

Louisiana Civil Code

State of Louisiana Act No 923 of 1991

Preliminary Title

[...]

Chapter 3. Conflict of Laws

Art. 14. Multistate cases

Unless otherwise expressly provided by the law of this state, cases having contacts with other states are governed by the law selected in accordance with the provisions of Book IV of this Code.

[...]

Book IV Conflict of Laws

Title I. General Provisions

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

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

That state is determined by evaluating the strength and pertinence of the relevant policies of all involved states in the light of:

- (1) the relationship of each state to the parties and the dispute; and
- (2) the policies and needs of the interstate and international systems, including the policies of upholding the justified expectations of parties and of minimizing the adverse consequences that might follow from subjecting a party to the law of more than one state.

Art. 3516. Meaning of 'State'

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

Art. 3517. Renvoi

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

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

Art. 3518. Domicile

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

Title II. Status

Art. 3519. Status of natural persons; general principle

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

That state is determined by evaluating the strength and pertinence of the relevant policies of the involved states in the light of:

- (1) the relationship of each state, at any pertinent time, to the dispute, the parties, and the person whose status is at issue;
- (2) the policies referred to in Article 3515; and
- (3) the policies of sustaining the validity of obligations voluntarily undertaken, of protecting children, minors, and others in need of protection, and of preserving family values and stability.

Art. 3520. Marriage

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

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

Art. 3521. Divorce or separation

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

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

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

Title III. Marital Property

Art. 3523. Movable

Except as otherwise provided in this Title, the rights and obligations of spouses with regard to movables, wherever situated, acquired by either spouse during marriage are governed by the law of the domicile of the acquiring spouse at the time of acquisition.

Art. 3524. Immovables situated in this state

Except as otherwise provided in this Title, the rights and obligations of spouses with regard to immovables situated in this state are governed by the law of this state. Whether such immovables are community or separate property is determined in accordance with the law of this state, regardless of the domicile of the acquiring spouse at the time of acquisition.

Art. 3525. Termination of community; immovables in another state acquired by a spouse while domiciled in this state

Upon the termination of the community between spouses, either of whom is domiciled in this state, their rights and obligations with regard to immovables situated in another state acquired during marriage by either spouse while domiciled in this state, which would be community property if situated in this state, shall be determined in accordance with the law of this state. This provision may be enforced by a judgment recognizing the spouse's right to a portion of the immovable or its value.

Art. 3526. Termination of community; movables and Louisiana immovables acquired by a spouse while domiciled in another state

Upon termination of the community, or dissolution by death or by divorce of the marriage of spouses either of whom is domiciled in this state, their respective rights and obligations with regard to immovables situated in this state and movables, wherever situated, that were acquired during the marriage by either spouse while domiciled in another state shall be determined as follows:

(1) Property that is classified as community property under the law of this state shall be treated as community property under that law; and

(2) Property that is not classified as community property under the law of this state shall be treated as the separate property of the acquiring spouse. However, the other spouse shall be entitled, in value only, to the same rights with regard to this property as would be granted by the law of the state in which the acquiring spouse was domiciled at the time of acquisition

Art. 3527. Louisiana immovables acquired by a spouse while domiciled in another state; death of the acquiring spouse while domiciled in another state

Upon the death of a spouse domiciled outside this state, that spouse's immovables situated in this state and acquired by that spouse while domiciled outside this state, which are not community property under the law of this state, are subject to the same rights, in value only, in favor of the surviving spouse as provided by the law of the domicile of the deceased at the time of death.

Title IV. Successions

Art. 3528. Formal validity of testamentary dispositions

A testamentary disposition is valid as to form if it is in writing and is made in conformity with:

(1) the law of this state; or

(2) the law of the state of making at the time of making; or

(3) the law of the state in which the testator was domiciled at the time of making or at the time of death; or

(4) with regard to immovables, the law that would be applied by the courts of the state in which the immovables are situated.

Art. 3529. Capacity and vices of consent

A person is capable of making a testament if, at the time of making the testament, he possessed that capacity under the law of the state in which he was domiciled either at that time or at the time of death.

If the testator was capable of making the testament under the law of both states, his will contained in the testament shall be held free of vices if it would be so held under the law of at least one of those states.

If the testator was capable of making the testament under the law of only one of the states specified in the first paragraph, his will contained in the testament shall be held free of vices only if it would be so held under the law of that state.

Art. 3530. Capacity of heir or legatee

The capacity or unworthiness of an heir or legatee is determined under the law of the state in which the deceased was domiciled at the time of his death.

Nevertheless, with regard to immovables situated in this state, the legatee must qualify as a person under the law of this state.

