISIONS

§ 0.1. — *Change of designation of sex*

2013, c. 27, s. 38.

3084.1. When a change of the designation of sex that appears on the act of birth of a person born in Québec but domiciled outside Québec proves impossible in the State where the person is domiciled, the registrar of civil status may, at the request of the person, change the designation and, if necessary, change the person's given names in the act drawn up in Québec.

The application is subject to the conditions prescribed by the law of Québec, except those respecting domicile.

2013, c. 27, s. 38; I.N. 2014-05-01; 2022, c. 22, s. 121.

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§ 1. — *Incapacity*

3085. The legal regime intended to ensure the protection of incapable persons of full age and tutorship to minors are governed by the law of the domicile of each person subject thereto.

Whenever a minor or an incapable person of full age domiciled outside Québec possesses property in Québec or has rights to be exercised there and the law of his domicile does not provide for him to have a representative, a tutor may be appointed to represent him in all cases where a tutor may represent a minor or an incapable person of full age under the laws of Québec.

1991, c. 64, a. 3085; 2016, c. 4, s. 358; 2020, c. 11, s. 101.

3086. A party to a juridical act who is incapable under the law of the State of his domicile may not invoke his incapacity if he was capable under the law of the State in which the other party was domiciled when the act was entered into in that State, unless the other party was or should have been aware of the incapacity.

1991, c. 64, a. 3086; 2002, c. 19, s. 15; I.N. 2014-05-01.

3087. A legal person who is a party to a juridical act may not invoke restrictions upon the power of representation of the persons acting for it if the restrictions did not exist under the law of the State in which the other party was domiciled when the act was entered into in that State, unless the other party was or should have been aware of the restrictions by virtue of his position with or relationship to the party invoking them.

1991, c. 64, a. 3087; 2002, c. 19, s. 15; I.N. 2014-05-01.

§ 2. — *Marriage*

3088. Marriage is governed with respect to its essential validity by the law applicable to the status of each of the intended spouses.

With respect to its formal validity, it is governed by the law of the place of its solemnization. However, if one of the spouses is domiciled in Québec and is a minor when the marriage is solemnized, the marriage must be authorized by the court.

1991, c. 64, a. 3088; I.N. 2014-05-01; 2016, c. 12, s. 17.

3089. The effects of marriage, particularly those which are binding on all spouses regardless of their matrimonial regime, are subject to the law of the domicile of the spouses.

Where the spouses are domiciled in different States, the applicable law is the law of their common residence or, failing that, the law of their last common residence or, failing that, the law of the place of solemnization of the marriage.

1991, c. 64, a. 3089; I.N. 2014-05-01.

§ 3. — *Separation from bed and board*

3090. Separation from bed and board is governed by the law of the domicile of the spouses.

Where the spouses are domiciled in different States, the applicable law is the law of their common residence or, failing that, the law of their last common residence or, failing that, the law of the court seized of the matter.

The effects of separation from bed and board are subject to the law governing the separation.

1991, c. 64, a. 3090; I.N. 2014-05-01; I.N. 2015-11-01.

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§ 3.1. — *Civil union*

2002, c. 6, s. 63.

3090.1. Civil union is governed with respect to its essential and formal validity by the law of the place of its solemnization.

That law also applies to the effects of civil union, except those binding all spouses regardless of their regime, which are subject to the law of the State of their domicile.

2002, c. 6, s. 63; I.N. 2014-05-01.

3090.2. The dissolution of a civil union is governed by the law of the State of domicile of the spouses or by the law of the place of its solemnization. The effects of the dissolution are subject to the law governing the dissolution.

2002, c. 6, s. 63; I.N. 2014-05-01.

3090.3. Where the spouses are domiciled in different States, the applicable law is the law of their common place of residence or, failing that, the law of their last common place of residence or, failing that, the law of the place of solemnization of the civil union or the law of the court seized of the application for dissolution, as the case may be.

2002, c. 6, s. 63; I.N. 2014-05-01; I.N. 2015-11-01.

§ 3.2. — *Parental union*

2024, c. 22, s. 21.

3090.4. The effects of a parental union, particularly those from which the spouses may not derogate, are subject to the law of the domicile of the spouses.

Where the spouses are domiciled in different States, the applicable law is the law of the place of their common residence or, failing that, the law of the place of their last common residence or, failing that, the law of the place of birth of the child.

2024, c. 22, s. 21.

§ 4. — *Filiation by birth and filiation by adoption*

1991, c. 64, Sd. 4; I.N. 2014-05-01; 2023, c. 13, s. 31.

3091. Filiation is established in accordance with the law of the domicile or nationality of the child or of one of his parents, at the time of the child's birth, whichever is more beneficial to the child.

The effects of filiation are subject to the law of the domicile of the child.

1991, c. 64, a. 3091.

3092. The rules that govern consent to adoption and the eligibility of a child for adoption are those provided by the law of the child's domicile.

