

**TITLE 60  
WAREHOUSING AND DEPOSITS**

**CHAPTER 60-01  
DEPOSITS - GENERAL PROVISIONS**

**60-01-01. Deposit - Classification.**

A deposit may be voluntary or involuntary and may be made for safekeeping or for exchange.

**60-01-01.1. Definition.**

For purposes of this title, "commissioner" means the agriculture commissioner.

**60-01-02. Voluntary deposit - Depositor - Depositary - Definitions.**

A voluntary deposit is one which is made by one person giving to another with that person's consent the possession of personal property to keep for the benefit of the former or of a third person. The person giving is called the depositor and the person receiving the depositary.

**60-01-03. Involuntary deposits - Definition - Obligation of depositary.**

An involuntary deposit is made:

1. By the accidental leaving or placing of personal property in the possession of any person without negligence on the part of its owner; or
2. In cases of fire, shipwreck, inundation, insurrection, riot, or like extraordinary emergencies, by the owner of personal property committing it out of necessity to the care of any person.

The person with whom a thing is so deposited is bound to take charge of it if able to do so.

**60-01-04. Deposit for safekeeping - Definition.**

A deposit for safekeeping is one in which the depositary is bound to return the identical thing deposited.

**60-01-05. Deposit for exchange - Definition.**

A deposit for exchange is one in which the depositary is bound only to return a thing corresponding in kind to that which is deposited.

**60-01-06. Gratuitous deposit - Definition.**

A gratuitous deposit is a deposit for which the depositary receives no consideration beyond the mere possession of the thing deposited.

**60-01-07. Involuntary deposit - Gratuitous.**

An involuntary deposit is gratuitous, the depositary being entitled to no reward.

**60-01-08. Care required by gratuitous depositary.**

A gratuitous depositary must use at least slight care for the preservation of the thing deposited.

**60-01-09. Duties of gratuitous depositary - Termination of duties.**

The duties of a gratuitous depositary cease:

1. Upon the depositary restoring the thing deposited to its owner; or
2. Upon the depositary giving reasonable notice to the owner to remove it and the owner failing to do so within a reasonable time. An involuntary depositary under subsection 2 of section 60-01-03 cannot give such notice until the emergency that gave rise to the deposit has passed.

**60-01-10. Storage - Definition - Depositary for hire - Definition.**

Storage shall mean a deposit which is not gratuitous. The depositary in such case shall be called a depositary for hire.

**60-01-11. Depositary for hire must use ordinary care.**

A depositary for hire must use at least ordinary care for the preservation of the thing deposited.

**60-01-12. Depositary for hire - Right to compensation.**

In the absence of a different agreement or usage, a depositary for hire is entitled to one week's hire for the sustenance and shelter of living animals during any fraction of a week and to half a month's hire for the storage of any other property during any fraction of a half month.

**60-01-13. Delivery on demand - Exceptions.**

A depositary, on demand, must deliver the thing to the person for whose benefit it was deposited, whether the deposit was made for a specified time or not, unless the depositary has a lien upon the thing deposited or has been forbidden or prevented from doing so by the real owner thereof or by an act of the law, and has given notice as required by section 60-01-16.

**60-01-14. Demand - Prerequisite to delivery.**

A depositary is not bound to deliver a thing deposited without demand even when the deposit is made for a specified time.

**60-01-15. Place of delivery.**

A depositary must deliver the thing deposited at the depositary's residence or place of business as may be most convenient for the depositary.

**60-01-16. Prompt notice of adverse claims - Given by depositary.**

A depositary must give prompt notice, to the person for whose benefit the deposit was made, of any proceedings taken adversely to the person's interest in the thing deposited which may tend to excuse the depositary from delivering the same to the person.

**60-01-17. Notice of wrongful detention.**

A depositary who believes that a thing deposited with the depositary is detained wrongfully from its true owner may give the true owner notice of the deposit. If within a reasonable time afterward the true owner does not claim it and sufficiently establish the true owner's right thereto and indemnify the depositary against the claim of the depositor, the depositary is exonerated from liability to the person to whom the depositary gave the notice, upon returning the thing to the depositor, or assuming in good faith a new obligation changing the depositary's position in respect to the thing to the depositary's prejudice.