Art. 3531. Interpretation of testaments

The meaning of words and phrases used in a testament is determined according to the law of the state expressly designated by the testator for that purpose, or clearly contemplated by him at the time of making the testament, and, in the absence of such an express or implied selection, according to the law of the state in which the testator was domiciled at the time of making the testament.

Art. 3532. Movable

Except as otherwise provided in this Title, testate and intestate succession to movables is governed by the law of the state in which the deceased was domiciled at the time of death.

Art. 3533. Immovables situated in this state

Except as otherwise provided in this Title, testate and intestate succession to immovables situated in this state is governed by the law of this state.

The forced heirship law of this state does not apply if the deceased was domiciled outside this state at the time of death and he left no forced heirs domiciled in this state at the time of his death.

Art. 3534. Immovables situated in another state

Except as otherwise provided in this Title, testate and intestate succession to immovables situated in another state is governed by the law that would be applied by the courts of that state.

If the deceased died domiciled in this state and left at least one forced heir who at the time was domiciled in this state, the value of those immovables shall be included in calculating the disposable portion and in satisfying the legitime.

Title V. Real Rights

Art. 3535. Real rights in immovables

Real rights in immovables situated in this state are governed by the law of this state.

Real rights in immovables situated in another state are governed by the law that would be applied by the courts of that state.

Whether a thing is an immovable is determined according to the substantive law of the state in which the thing is situated.

Art. 3536. Real rights in corporeal movables

Real rights in corporeal movables are governed by the law of the state in which the movable was situated at the time the right was acquired.

Nevertheless, after the removal of a movable to this state, a real right acquired while the movable was situated in another state is subject to the law of this state if:

- (1) the right is incompatible with the law of this state; or
- (2) the holder of the right knew or should have known of the removal to this state; or
- (3) justice and equity so dictate in order to protect third parties who, in good faith, have dealt with the thing after its removal to this state.

Title VI. Conventional Obligations

Art. 3537. General rule

Except as otherwise provided in this Title, an issue of conventional obligations is governed by the law of the state whose policies would be most seriously impaired if its law were not applied to that issue.

That state is determined by evaluating the strength and pertinence of the relevant policies of the involved states in the light of:

- (1) the pertinent contacts of each state to the parties and the transaction, including the place of negotiation, formation, and performance of the contract, the location of the object of the contract, and the place of domicile, habitual residence, or business of the parties;
- (2) the nature, type, and purpose of the contract; and
- (3) the policies referred to in Article 3515, as well as the policies of facilitating the orderly planning of transactions, of promoting multistate commercial intercourse, and of protecting one party from undue imposition by the other.

Art. 3538. Form

A contract is valid as to form if made in conformity with:

- (1) the law of the state of making;

(2) the law of the state of performance to the extent that performance is to be rendered in that state;

(3) the law of the state of common domicile or place of business of the parties; or

(4) the law governing the substance of the contract under Articles 3537 or 3540.

Nevertheless, when for reasons of public policy the law governing the substance of the contract under Article 3537 requires a certain form, there must be compliance with that form.

Art. 3539. Capacity

A person is capable of contracting if he possesses that capacity under the law of either the state in which he is domiciled at the time of making the contract or the state whose law is applicable to the contract under Article 3537.

Art. 3540. Party autonomy

All other issues of conventional obligations are governed by the law expressly chosen or clearly relied upon by the parties, except to the extent that law contravenes the public policy of the state whose law would otherwise be applicable under Article 3537.

Art. 3541. Other juridical acts and quasi-contractual obligations

Unless otherwise provided by the law of this state, the law applicable to juridical acts other than contracts and to quasi-contractual obligations is determined in accordance with the principles of this Title.

Title VII. Delictual and Quasi-delictual Obligations

Art. 3542. General rule

Except as otherwise provided in this Title, an issue of delictual or quasi-delictual obligations is governed by the law of the state whose policies would be most seriously impaired if its law were not applied to that issue.

That state is determined by evaluating the strength and pertinence of the relevant policies of the involved states in the light of:

(1) the pertinent contacts of each state to the parties and the events giving rise to the dispute, including the place of conduct and injury, the domicile, habitual residence, or place of business of the parties, and the state in which the relationship, if any, between the parties was centered; and

(2) the policies referred to in Article 3515, as well as the policies of deterring wrongful conduct and of repairing the consequences of injurious acts.

Art. 3543. Issues of conduct and safety

Issues pertaining to standards of conduct and safety are governed by the law of the state in which the conduct that caused the injury occurred, if the injury occurred in that state or in another state whose law did not provide for a higher standard of conduct.

