CHAPTER 9-09
EXTINCTION, RESCISSION, ALTERATION, AND CANCELLATION

9-09-01. Extinction of contracts.

A contract may be extinguished in like manner with any other obligation and also by rescission, alteration, or cancellation to the extent and in the manner provided by this title.

9-09-02. Rescission - When permitted.

A party to a contract may rescind the same in the following cases only:

1. If the consent of the party rescinding or of any party jointly contracting with the party rescinding was given by mistake or obtained through duress, menace, fraud, or undue influence exercised by or with the connivance of the party as to whom the party rescinding rescinds or of any other party to the contract jointly interested with such party;
2. If through the fault of the party as to whom the party rescinding rescinds the consideration for the rescinding party's obligation fails in whole or in part;
3. If such consideration becomes entirely void from any cause;
4. If such consideration before it is rendered to the party rescinding fails in a material respect from any cause; or
5. By consent of all of the other parties.

9-09-03. Rescission permitted notwithstanding provisions against.

A stipulation that errors of description shall not avoid a contract or shall be the subject of compensation, or both, does not take away the right of rescission for fraud, nor for mistake when such mistake is in a matter essential to the inducement of the contract and is not capable of exact and entire compensation.

9-09-04. Rules governing rescission.

Rescission, when not effected by consent or pursuant to sections 9-08-08 and 9-08-09, can be accomplished only by the use, on the part of the party rescinding, of reasonable diligence to comply with the following rules:

1. The party rescinding shall rescind promptly upon discovering the facts which entitle that party to rescind, if that party is free from duress, menace, undue influence, or disability and is aware of that party's right to rescind; and
2. The party rescinding shall restore to the other party everything of value which the party rescinding has received from the other party under the contract or must offer to restore the same upon condition that such party shall do likewise, unless the latter is unable or positively refuses to do so.

9-09-05. Alteration of oral contract.

A contract not in writing may be altered in any respect by consent of the parties in writing without a new consideration, or by oral consent of the parties with a new consideration, and is extinguished thereby to the extent of the alteration.

9-09-06. Alteration of written contract.

A contract in writing may be altered by a contract in writing or by an executed oral agreement and not otherwise. An oral agreement is executed within the meaning of this section whenever the party performing has incurred a detriment which that party was not obligated by the original contract to incur.

9-09-07. Destruction or cancellation by consent.

The destruction or cancellation of a written contract or of the signature of the parties liable thereon with intent to extinguish the obligation thereof extinguishes it as to all of the parties consenting to the act.

9-09-08. Cancellation or destruction of contract - Effect.

The intentional destruction, cancellation, or material alteration of a written contract by a party entitled to any benefit under it, or with that party's consent, extinguishes all the executory obligations of the contract in that party's favor against parties who do not consent to the act. When a contract is executed in duplicate, an alteration or destruction of one copy while the other exists is not within the provisions of this section.