The effects of adoption are subject to the law of the domicile of the adopter.

1991, c. 64, a. 3092; I.N. 2014-05-01.

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3093. Custody of the child is governed by the law of his domicile.

1991, c. 64, a. 3093.

§ 5. — *Obligation of support*

3094. The obligation of support is governed by the law of the domicile of the creditor. However, where the creditor cannot obtain support from the debtor under that law, the applicable law is that of the domicile of the debtor.

1991, c. 64, a. 3094.

3095. No claim of support of a collateral relation or a person connected by marriage or a civil union is admissible if, under the law of his domicile, there is no obligation for the debtor to provide support to the plaintiff.

1991, c. 64, a. 3095; 2002, c. 6, s. 235.

3096. The obligation of support between spouses who are divorced or separated from bed and board, between spouses whose civil union is dissolved or spouses whose marriage or union has been declared null is governed by the law applicable to the divorce, separation from bed and board, dissolution of the civil union or annulment of the marriage or civil union.

1991, c. 64, a. 3096; 2002, c. 6, s. 64.

CHAPTER II

STATUS OF PROPERTY

DIVISION I

GENERAL PROVISION

3097. Real rights and their publication are governed by the law of the place where the property concerned is situated.

However, real rights on property in transit are governed by the law of the State of their place of destination.

1991, c. 64, a. 3097; I.N. 2014-05-01.

DIVISION II

SPECIAL PROVISIONS

§ 1. — *Successions*

3098. Succession to movable property is governed by the law of the last domicile of the deceased; succession to immovable property is governed by the law of the place where the property is situated.

However, a person may designate, in a will, the law applicable to his succession, provided it is the law of the State of his nationality or of his domicile at the time of the designation or of his death, or the law of the place where an immovable held by him is situated, but only with regard to that immovable.

1991, c. 64, a. 3098; I.N. 2014-05-01; 2016, c. 4, s. 359.

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3099. The designation of the law applicable to a succession is without effect to the extent that the law designated substantially deprives the married, civil union or parental union spouse or a child of the deceased of a successoral right to which, in the absence of such a designation, he or she would have been entitled.

In addition, the designation is without effect to the extent that it infringes on particular inheritance regimes to which certain property is subject, under the law of the State in which it is situated, because of the property's economic, family or social destination.

1991, c. 64, a. 3099; 2002, c. 6, s. 65; I.N. 2014-05-01; I.N. 2015-11-01; 2016, c. 4, s. 360; 2024, c. 22, s. 22.

3100. To the extent that the law on successions cannot be enforced with respect to property situated abroad, corrective measures may be applied to property situated in Québec, in particular, by means of a redetermination of the shares, a new sharing of debts or a compensatory deduction established by a corrective partition.

1991, c. 64, a. 3100; I.N. 2014-05-01; 2016, c. 4, s. 361.

3101. Where the law governing the succession of the deceased does not provide for him to have an administrator or liquidator authorized to act in Québec and the heirs have rights to be exercised in Québec or certain property of the succession is situated in Québec, an administrator or a liquidator may be appointed under the law of Québec.

1991, c. 64, a. 3101.

§ 2. — *Movable securities*

I. — *Movable securities in general*

2015, c. 8, s. 366.

3102. The validity of a movable security is governed by the law of the State in which the property charged with it is situated at the time of creation of the security.

Publication and its effects are governed by the law of the State in which the property charged with the security is currently situated.

1991, c. 64, a. 3102; I.N. 2014-05-01.

3103. Any movable that is not intended to remain in the State in which it is situated may be charged with a security in accordance with the law of the State for which it is destined; the security may be published in accordance with the law of that State, but publication has effect only if the property actually arrives in the State within 30 days of the creation of the security.

1991, c. 64, a. 3103; I.N. 2014-05-01.

3104. A security published in accordance with the law of the State where the property was situated at the time of creation of the security will be deemed to be published in Québec, from the first publication, if it is published in Québec before any of the following events, whichever occurs first:

(1) the cessation of effect of publication in the State where the property was situated at the time of creation of the security;

(2) the expiry of 30 days from the time the property has arrived in Québec;

(3) the expiry of 15 days from the time the creditor is advised that the property has arrived in Québec.

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However, the security may not be set up against a buyer who has acquired the property in the ordinary course of the activities of the grantor.

1991, c. 64, a. 3104; 1992, c. 57, s. 716; I.N. 2014-05-01.

3105. The validity of a security charged on a corporeal movable ordinarily used in more than one State or charged on an incorporeal movable is governed by the law of the State where the grantor was domiciled at the time of creation of the security.

Publication and its effects are governed by the law of the State in which the grantor is currently domiciled.

However, the provisions of this article do not apply to a security encumbering an incorporeal movable established by a title in bearer form or to a security published by the creditor's holding of the title.

1991, c. 64, a. 3105; 1992, c. 57, s. 716; 1998, c. 5, s. 18; I.N. 2014-05-01.