**60-01-18. Delivery to disagreeing owners by depositary.**

If a thing deposited is owned jointly or in common by persons who cannot agree upon the manner of its delivery, the depositary may deliver to each the person's proper share thereof, if it can be done without injury to the thing.

**60-01-19. Indemnity to depositary for damages.**

A depositor must indemnify the depositary:

1. For all damage caused to the depositary by the defects or vices of the thing deposited.
2. For all expenses necessarily incurred by the depositary about the thing other than such as are involved in the nature of the undertaking.

**60-01-20. Care of animals by depositary.**

A depositary of living animals must provide them with suitable food and shelter and must treat them kindly.

**60-01-21. Deposit - Permission to use.**

A depositary may not use the thing deposited nor permit it to be used for any purpose without the consent of the depositor. The depositary may not open it, if it purposely is fastened by the depositor, without the consent of the latter except in case of necessity.

**60-01-22. Damages for wrongful use of deposit.**

If a thing deposited with a depositary is damaged by the wrongful use thereof by the depositary, the depositary is liable for such damage unless such damage inevitably must have happened though the property had not been used in that manner.

**60-01-23. Sale of deposit by depositary - When permissible.**

If a thing deposited is in actual danger of perishing before instructions can be obtained from the depositor, the depositary may sell it for the best price obtainable and retain the proceeds as a deposit, giving immediate notice of these proceedings to the depositor.

**60-01-24. Presumption of willfulness or gross negligence.**

If a thing is lost or injured during its deposit and the depositary refuses to inform the depositor of the circumstances under which the loss or injury occurred so far as the depositary has information concerning them, or if the depositary willfully misrepresents the circumstances to the depositor, the depositary is presumed to have permitted the loss or injury to occur willfully or by gross negligence.

**60-01-25. Measure of liability of depositary for negligence.**

The liability of a depositary for negligence cannot exceed the amount which the depositor informs the depositary, or which the depositary has reason to suppose, the thing deposited is worth.

**60-01-26. When deposit may be terminated.**

In the absence of an agreement as to the length of time during which a deposit is to continue, it may be terminated by the depositor at any time and by the depositary upon reasonable notice.

**60-01-27. Termination of deposit by payment for full time.**

Notwithstanding an agreement respecting the length of time during which a deposit is to continue, it may be terminated by the depositor on paying all that would become due to the depositary in case the deposit continued for such length of time.

**60-01-28. Sale of unclaimed and perishable property.**

The provisions of sections 8-03-09 and 8-03-10 relating to the sale of unclaimed and perishable property shall apply to hotelkeepers and warehousemen.

**60-01-29. Hotelkeeper's liability for loss or injury to guest's property.**

No hotelkeeper who constantly has in the hotelkeeper's inn or hotel a metal safe or suitable vault in good order and fit for the custody of money, bank notes, jewelry, articles of gold and silver manufacture, precious stones, personal ornaments, railroad mileage books or tickets, negotiable or valuable papers and bullion, and who keeps on the doors of the sleeping rooms used by guests suitable locks or bolts, and on the transoms and windows of said rooms suitable fastenings, and who keeps a copy of this section printed in distinct type constantly posted in not less than ten conspicuous places in said hotel or inn, shall be liable for loss or injury suffered by any guest, unless such guest has offered to deliver the same to such innkeeper or hotelkeeper for custody in such metal safe or vault, and such innkeeper or hotelkeeper has omitted or refused to take it and deposit it in such safe or vault for custody and to give such guest a receipt therefor. The keeper of any inn or hotel shall not be obliged to receive from any one guest for deposit in such safe or vault any property hereinbefore described exceeding the total value of

three hundred dollars and shall not be liable for any excess for such property, whether received or not.

**60-01-30. Special arrangement between hotelkeeper and guest.**

A hotelkeeper by a special arrangement with a guest may receive for deposit in a safe or vault of the character mentioned in section 60-01-29 any property upon such terms as such keeper and guest may agree to in writing, but every hotelkeeper shall be liable for any loss of the articles enumerated in section 60-01-29 of a guest in the hotel after said articles have been accepted for deposit, if such loss is caused by theft or negligence of the hotelkeeper or any of the hotelkeeper's servants.

