

## Louisiana Adopts Two-Year Statute of Limitations for Tort Claims

One of the more unique aspects of Louisiana law was its 1-year statute of limitations (liberative prescription) for tort claims.<sup>1</sup> The one-year time period to file a lawsuit was stress-inducing for plaintiffs, particularly in complex matters that involved multiple parties and extensive investigation. The new Act provides:

### Art. 3493.11.

#### Delictual Actions

Delictual actions (torts) are subject to a liberative prescription of two years. This prescription commences to run from the day injury, or damage is sustained. It does not run against minors or interdicts in action involving permanent disability. It is brought pursuant to the Louisiana Products Liability Act or state law governing product liability actions in effect at the time of the injury or damage.

### Art. 3493.12.

#### Damage to immovable property; commencement and accrual of prescription

When damage is caused to immovable property, the two-year prescription commences to run from the day the owner of the immovable acquired, or should have acquired, knowledge of the damage.

This Act shall become effective on July 1, 2024.

Importantly, Section 3 of the Act provides that the new statute shall be given prospective application only and shall apply to actions arising after the effective date of the Act. Therefore, damages that have already occurred are still subject to the one-year prescriptive period. For example, if you have a loss involving a fire that occurred on June 30, 2024, the suit must still be filed before June 30, 2025. However, if the fire occurs on July 1, 2024, the suit must be filed before July 1, 2026.

The new Act specifically provides that, in matters involving damages to real property (termed immovable property under Louisiana law), the prescriptive period commences when the plaintiff knew or should have known of the damages. This is commonly referred to as the discovery rule. The new Act, however, does not have similar discovery-rule-conditioning language for the prescriptive period applicable to personal injuries or damages solely to personal property. This suggests that the prescriptive period commences when the personal injury or damage to personal property occurs, regardless of whether the injury is observable or latent. Whether the Act's language affects the discovery rule for personal injuries and personal property damages is an issue that should be heard by the courts.



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<sup>1</sup> La. Civ. Code art. 3493.11 and 3493.12

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