3106. A security which, when it is created, is governed by the law of the State where the grantor is then domiciled and which has been published will be deemed to have been published in Québec, from the first publication, provided it is published in Québec before any of the following events, whichever occurs first:

(1) the cessation of effect of publication in the State where the grantor was formerly domiciled;

(2) the expiry of 30 days from the time the grantor established his new domicile in Québec;

(3) the expiry of 15 days from the time the creditor was advised of the new domicile of the grantor in Québec.

However, the security may not be set up against a buyer who has acquired the property in the ordinary course of the activities of the grantor.

1991, c. 64, a. 3106; I.N. 2014-05-01.

II. — *Movable securities on certain monetary claims*

2015, c. 8, s. 367.

3106.1. Unless a juridical act governing a monetary claim referred to in article 2713.1 relating to the credit balance of a financial account or an amount of money transferred to secure the performance of an obligation towards the creditor expressly specifies the law applicable to it, the validity of a security encumbering such a claim, as well as the publication of the security and the effects of such publication, are governed by the law expressly specified in the juridical act governing the claim as being the law applicable to that act, determined, as regards the validity of the security, at the time the security was created.

If no law is specified in a juridical act governing a claim, the applicable law is

(1) in the case of a claim relating to the credit balance of a financial account, the law of the State in which the establishment expressly mentioned in the act governing the financial account as being the establishment where the account is maintained is located or, if no establishment is expressly mentioned in such an act, the law of the State in which the establishment identified in an account statement as the establishment serving the account holder's account is located. If no law may be determined from the account statement, the applicable law is the law of the State in which the decision-making centre of the person maintaining the account is located; and

(2) in the case of a claim relating to an amount of money transferred to secure the performance of an obligation towards the creditor, the law of the State in which the decision-making centre of the person to whom the amount of money was transferred is located or, if the person is a natural person, the law of the State in which the person is domiciled.

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Publication of the security by registration is, in all cases, governed by the law of the State in which the grantor is domiciled.

2015, c. 8, s. 367.

§ 3. — *Trusts*

3107. In the absence of a designation of law that is expressly made in the juridical act creating a trust or that may be inferred with certainty from the terms of that act, or if the law designated does not provide for trusts, the law that applies to the trust is the law with which the trust is most closely connected.

To determine the applicable law, account is taken in particular of the place of administration of the trust, the place where the trust property is situated, the residence or the establishment of the trustee, the objects of the trust and the places where they are to be fulfilled.

Any severable aspect of a trust, particularly its administration, may be governed by a different law.

1991, c. 64, a. 3107; I.N. 2014-05-01.

3108. The law governing the trust determines whether the question to be resolved concerns the validity or the administration of the trust.

It also determines whether that law or the law governing a severable aspect of the trust may be replaced by the law of another State and, if so, the conditions of replacement.

1991, c. 64, a. 3108; I.N. 2014-05-01.

§ 4. — *Securities and security entitlements to financial assets*

2008, c. 20, s. 139.

3108.1. The validity of a security is governed by the law of the State under which the issuer is constituted or, if the security is issued by a State, by the law of that State.

2008, c. 20, s. 139; I.N. 2014-05-01.

3108.2. The following matters are governed by the law of the State under which the issuer is constituted or, if permitted by the law of that State, by another law specified by the issuer:

(1) the rights and duties of the issuer with respect to the registration of transfer of a security on its books, and the validity of the registration;

(2) whether the issuer owes any duty to an adverse claimant to a security issued by the issuer; and

(3) whether an adverse claim may be asserted against a person to whom the transfer of a security is registered in the records of the issuer or who obtains control of an uncertificated security issued by the issuer.

If the issuer is constituted under the law of a State that comprises several territorial units having different legislative jurisdictions, the applicable law is the law in force in the territorial unit where the issuer has its head office or, if permitted by the law of the State that comprises the territorial units, another law specified by the issuer.

2008, c. 20, s. 139; I.N. 2014-05-01.

3108.3. Despite article 3108.2, if the issuer is a State, the matters listed in that article are governed by the law of that State or, if the law of that State so permits, by the law specified by that State.

2008, c. 20, s. 139; I.N. 2014-05-01.

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3108.4. Québec as an issuer and any issuer constituted under a law of Québec may specify the law governing the matters listed in article 3108.2.

2008, c. 20, s. 139.

3108.5. Whether a security is enforceable against the issuer despite a defect or defence related to matters other than those listed in articles 3108.1 and 3108.2 is governed by the law of the State under which the issuer is constituted or, if the issuer is constituted under the law of a State that comprises several territorial units having different legislative jurisdictions, by the law of the territorial unit in which the issuer has its head office.

If the issuer is a State, the applicable law is the law of that State. If the issuer is a State that comprises several territorial units having different legislative jurisdictions, the applicable law is the law of that State or any other law specified by that State.

2008, c. 20, s. 139; I.N. 2014-05-01.