In all other cases, those issues are governed by the law of the state in which the injury occurred, provided that the person whose conduct caused the injury should have foreseen its occurrence in that state.

The preceding paragraph does not apply to cases in which the conduct that caused the injury occurred in this state and was caused by a person who was domiciled in, or had another significant connection with, this state. These cases are governed by the law of this state.

Art. 3544. Issues of loss distribution and financial protection

Issues pertaining to loss distribution and financial protection are governed, as between a person injured by an offense or quasi-offense and the person who caused the injury, by the law designated in the following order:

(1) If, at the time of the injury, the injured person and the person who caused the injury were domiciled in the same state, by the law of that state. Persons domiciled in states whose law on the particular issue is substantially identical shall be treated as if domiciled in the same state.

(2) If, at the time of the injury, the injured person and the person who caused the injury were domiciled in different states:

(a) when both the injury and the conduct that caused it occurred in one of those states, by the law of that state; and

(b) when the injury and the conduct that caused it occurred in different states, by the law of the state in which the injury occurred, provided that

(i) the injured person was domiciled in that state,

(ii) the person who caused the injury should have foreseen its occurrence in that state, and

(iii) the law of that state provided for a higher standard of financial protection for the injured person than did the law of the state in which the injurious conduct occurred.

Art. 3545. Products liability

Delictual and quasi-delictual liability for injury caused by a product, as well as damages, whether compensatory, special, or punitive, are governed by the law of this state:

(1) when the injury was sustained in this state by a person domiciled or residing in this state; or

(2) when the product was manufactured, produced, or acquired in this state and caused the injury either in this state or in another state to a person domiciled in this state.

The preceding paragraph does not apply if neither the product that caused the injury nor any of the defendant's products of the same type were made available in this state through ordinary commercial channels.

All cases not disposed of by the preceding paragraphs are governed by the other Articles of this Title.

Art. 3546. Punitive damages

Punitive damages may not be awarded by a court of this state unless authorized:

(1) By the law of the state where the injurious conduct occurred and by either the law of the state where the resulting injury occurred or the law of the place where the person whose conduct caused the injury was domiciled; or

(2) By the law of the state in which the injury occurred and by the law of the state where the person whose conduct caused the injury was domiciled.

Art. 3547. Exceptional cases

The law applicable under Articles 3543–3546 shall not apply if, from the totality of the circumstances of an exceptional case, it is clearly evident under the principles of Article 3542, that the policies of another state would be more seriously impaired if its law were not applied to the particular issue. In such event, the law of the other state shall apply.

Art. 3548. Domicile of juridical persons

For the purposes of this Title, and provided it is appropriate under the principles of Article 3542, a juridical person that is domiciled outside this state, but which transacts business in this state and incurs a delictual or quasi-delictual obligation arising from activity within this state, shall be treated as a domiciliary of this state.

Title VIII. Liberative Prescription

Art. 3549. Law governing liberative prescription

A. When the substantive law of this state would be applicable to the merits of an action brought in this state, the prescription and peremption law of this state applies.

B. When the substantive law of another state would be applicable to the merits of an action brought in this state, the prescription and peremption law of this state applies, except as specified below:

(1) If the action is barred under the law of this state, the action shall be dismissed unless it would not be barred in the state whose law would be applicable to the merits and maintenance of the action in this state is warranted by compelling considerations of remedial justice.

(2) If the action is not barred under the law of this state, the action shall be maintained unless it would be barred in the state whose law is applicable to the merits and maintenance of the action in this state is not warranted by the policies of this state and its relationship to the parties or the dispute nor by any compelling considerations of remedial justice.

C. Notwithstanding the foregoing provisions, if the substantive law of another state would be applicable to the merits of an action brought in this state and the action is brought by or on behalf of any person who, at the time the cause of action arose, neither resided in nor was domiciled in this state, the action shall be barred if it is barred by a statute of limitation or repose or by a law of prescription or peremption of the other state, and that statute or law is, under the laws of the other state, deemed to be substantive, rather than procedural, or deemed to bar or extinguish the right that is sought to be enforced in the action and not merely the remedy.

Section 2. The Louisiana State Law Institute is hereby instructed to redesignate Civil Code Articles 24 through 85 in Titles I, II, and III of Book I of the Civil Code. This redesignation is neither an amendment to nor a reenactment of these Articles.

Section 3. The headings, source lines, and comments in this Act are not a part of the law and are not enacted into law by virtue of their inclusion in this Act.

Section 4. This Act shall become effective on January 1, 1992, and shall apply to all actions filed after that date.

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