
DIGEST

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HB 81 Original

2021 Regular Session

Pressly

Abstract: Provides relative to prescription for revocatory and redhibition actions, interruption of prescription, and inheritance recognition.

Present law (C.C. Art. 2041) provides that the revocatory action must be brought within one year of discovery of the obligor's act or failure to act but never after three years from the act or failure to act itself, except in cases of fraud.

Proposed law removes the exception to the three-year period provided by present law in cases of fraud.

Present law (C.C. Art. 2534(A)(1)) provides that actions for redhibition against good faith sellers of movables and immovables other than residential or commercial immovables prescribe four years from delivery or one year from discovery, whichever occurs first.

Present law (C.C. Art. 2534(A)(2)) provides that actions for redhibition against good faith sellers of commercial and residential immovables prescribe one year from delivery.

Proposed law (C.C. Art. 2534(A)) changes the prescriptive periods under present law by providing that actions for redhibition against good faith sellers of movables and immovables prescribe two years from delivery or one year from discovery, whichever occurs first.

Present law (C.C. Art. 3499) provides that unless otherwise provided by legislation, personal actions prescribe in 10 years.

Proposed law (C.C. Art. 2534(A)) creates an exception to present law by providing that actions for breach of the warranty of fitness for use prescribe two years from delivery or one year from discovery, whichever occurs first.

Present law (C.C. Art. 2534(B)) provides that actions for redhibition against bad faith sellers of movables and immovables prescribe one year from discovery.

Proposed law retains present law but provides an outside time limitation of 10 years from the perfection of the contract of sale, whichever occurs first.

Present law (C.C. Art. 2534(C)) provides that prescription is interrupted when the seller accepts the thing for repairs and begins running again when the thing is returned to the buyer or when the buyer

is notified of the seller's inability or refusal to make repairs.

Proposed law retains present law but clarifies that this provision applies only to actions for redhibition.

Present law (C.C. Art. 3463) provides that a settlement and subsequent dismissal of a defendant pursuant to a transaction or compromise does not qualify as a voluntary dismissal for purposes of determining whether prescription has been interrupted.

Proposed law retains present law but makes non-substantive changes to employ terminology that is consistent with language used throughout the Civil Code.

Present law (C.C. Art. 3502) provides that an action for the recognition of a right of inheritance is subject to a liberative prescription of 30 years.

Proposed law repeals present law.

(Amends C.C. Arts. 2041, 2534, and 3463; Repeals C.C. Art. 3502)