3108.6. The law of the State in which a security certificate is located at the time of its delivery determines whether an adverse claim to the security it represents may be asserted against a person to whom the security certificate is delivered.

2008, c. 20, s. 139; I.N. 2014-05-01.

3108.7. The law expressly specified in a juridical act governing a securities account maintained for an entitlement holder by a securities intermediary as the law applicable to that act governs the following matters, unless the act specifies another law as the law applicable to them:

(1) acquisition of a security entitlement from the securities intermediary;

(2) the rights and duties of the securities intermediary and the entitlement holder arising out of the security entitlement;

(3) whether the securities intermediary owes any duty to a person who has an adverse claim to a security entitlement; and

(4) whether an adverse claim may be asserted against a person who acquires a security entitlement from the securities intermediary or who acquires rights in a security entitlement from the entitlement holder.

If no law is specified in a juridical act governing a securities account, the applicable law is the law of the State in which the establishment expressly mentioned in such an act as being the place where the securities account is maintained is located or, if no establishment is expressly specified in such an act, the law of the State in which the establishment identified in an account statement as the establishment serving the entitlement holder's account is located. If no law may be determined on the basis of the account statement, the applicable law is the law of the State in which the decision-making centre of the securities intermediary is located.

2008, c. 20, s. 139; I.N. 2014-05-01.

3108.8. The validity of a security encumbering a security or security entitlement to a financial asset, the publication of the encumbering security and the effects of publication are governed by the following laws, determined, with respect to the validity of the encumbering security, at the time of its creation:

(1) in the case of a certificated security, the law of the State in which the security certificate is located;

(2) in the case of an uncertificated security, the law governing the matters listed in article 3108.2 relating, among other things, to certain rights and duties of the issuer; and

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(3) in the case of a security entitlement to a financial asset, the law governing acquisition of a security entitlement from a securities intermediary.

However, whether an encumbering security is published by registration and whether an encumbering security without delivery granted by a securities intermediary is considered to be published by the sole fact of its being granted are governed by the law of the State in which the grantor is domiciled.

2008, c. 20, s. 139; I.N. 2014-05-01.

CHAPTER III

STATUS OF OBLIGATIONS

DIVISION I

GENERAL PROVISIONS

§ 1. — *Form of juridical acts*

3109. The form of a juridical act is governed by the law of the place where it is entered into.

A juridical act is nevertheless valid if it is made in the form prescribed by the law applicable to the content of the act, by the law of the place where the property which is the subject of the act is situated when the act is concluded or by the law of the domicile of one of the parties when the act is concluded.

A testamentary provision may also be made in the form prescribed by the law of the domicile or nationality of the testator either at the time he made the disposition or at the time of his death.

1991, c. 64, a. 3109; I.N. 2014-05-01; I.N. 2015-11-01.

3110. An act may be executed outside Québec before a Québec notary if it pertains to a real right the subject of which is situated in Québec, if it is entered into in the ordinary course of business of an enterprise in Québec or if one of the parties is domiciled in Québec or was constituted there.

1991, c. 64, a. 3110; I.N. 2014-05-01; I.N. 2015-11-01; 2023, c. 23, s. 5.

§ 2. — *Content of juridical acts*

3111. A juridical act, whether or not it contains any foreign element, is governed by the law expressly designated in the act or whose designation may be inferred with certainty from the terms of the act.

Where a juridical act contains no foreign element, it remains nevertheless subject to the mandatory provisions of the law of the State which would apply in the absence of a designation.

The law may be expressly designated as applicable to the whole or to only part of a juridical act.

1991, c. 64, a. 3111; I.N. 2014-05-01.

3112. If no law is designated in the act or if the law designated invalidates the juridical act, the courts apply the law of the State with which the act is most closely connected in view of its nature and the attendant circumstances.

1991, c. 64, a. 3112; I.N. 2014-05-01.

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3113. A juridical act is presumed to be most closely connected with the law of the State where the party who is to perform the prestation which is characteristic of the act has his residence or, if the act is concluded in the ordinary course of business of an enterprise, has his establishment.

1991, c. 64, a. 3113; I.N. 2014-05-01.

DIVISION II

SPECIAL PROVISIONS

§ 1. — *Sale*

3114. In the absence of a designation by the parties, the sale of a corporeal movable is governed by the law of the State where the seller had his residence or, if the sale is concluded in the ordinary course of business of an enterprise, his establishment, at the time the contract was concluded. However, the sale is governed by the law of the State in which the buyer had his residence or his establishment at the time the contract was concluded in any of the following cases:

(1) negotiations have taken place and the contract has been concluded in that State;

(2) the contract provides expressly that delivery shall be performed in that State;

(3) the contract is concluded on terms determined mainly by the buyer, in response to a call for tenders.

In the absence of a designation by the parties, the sale of immovable property is governed by the law of the State where it is situated.

1991, c. 64, a. 3114; I.N. 2014-05-01.