**60-01-31. Duties of guest and hotelkeeper.**

Every guest, and everyone intending to be a guest, of any hotel, upon delivering any of the person's baggage or other article of property to the proprietor of the hotel, or to the proprietor's servants, for safekeeping elsewhere than in the room assigned to the guest, shall demand a check or receipt for such property to evidence the fact of such delivery, and the proprietor shall give such check or receipt. A hotel proprietor shall not be liable for the loss or injury to such baggage or other article of property of the hotel guest unless the same actually has been delivered by such guest to the hotel proprietor or to the proprietor's servants for safekeeping, or unless the loss or injury occurred through the negligence of the hotel proprietor or of the proprietor's servants or employees.

**60-01-32. Character of liability - Limitations.**

The liability of the keeper of a hotel for the loss of or injury to personal property placed by hotel guests under the keeper's care, other than that described in sections 60-01-29 through 60-01-31, shall be that of a depositary for hire. Such liability, in no case, shall exceed the sum of one hundred fifty dollars for each trunk and its contents, ten dollars for each box, bundle, or package and its contents, and fifty dollars for all other miscellaneous effects, including wearing apparel and personal belongings, unless the hotelkeeper has consented in writing with such guest to assume a greater liability. If the loss or injury is caused by a fire not intentionally produced by the hotelkeeper or the hotelkeeper's servants, the hotelkeeper is not liable.

**60-01-33. Baggage left at hotel or forwarded to hotel - Liability of hotelkeeper.**

Whenever a person allows the person's baggage or property to remain in a hotel after leaving the hotel as a guest, and after the relation of hotelkeeper and guest has ceased, or whenever a person forwards the person's baggage to a hotel before becoming a guest thereof, and the same is received in such hotel, the hotelkeeper may hold such baggage or property at the risk of the owner.

**60-01-34. Finder - Depositary for hire - Assumption of ownership by finder.**

One who finds a thing lost is not bound to take charge of it but, if the person does so, the person is thenceforward a depositary for the owner with the rights and obligations of a depositary for hire. Notwithstanding chapters 36-22 and 47-30.1 or any other provision of law, an individual who finds lost personal property or money and places the property or money in the custody of a law enforcement agency is entitled to assume ownership of the property or money if the property or money is not claimed by its owner within two years after the property or money was placed in the custody of the law enforcement agency.

**60-01-35. Finder must notify owner.**

If the finder of a thing knows or suspects who is the owner, the finder must give such owner notice of the finding with reasonable diligence. If the finder fails to do so, the finder is liable in damages to the owner and has no claim to any reward offered by the owner for the recovery of the thing nor to any compensation for the finder's trouble or expenses.

**60-01-36. Finder may require proof of ownership.**

The finder of a thing, before giving it up, may require in good faith, reasonable proof of ownership from any person claiming it.

**60-01-37. Compensation and reward to finder.**

The finder of a thing is entitled to compensation for all expenses necessarily incurred by the finder in its preservation and for any other services necessarily performed by the finder about it and to a reasonable reward for keeping it.

**60-01-38. Storing releases finder from liability.**

The finder of a thing may exonerate the finder from liability at any time by placing it on storage with any responsible person of good character at a reasonable expense.

**60-01-39. When finder may sell.**

The finder of a thing may sell it, if it is a thing which is commonly the subject of sale, when the owner, with reasonable diligence, cannot be found, or, being found, refuses upon demand to pay the lawful charges of the finder in the following cases:

1. When the thing is in danger of perishing or of losing the greater part of its value; or
2. When the lawful charges of the finder amount to two-thirds of its value.

**60-01-40. Manner of sale.**

A sale under the provisions of section 60-01-39 must be made as the sale of a thing pledged is made.

**60-01-41. Claim against owner exonerated by surrender to finder.**

The owner of a thing found may exonerate the owner from the claims of the finder by surrendering it to the finder in satisfaction thereof.

**60-01-42. Things abandoned by owner.**

The provisions of this chapter have no application to things which intentionally have been abandoned by their owner.

**60-01-43. Deposit for exchange - Transfer of title.**

A deposit for exchange transfers to the depositary the title to the thing deposited and merely creates between the depositary and the depositor the relation of debtor and creditor.