

2017 Regular Session

HOUSE BILL NO. 115

BY REPRESENTATIVE CROMER

(On Recommendation of the Louisiana State Law Institute)

1 AN ACT

2 To amend and reenact Civil Code Articles 2350, 2369.3, and 2375, relative to community
3 property; to provide relative to a community enterprise; to provide for the effect of
4 a judgment of separation of property upon reconciliation; and to provide for related
5 matters.

6 Be it enacted by the Legislature of Louisiana:

7 Section 1. Civil Code Articles 2350, 2369.3, and 2375 are hereby amended and
8 reenacted to read as follows:

9 Art. 2350. Alienation of movable assets of business:

10 The spouse who is the sole manager of a community enterprise has the
11 exclusive right to alienate, encumber, or lease its movables unless the movables are
12 issued in the name of the other spouse or the concurrence of the other spouse is
13 required by law.

14 A community enterprise is a business that is not a juridical person.

15 Revision Comments - 2017

16 The definition of "community enterprise" provided herein is not new. It has
17 been relocated from Article 2369.3 to its more appropriate placement in this Article.
18 See *Lanza v. Lanza*, 898 So. 2d 280 (La. 2005). The change in terminology from
19 "legal entity" to "juridical person" is intended to be consistent with language used
20 throughout the Civil Code and does not change the law.

21 * * *

1 Art. 2369.3. Duty to preserve; standard of care

2 A spouse has a duty to preserve and to manage prudently former community
3 property under his control, ~~including a former community enterprise~~, in a manner
4 consistent with the mode of use of that property immediately prior to termination of
5 the community regime. He is answerable for any damage caused by his fault,
6 default, or neglect.

7 ~~A community enterprise is a business that is not a legal entity.~~

8 Revision Comments - 2017

9 (a) The deletion of the reference to a community enterprise in the first
10 paragraph does not change the law. That reference was both redundant and
11 unnecessary. The duty to preserve applies to all community assets, regardless of their
12 form.

13 (b) The 2017 revision moved the definition of a community enterprise to
14 Article 2350.

15 * * *

16 Art. 2375. Effect of judgment

17 A. Except as provided in Paragraph C of this Article, a judgment decreeing
18 separation of property terminates the regime of community property retroactively to
19 the day of the filing of the petition or motion therefor, without prejudice to rights
20 validly acquired in the interim between filing of the petition or motion and rendition
21 of judgment.

22 B. If a judgment has been rendered ~~on the ground that the spouses have lived~~
23 ~~separate and apart either after the filing of a petition for divorce without having~~
24 ~~reconciled or for six months~~, in accordance with Article 2374(C) or (D), a
25 reconciliation reestablishes the regime of community property between the spouses
26 retroactively to the day of its termination ~~the filing of the motion or petition therefor~~,
27 unless prior to the reconciliation the spouses execute a matrimonial agreement to the
28 contrary. This agreement need not be approved by the court and is effective toward
29 third persons when filed for registry in the manner provided by Article 2332. The
30 reestablishment of the community is effective toward third persons when a notice
31 thereof is filed for registry in the same manner.