3115. In the absence of a designation by the parties, a sale by auction or on a stock exchange is governed by the law of the State where the auction takes place or the exchange is situated.

1991, c. 64, a. 3115; I.N. 2014-05-01.

§ 2. — *Conventional representation*

3116. The existence and scope of the powers of a representative in his relations with a third person and the conditions under which his personal liability or that of the represented person may be incurred are governed by the law expressly designated by the represented person and the third person or, where none is designated, by the law of the State in which the representative acted if the represented person or the third person has his domicile or residence in that State.

1991, c. 64, a. 3116; I.N. 2014-05-01.

§ 3. — *Consumer contract*

3117. The choice by the parties of the law applicable to a consumer contract cannot result in depriving the consumer of the protection afforded to him by the mandatory rules of the law of the State where he has his residence if the conclusion of the contract was preceded, in that State, by a specific offer or by advertising and the consumer took in that State all the steps necessary on his part for the conclusion of the contract, or if the order from the consumer was received in that State.

The same rule also applies where the consumer was induced by the other contracting party to travel to a foreign State for the purpose of concluding the contract.

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In the absence of a designation by the parties, the law of the place where the consumer has his residence is, in the same circumstances, applicable to the consumer contract.

1991, c. 64, a. 3117; I.N. 2014-05-01.

§ 4. — *Contract of employment*

3118. The choice by the parties of the law applicable to a contract of employment cannot result in depriving the worker of the protection afforded to him by the mandatory rules of the law of the State where the worker habitually carries out his work, even if he is on temporary assignment in another State or, if the worker does not habitually carry out his work in any one State, of the law of the State where his employer has his domicile or establishment.

In the absence of a designation by the parties, the law of the State where the worker habitually carries out his work or the law of the State where his employer has his domicile or establishment is, in the same circumstances, applicable to the contract of employment.

1991, c. 64, a. 3118; I.N. 2014-05-01.

§ 5. — *Contract of non-marine insurance*

3119. Notwithstanding any agreement to the contrary, a contract of insurance covering property or an interest situated in Québec, or that is subscribed in Québec by a person resident in Québec, is governed by the law of Québec if the policyholder applies for the insurance in Québec or the insurer signs or delivers the policy in Québec.

Similarly, a contract of group insurance of persons is governed by the law of Québec where the participant has his residence in Québec at the time he becomes a participant.

Any sum due under a contract of insurance governed by the law of Québec is payable in Québec.

1991, c. 64, a. 3119; 1992, c. 57, s. 716; I.N. 2014-05-01.

§ 6. — *Assignment of claims*

1991, c. 64, Sd. 6; I.N. 2014-05-01.

3120. The assignability of a claim and relations between the assignee and the assigned debtor are governed by the law governing relations between the assigned debtor and the assignor.

1991, c. 64, a. 3120.

§ 7. — *Arbitration*

3121. In the absence of a designation by the parties, an arbitration agreement is governed by the law applicable to the principal contract or, where that law invalidates the agreement, by the law of the State where arbitration takes place.

1991, c. 64, a. 3121; I.N. 2014-05-01.

§ 8. — *Matrimonial or civil union regime*

2002, c. 6, s. 66.

3122. The law applicable to a conventional matrimonial or civil union regime is determined according to the general rules applicable to the content of juridical acts.

1991, c. 64, a. 3122; 2002, c. 6, s. 67.

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3123. The matrimonial or civil union regime of spouses who have not entered into matrimonial or civil union agreements is governed by the law of the State in which they have their domicile at the time of their marriage or civil union.

If the spouses are at that time domiciled in different States, the applicable law is the law of their first common residence or, failing that, the law of their common nationality or, failing that, the law of the place of solemnization of their marriage or civil union.

1991, c. 64, a. 3123; 2002, c. 6, s. 68; I.N. 2014-05-01.

3124. The validity of any agreed change to a matrimonial or civil union regime is governed by the law of the domicile of the spouses at the time of the change.

If the spouses are at that time domiciled in different States, the applicable law is the law of their common residence or, failing that, the law governing their matrimonial or civil union regime.

1991, c. 64, a. 3124; 2002, c. 6, s. 69; I.N. 2014-05-01.

§ 9. — *Certain other sources of obligations*

3125. Obligations based on management of the business of another, reception of a thing not due or unjust enrichment are governed by the law of the place where the act or omission from which they derive occurred.

1991, c. 64, a. 3125; 2016, c. 4, s. 362.

§ 10. — *Civil liability*

3126. The obligation to make reparation for injury caused to another is governed by the law of the State where the act or omission which occasioned the injury occurred. However, if the injury appeared in another State, the law of the latter State is applicable if the author should have foreseen that the injury would manifest itself there.

In any case where the author and the victim have their domiciles or residences in the same State, the law of that State applies.

1991, c. 64, a. 3126; I.N. 2014-05-01; 2016, c. 4, s. 363.

3127. Where an obligation to make reparation for injury arises from nonperformance of a contractual obligation, claims based on the nonperformance are governed by the law applicable to the contract.

