

CHAPTER 35-06 PLEDGE

35-06-01. Pledge defined.

Pledge is a deposit of personal property as security for the performance of another act. Every contract by which the possession of personal property is transferred as security only is a pledge and its validity and effect are governed by the provisions of this chapter except as modified by the provisions of title 41.

35-06-02. Lien of pledge dependent on possession.

The lien of a pledge is dependent on possession and no pledge is valid until the property pledged is delivered to the pledgee or to a pledgeholder as hereinafter prescribed.

35-06-03. Increase of property pledged with property.

The increase of property pledged is pledged with the property.

35-06-04. Lien may be pledged.

One who has a lien upon property may pledge it to the extent of that person's lien.

35-06-05. Pledge by apparent owner - Effect - Estoppel of actual owner.

One who has allowed another to assume the apparent ownership of property for the purpose of making any transfer of it cannot set up that person's own title to defeat a pledge of the property made by the other to a pledgee who received the property in good faith in the ordinary course of business and for value.

35-06-06. Pledge to secure another's obligation - Effect - Withdrawal.

Property may be pledged as security for the obligation of a person other than the owner and in so doing the owner has all the rights of a pledgor for the owner except that one who pledges property as security for the obligation of another cannot withdraw the property pledged otherwise than as a pledgor might, and if the owner receives from the debtor a consideration for the pledge, the owner cannot withdraw it without the debtor's consent.

35-06-07. Pledgeholder defined - Duties.

A pledgor and pledgee may agree upon a third person with whom to deposit the property pledged who, if the third person accepts the deposit, is called a pledgeholder, and the third person must enforce all the rights of the pledgee unless authorized by the pledgee to waive them.

35-06-08. Liability of pledgee and of pledgeholder.

A pledgee or a pledgeholder for reward assumes the duties and liabilities of a depositary for reward. A gratuitous pledgeholder assumes the duties and liabilities of a gratuitous depositary.

35-06-09. Exoneration of pledgeholder.

A pledgeholder for reward cannot exonerate the pledgeholder from the pledgeholder's undertaking, and a gratuitous pledgeholder can do so only by giving reasonable notice to the pledgor and pledgee to appoint a new pledgeholder, and in case of their failure to agree, by depositing the property pledged with some impartial person who then will be entitled to a reasonable compensation for that person's care of the same.

35-06-10. Fraudulent misrepresentation of property pledged - Rights of creditor.

When a debtor has obtained credit or an extension of time by a fraudulent misrepresentation of the value of the property pledged by or for the debtor, the creditor may demand a further pledge to correspond with the value represented and in default thereof may recover the creditor's debt immediately though it is not actually due.

35-06-11. Pledge enforced - Sale when performance due.

When performance of the act for which a pledge is given is due in whole or in part, the pledgee may collect what is due the pledgee by a sale of the property pledged, subject to the rules and exceptions prescribed in this chapter and in sections 41-09-98 through 41-09-123.

35-06-12. Demand for performance necessary.

Repealed by S.L. 1965, ch. 296, § 32.

35-06-13. How demand for performance waived.

Repealed by S.L. 1965, ch. 296, § 32.

35-06-14. Notice to pledgor of sale.

Repealed by S.L. 1965, ch. 296, § 32.

35-06-15. Waiver of notice of sale.

Repealed by S.L. 1965, ch. 296, § 32.

35-06-16. Sale must be by public auction - Notice of sale.

Repealed by S.L. 1965, ch. 296, § 32.

35-06-17. Foreclosure of pledged evidence of debt - Demand.

Repealed by S.L. 1965, ch. 296, § 32.

35-06-18. Notice of sale - Publication - Posting - Service - Report of sale.

Repealed by S.L. 1965, ch. 296, § 32.

35-06-19. Redemption - Procedure.

Repealed by S.L. 1965, ch. 296, § 32.

35-06-20. Sale - When pledgor may require.

Repealed by S.L. 1965, ch. 296, § 32.

35-06-21. Sale - Application of proceeds.

Repealed by S.L. 1965, ch. 296, § 32.

35-06-22. Sale before debt is due - Retention of proceeds.

Repealed by S.L. 1965, ch. 296, § 32.

35-06-23. Sale - Purchase by pledgee or pledgeholder.

Repealed by S.L. 1965, ch. 296, § 32.

35-06-24. Foreclosure by action.

Repealed by S.L. 1965, ch. 296, § 32.