The original instrument and the following digest, which constitutes no part of the legislative instrument, were prepared by Margaret M. Corley.

## DIGEST 2020 Regular Session

SB 377 Original

Lambert

<u>Present law</u> (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.

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

<u>Present law</u> (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.

<u>Present law</u> (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.

<u>Proposed law</u> (C.C. Art. 2534(A)) changes the prescriptive periods under <u>present law</u> 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.

<u>Present law</u> (C.C. Art. 3499) provides that unless otherwise provided by legislation, personal actions prescribe in ten years.

<u>Proposed law</u> (C.C. Art. 2534(A)) creates an exception to <u>present law</u> 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.

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

<u>Proposed law</u> retains <u>present law</u> but provides an outside time limitation of ten years from the perfection of the contract of sale, whichever occurs first.

<u>Present law</u> (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.

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

<u>Present law</u> (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.

<u>Proposed law</u> retains <u>present law</u> but makes nonsubstantive changes to employ terminology that is consistent with language used throughout the Civil Code.

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

Proposed law repeals present law.

Effective August 1, 2020.

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