1991, c. 64, a. 3127.

3128. Whatever its source, the liability of the manufacturer of a movable is governed, at the choice of the victim,

(1) by the law of the State where the manufacturer has his establishment or, failing that, his residence, or

(2) by the law of the State where the movable was acquired.

1991, c. 64, a. 3128; I.N. 2014-05-01.

3129. The application of the rules of this Code is mandatory with respect to civil liability for any injury suffered in or outside Québec as a result of exposure to or the use of raw materials, whether processed or not, originating in Québec.

1991, c. 64, a. 3129; I.N. 2014-05-01.

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§ 11. — *Evidence*

3130. Evidence is governed by the law applicable to the merits of the dispute, subject to any rules of the court seized of the matter which are more favourable to establishing it.

1991, c. 64, a. 3130; I.N. 2014-05-01; I.N. 2015-11-01.

§ 12. — *Prescription*

3131. Prescription is governed by the law applicable to the merits of the dispute.

1991, c. 64, a. 3131.

CHAPTER IV

STATUS OF PROCEDURE

3132. Procedure is governed by the law of the court seized of the matter.

1991, c. 64, a. 3132; I.N. 2015-11-01.

3133. Arbitration proceedings are governed by the law of the State where the arbitration takes place unless the parties have designated either the law of another State or an institutional or special arbitration procedure.

1991, c. 64, a. 3133; 1992, c. 57, s. 716; I.N. 2014-05-01.

TITLE THREE

INTERNATIONAL JURISDICTION OF QUÉBEC AUTHORITIES

CHAPTER I

GENERAL PROVISIONS

3134. In the absence of any special provision, Québec authorities have jurisdiction when the defendant is domiciled in Québec.

1991, c. 64, a. 3134; I.N. 2014-05-01.

3135. Even though a Québec authority has jurisdiction to hear a dispute, it may, exceptionally and on an application by a party, decline jurisdiction if it considers that the authorities of another State are in a better position to decide the dispute.

1991, c. 64, a. 3135; I.N. 2014-05-01.

3136. Even though a Québec authority has no jurisdiction to hear a dispute, it may nevertheless hear it provided the dispute has a sufficient connection with Québec, if proceedings abroad prove impossible or the institution of proceedings abroad cannot reasonably be required.

1991, c. 64, a. 3136; I.N. 2014-05-01; 2016, c. 4, s. 364.

3137. On the application of a party, a Québec authority may stay its ruling on an action brought before it if another action, between the same parties, based on the same facts and having the same subject is pending before a foreign authority, provided that the latter action can result in a decision which may be recognized in Québec, or if such a decision has already been rendered by a foreign authority.

1991, c. 64, a. 3137; I.N. 2015-11-01.

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3138. A Québec authority may order provisional or conservatory measures even if it has no jurisdiction over the merits of the dispute.

1991, c. 64, a. 3138.

3139. Where a Québec authority has jurisdiction to rule on the principal demand, it also has jurisdiction to rule on an incidental demand or a cross demand.

1991, c. 64, a. 3139.

3140. In cases of emergency or serious inconvenience, Québec authorities may also take such measures as they consider necessary for the protection of a person present in Québec or of the person's property if it is situated there.

1991, c. 64, a. 3140; I.N. 2014-05-01.

CHAPTER II

SPECIAL PROVISIONS

DIVISION I

PERSONAL ACTIONS OF AN EXTRAPATRIMONIAL AND FAMILY NATURE

3141. Québec authorities have jurisdiction to hear personal actions of an extrapatrimonial and family nature when one of the persons concerned is domiciled in Québec.

1991, c. 64, a. 3141; I.N. 2014-05-01.

3142. Québec authorities have jurisdiction to decide as to the custody of a child provided he is domiciled in Québec.

1991, c. 64, a. 3142; I.N. 2014-05-01.

3143. Québec authorities have jurisdiction to decide actions in matters of support or applications for review of a foreign support judgment that may be recognized in Québec, if one of the parties has his domicile or residence in Québec.

1991, c. 64, a. 3143; I.N. 2014-05-01.

3144. Québec authorities have jurisdiction in matters of nullity of marriage or dissolution or nullity of civil unions if the domicile or place of residence of one of the spouses or the place of solemnization of their marriage or civil union is in Québec.

1991, c. 64, a. 3144; 2002, c. 6, s. 70; I.N. 2014-05-01.

3145. As regards the effects of marriage or a civil union, particularly those that are binding on all spouses regardless of their matrimonial or civil union regime, Québec authorities have jurisdiction when the domicile or place of residence of one of the spouses is in Québec.

The same applies as regards the effects of a parental union, particularly those from which the spouses may not derogate.

1991, c. 64, a. 3145; 2002, c. 6, s. 71; I.N. 2014-05-01; 2024, c. 22, s. 23.

3146. Québec authorities have jurisdiction to rule on separation from bed and board when one of the spouses has his domicile or residence in Québec at the time of the institution of the proceedings.

