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DIVISION 3. OBLIGATIONS [1427 - 3273.69] (*Heading of Division 3 amended by Stats. 1988, Ch. 160, Sec. 14.*)

PART 1. OBLIGATIONS IN GENERAL [1427 - 1543] (*Part 1 enacted 1872.*)

TITLE 4. EXTINCTION OF OBLIGATIONS [1473 - 1543] (*Title 4 enacted 1872.*)

CHAPTER 2. Offer of Performance [1485 - 1505] (*Chapter 2 enacted 1872.*)

[1485.](#) An obligation is extinguished by an offer of performance, made in conformity to the rules herein prescribed, and with intent to extinguish the obligation.

(Enacted 1872.)

[1486.](#) An offer of partial performance is of no effect.

(Enacted 1872.)

[1487.](#) An offer of performance must be made by the debtor, or by some person on his behalf and with his assent.

(Enacted 1872.)

[\[1488.\]](#) Section Fourteen Hundred and Eighty-eight. An offer of performance must be made to the creditor, or to any one of two or more joint creditors, or to a person authorized by one or more of them to receive or collect what is due under the obligation, if such creditor or authorized person is present at the place where the offer may be made; and if not, wherever the creditor may be found.

(Amended by Code Amendments 1873-74, Ch. 612.)

[1489.](#) In the absence of an express provision to the contrary, an offer of performance may be made, at the option of the debtor:

1. At any place appointed by the creditor; or,
2. Wherever the person to whom the offer ought to be made can be found; or,
3. If such person cannot, with reasonable diligence, be found within this State, and within a reasonable distance from his residence or place of business, or if he evades the debtor, then at his residence or place of business, if the same can, with reasonable diligence, be found within the State; or,
4. If this cannot be done, then at any place within this State.

(Enacted 1872.)

[1490.](#) Where an obligation fixes a time for its performance, an offer of performance must be made at that time, within reasonable hours, and not before nor afterwards.

(Enacted 1872.)

[1491.](#) Where an obligation does not fix the time for its performance, an offer of performance may be made at any time before the debtor, upon a reasonable demand, has refused to perform.

(Enacted 1872.)

[1492.](#) Where delay in performance is capable of exact and entire compensation, and time has not been expressly declared to be of the essence of the obligation, an offer of performance, accompanied with an offer of such compensation, may be made at any time after it is due, but without prejudice to any rights acquired by the creditor, or by any other person, in the meantime.

(Enacted 1872.)

1493. An offer of performance must be made in good faith, and in such manner as is most likely, under the circumstances, to benefit the creditor.

(Enacted 1872.)

1494. An offer of performance must be free from any conditions which the creditor is not bound, on his part, to perform.

(Enacted 1872.)

1495. An offer of performance is of no effect if the person making it is not able and willing to perform according to the offer.

(Enacted 1872.)

1496. The thing to be delivered, if any, need not in any case be actually produced, upon an offer of performance, unless the offer is accepted.

(Enacted 1872.)

1497. A thing, when offered by way of performance, must not be mixed with other things from which it cannot be separated immediately and without difficulty.

(Enacted 1872.)

1498. When a debtor is entitled to the performance of a condition precedent to, or concurrent with, performance on his part, he may make his offer to depend upon the due performance of such condition.

(Enacted 1872.)

1499. A debtor has a right to require from his creditor a written receipt for any property delivered in performance of his obligation.

(Enacted 1872.)

1500. An obligation for the payment of money is extinguished by a due offer of payment, if the amount is immediately deposited in the name of the creditor, with some bank or savings and loan association within this state, of good repute, and notice thereof is given to the creditor.

(Amended by Stats. 1981, Ch. 632, Sec. 1. Effective September 23, 1981.)

1501. All objections to the mode of an offer of performance, which the creditor has an opportunity to state at the time to the person making the offer, and which could be then obviated by him, are waived by the creditor, if not then stated.

(Enacted 1872.)

1502. The title to a thing duly offered in performance of an obligation passes to the creditor, if the debtor at the time signifies his intention to that effect.

(Enacted 1872.)

1503. The person offering a thing, other than money, by way of performance, must, if he means to treat it as belonging to the creditor, retain it as a depositary for hire, until the creditor accepts it, or until he has given reasonable notice to the creditor that he will retain it no longer, and, if with reasonable diligence he can find a suitable depositary therefor, until he has deposited it with such person.

(Enacted 1872.)

1504. An offer of payment or other performance, duly made, though the title to the thing offered be not transferred to the creditor, stops the running of interest on the obligation, and has the same effect upon all its incidents as a performance thereof.

(Enacted 1872.)

1505. If anything is given to a creditor by way of performance, which he refuses to accept as such, he is not bound to return it without demand; but if he retains it, he is a gratuitous depositary thereof.

(Enacted 1872.)