1991, c. 64, a. 3146; I.N. 2014-05-01.

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3147. Québec authorities have jurisdiction in matters of filiation if the child or one of his parents is domiciled in Québec.

They have jurisdiction in matters of adoption if the child or plaintiff is domiciled in Québec.

1991, c. 64, a. 3147; I.N. 2014-05-01.

DIVISION II

PERSONAL ACTIONS OF A PATRIMONIAL NATURE

3148. In personal actions of a patrimonial nature, Québec authorities have jurisdiction in the following cases:

(1) the defendant has his domicile or his residence in Québec;

(2) the defendant is a legal person, is not domiciled in Québec but has an establishment in Québec, and the dispute relates to its activities in Québec;

(3) a fault was committed in Québec, injury was suffered in Québec, an injurious act or omission occurred in Québec or one of the obligations arising from a contract was to be performed in Québec;

(4) the parties have by agreement submitted to them the present or future disputes between themselves arising out of a specific legal relationship;

(5) the defendant has submitted to their jurisdiction.

However, Québec authorities have no jurisdiction where the parties have chosen by agreement to submit the present or future disputes between themselves relating to a specific legal relationship to a foreign authority or to an arbitrator, unless the defendant submits to the jurisdiction of the Québec authorities.

1991, c. 64, a. 3148; I.N. 2014-05-01; 2016, c. 4, s. 365.

3149. Québec authorities also have jurisdiction to hear an action based on a consumer contract or a contract of employment if the consumer or worker has his domicile or residence in Québec; the waiver of such jurisdiction by the consumer or worker may not be set up against him.

1991, c. 64, a. 3149; I.N. 2014-05-01.

3150. Québec authorities also have jurisdiction to hear an action based on a contract of insurance where the holder, the insured or the beneficiary of the contract is domiciled or resident in Québec, the contract covers an insurable interest situated in Québec or the loss took place in Québec.

1991, c. 64, a. 3150; I.N. 2014-05-01.

3151. Québec authorities have exclusive jurisdiction to hear in first instance all actions based on liability under article 3129.

1991, c. 64, a. 3151; I.N. 2014-05-01.

DIVISION III

REAL AND MIXED ACTIONS

3152. Québec authorities have jurisdiction to hear a real action if the property in dispute is situated in Québec.

1991, c. 64, a. 3152; I.N. 2014-05-01.

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3153. Québec authorities have jurisdiction in matters of succession if the succession opens in Québec, the defendant or one of the defendants is domiciled in Québec or the deceased had elected that Québec law should govern his succession.

They also have jurisdiction if any property of the deceased is situated in Québec and a ruling is required as to the devolution or transmission of the property.

1991, c. 64, a. 3153; I.N. 2014-05-01.

3154. Québec authorities have jurisdiction in matters of matrimonial or civil union regimes in the following cases:

(1) the regime is dissolved by the death of one of the spouses and the authorities have jurisdiction with respect to the succession of that spouse;

(2) the object of the proceedings relates only to property situated in Québec.

In other cases, Québec authorities have jurisdiction if one of the spouses has his or her domicile or residence in Québec on the date of institution of the proceedings.

1991, c. 64, a. 3154; 2002, c. 6, s. 72; I.N. 2014-05-01.

TITLE FOUR

RECOGNITION AND ENFORCEMENT OF FOREIGN DECISIONS AND JURISDICTION OF FOREIGN AUTHORITIES

CHAPTER I

RECOGNITION AND ENFORCEMENT OF FOREIGN DECISIONS

3155. A decision rendered outside Québec is recognized and, where applicable, declared enforceable by the Québec authority, except in the following cases:

(1) the authority of the State where the decision was rendered had no jurisdiction under the provisions of this Title;

(2) the decision, at the place where it was rendered, is subject to an ordinary remedy or is not final or enforceable;

(3) the decision was rendered in contravention of the fundamental principles of procedure;

(4) a dispute between the same parties, based on the same facts and having the same subject has given rise to a decision rendered in Québec, whether or not it has become final, is pending before a Québec authority, first seized of the dispute, or has been decided in a third State and the decision meets the conditions necessary for it to be recognized in Québec;

(5) the outcome of a foreign decision is manifestly inconsistent with public order as understood in international relations;

(6) the decision enforces obligations arising from the taxation laws of a foreign State.

1991, c. 64, a. 3155; I.N. 2014-05-01; I.N. 2015-11-01; 2016, c. 4, s. 366.

3156. A decision rendered by default may not be recognized or declared enforceable unless the plaintiff proves that the act instituting the proceedings was duly served on the defaulting party in accordance with the law of the place where the decision was rendered.

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However, the authority may refuse recognition or enforcement if the defaulting party proves that, owing to the circumstances, he was unable to acquaint himself with the act instituting the proceedings or was not given sufficient time to offer his defence.

1991, c. 64, a. 3156; I.N. 2014-05-01.

3157. Recognition or enforcement may not be refused on the sole ground that the original authority applied a law different from the law that would be applicable under the rules contained in this Book.

1991, c. 64, a. 3157.

3158. The Québec authority confines itself to verifying whether the decision with respect to which recognition or enforcement is sought meets the requirements prescribed in this Title, without considering the merits of the decision.

1991, c. 64, a. 3158; I.N. 2014-05-01.

3159. If the decision contains provisions which can be dissociated, any one or more of them may be separately recognized or enforced.

1991, c. 64, a. 3159; I.N. 2014-05-01.

3160. A decision rendered outside Québec awarding periodic payments of support may be recognized and declared enforceable with respect to payments due and payments to become due.

1991, c. 64, a. 3160; I.N. 2014-05-01.

3161. Where a foreign decision orders a debtor to pay a sum of money expressed in foreign currency, the Québec authority converts the sum into Canadian currency at the rate of exchange prevailing on the day the decision became enforceable at the place where it was rendered.

Until conversion, the determination of interest payable under a foreign decision is governed by the law of the authority that rendered the decision.

1991, c. 64, a. 3161; I.N. 2014-05-01.

3162. The Québec authority recognizes and enforces the obligations resulting from the taxation laws of a State that recognizes and enforces the obligations resulting from the taxation laws of Québec.

1991, c. 64, a. 3162; I.N. 2014-05-01.

3163. Transactions enforceable at their places of origin are recognized and, where applicable, declared to be enforceable in Québec, on the same conditions as judicial decisions, to the extent that those conditions apply to the transactions.

1991, c. 64, a. 3163; 2002, c. 19, s. 15; I.N. 2014-05-01.

CHAPTER II

JURISDICTION OF FOREIGN AUTHORITIES

3164. The jurisdiction of foreign authorities is established in accordance with the rules on jurisdiction applicable to Québec authorities under Title Three of this Book, to the extent that the dispute is substantially connected with the State whose authority is seized of the matter.

1991, c. 64, a. 3164; I.N. 2014-05-01; I.N. 2015-11-01.

3165. The jurisdiction of foreign authorities is not recognized by Québec authorities in the following cases:

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(1) where, by reason of the subject matter or an agreement between the parties, Québec law grants exclusive jurisdiction to its authorities to hear the action which gave rise to the foreign decision;

(2) where, by reason of the subject matter or an agreement between the parties, Québec law recognizes the exclusive jurisdiction of another foreign authority;

(3) where Québec law recognizes an agreement by which exclusive jurisdiction has been conferred upon an arbitrator.

1991, c. 64, a. 3165; I.N. 2014-05-01.

3166. The jurisdiction of foreign authorities is recognized in matters of filiation where the child or either of his parents is domiciled in that State or is a national thereof.

1991, c. 64, a. 3166; I.N. 2014-05-01.

3167. For actions in matters of divorce, the jurisdiction of foreign authorities is recognized if one of the spouses had his or her domicile in the State where the decision was rendered, or had his or her residence in that State for at least one year before the institution of the proceedings, if the spouses are nationals of that State, or if the decision would be recognized in any of those States.

For actions in matters of dissolution of a civil union, the jurisdiction of foreign authorities is recognized only if their State provides for that institution; if it does so provide, their jurisdiction is recognized on the same conditions as for divorce.

1991, c. 64, a. 3167; 2002, c. 6, s. 73; I.N. 2014-05-01; 2016, c. 4, s. 367.

3168. In personal actions of a patrimonial nature, the jurisdiction of foreign authorities is recognized only in the following cases:

(1) the defendant was domiciled in the State where the decision was rendered;

(2) the defendant possessed an establishment in the State where the decision was rendered and the dispute relates to its activities in that State;

(3) injury was suffered in the State where the decision was rendered and it resulted from a fault which was committed in that State or from an injurious act or omission which occurred there;

(4) the obligations arising from a contract were to be performed in that State;

(5) the parties have submitted to the foreign authorities the present or future disputes between themselves arising out of a specific legal relationship; however, renunciation by a consumer or a worker of the jurisdiction of the authority of his place of domicile may not be set up against him;

(6) the defendant has submitted to the jurisdiction of the foreign authorities.

1991, c. 64, a. 3168; I.N. 2014-05-01; 2016, c. 4, s. 368.

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FINAL PROVISIONS

This Code replaces the Civil Code of Lower Canada adopted by chapter 41 of the statutes of 1865 of the Legislature of the Province of Canada, An Act respecting the Civil Code of Lower Canada, as amended. It also replaces the first section of chapter 39 of the statutes of 1980, An Act to establish a new Civil Code and to reform family law, as amended, and chapter 18 of the statutes of 1987, An Act to add the reformed law of persons, successions and property to the Civil Code of Québec.

This Code will come into force on the date to be fixed by the Government, in accordance with the provisions of the legislation respecting the implementation of the Civil Code reform.

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