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CHAPTER 41
DEPOSIT FOR KEEPING

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ARTICLE 1
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§ 41101. Depositor; Indemnifying Depositary.

The depositor must indemnify the depositary:

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

SOURCE: CC § 1833.

§ 41102. Obligation of Depositary of Animals.

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

SOURCE: CC § 1834.

§ 41103. Obligation Regarding Use.

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A depositary may not use the thing deposited, or permit it to be used, for any purpose, without the consent of the depositor, open it without the consent of the latter, except in case of necessity.

SOURCE: CC § 1835.

§ 41104. Damages for Wrongful Use.

A depositary is liable for any damage happening to the thing deposited, during his wrongful use thereof, unless such damage must inevitably have happened though the property had not been thus used.

SOURCE: CC § 1836.

§ 41105. Sale; Perishables.

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 his proceedings to the depositor.

SOURCE: CC § 1837.

§ 41106. Injury or Loss to Thing Deposited.

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 he has information concerning them, or willfully misrepresents the circumstances to him, the depositary is presumed to have willfully or by gross negligence, permitted the loss or injury to occur.

SOURCE: CC § 1838.

§ 41107. Services by Depositary.

So far as any service is rendered by a depositary, or required from him, his duties and liabilities are prescribed by Part 7 of this Title.

SOURCE: CC § 1839.

§ 41108. Depositary's Liability.

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

SOURCE: CC § 1840.

NOTE: No 1970 Civil Code §§ 1841-1843 existed.

ARTICLE 2
GRATUITOUS DEPOSIT

- § 41201. Gratuitous Deposit.
- § 41202. Involuntary Deposit.
- § 41203. Care of Gratuitous Depositary.
- § 41204. When Duties Dease.

§ 41201. Gratuitous Deposit.

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

SOURCE: CC § 1844.

§ 41202. Involuntary Deposit.

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

SOURCE: CC § 1845.

§ 41203. Care of Gratuitous Depositary.

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

SOURCE: CC § 1846.

§ 41204. When Duties Cease.

The duties of a gratuitous depositary cease:

1. Upon his restoring the thing deposited to its owner; or
2. Upon his giving reasonable notice to the owner to remove it, and the owner failing to do so within a reasonable time. But an involuntary depositary, under §40103(2) of this Title, cannot give such notice until the emergency which gave rise to the deposit is past.

SOURCE: CC § 1847

NOTE: No 1970 Civil Code §§ 1848-1850 existed.

**ARTICLE 3
STORAGE**

- § 41301. Deposit for Hire.
- § 41302. Degree of Care Required.
- § 41303. Fractional Week Compensation.
- § 41304. Termination of Deposit.
- § 41305. Payment on Termination.
- § 41306. Lien, Storage, Generally.
- § 41307. Storage Property Sold.

§ 41301. Deposit for Hire.

A deposit not gratuitous is called storage. The depositary in such case is called a depositary for hire.

SOURCE: CC § 1851.

§ 41302. Degree of Care Required.

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

SOURCE: CC § 1852.

§ 41303. Fractional Week 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 one-half month's hire for the storage of any other property during any fraction of a half month.

SOURCE: CC § 1853.

§ 41304. Termination of Deposit.

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.

SOURCE: CC § 1854.

§ 41305. Payment on Termination.

Notwithstanding an agreement respecting the length of time during which the deposit is to continue, it may be terminated by the depositor on

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paying all that would become due to the depositary in case of the deposit so continuing.

SOURCE: CC § 1855.

§ 41306. Lien, Storage, Generally.

A depositary for hire has a lien for storage charges and for advances and insurance incurred at the request of the bailor, and for money necessarily expended in and about the care, preservation and keeping of the property stored, and he also has a lien for money advanced at the request of the bailor, to discharge a prior lien, and for the expenses of a sale where default has been made in satisfying a valid lien. The rights of the depositary for hire to such lien are regulated by Part 3 of this Title.

SOURCE: CC § 1856.

§ 41307. Storage Property Sold.

If from any cause other than want of ordinary care and diligence on his part, a depositary for hire is unable to deliver perishable property, baggage, or luggage received by him for storage, or to collect his charges for storage due thereof, he may cause such property to be sold, under the provisions of this section, upon which storage charges shall not be due and unpaid for one year at the time of such sale.

SOURCE: CC § 1857

NOTE: Article 3 of this Chapter, *Warehouse Receipts*, was repealed by P.L. 13-150 and replaced with appropriate parts of Title 13 (UCC) of this Code.

ARTICLE 4
INNKEEPERS

- § 41401. Liability of Innkeepers.
- § 41402. Notice of Nonliability.
- § 41403. Lien of Innkeepers.
- § 41404. Lien of Keepers of Apartments, etc.

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- § 41405. Sale of Unclaimed Baggage.
- § 41406. Keeper to Post Rates of Charges.
- § 41407. Keeper to Maintain Register.

§ 41401. Liability of Innkeepers.

The liability of an innkeeper, hotel keeper, operator of a licensed hospital, rest home or sanitarium, furnished apartment house keeper, furnished bungalow court keeper, furnished mobile home keeper, boardinghouse or lodging house keeper, for losses of or injuries to personal property, is that of a depositary for hire; provided, however, that in no case shall such liability exceed the sum of one hundred dollars (\$100.00) for each trunk and its contents, fifty dollars (\$50.00) for each valise or travelling bag and contents, ten dollars (\$10.00) for each box, bundle or package and contents, and two hundred fifty dollars (\$250.00) for all other personal property of any kind, unless he shall have consented in writing with the owner thereof to assume a greater liability.

SOURCE: CC § 1859.

§ 41402. Notice of Nonliability.

If an innkeeper, hotel keeper, operator of a licensed hospital, rest home or sanitarium, boardinghouse or lodging house keeper, keeps a fireproof safe and gives notice to a guest, patient, boarder or lodger, either personally or by putting up a printed notice in a prominent place in the office or the room occupied by the guest, patient, boarder, or lodger, that he keeps such a safe and will not be liable for money, jewelry, documents, furs, fur coats and fur garments, or other articles of unusual value and small compass, unless placed therein, he is not liable, except so far as his own acts shall contribute thereto, for any loss of or injury to such articles, if not deposited with him to be placed therein, nor in any case for more than the sum of \$250.00 for any or all such property of any individual guest, patient, boarder, or lodger, unless he shall have given a receipt in writing therefor to such guest, patient, boarder, or lodger.

SOURCE: CC § 1860 added by P.L. 9-245 (8/13/68).

§ 41403. Lien of Innkeepers.

Hotel, motel, inn, boardinghouse and lodging house keepers shall have a lien upon the baggage and other property belonging to or legally under the control of their guests, or boarders, or lodgers which may be in such hotel,

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motel, inn, or boarding or lodging house for the proper charges due from such guests, or boarders, or lodgers, for their accommodation, board, and lodging and room rent, and such extras as are furnished at their request, and for all money paid for or advanced to such guests, or boarders or lodgers, and for the costs of enforcing such lien, with the right to the possession of such baggage and other property until such charges and moneys are paid, and unless such charges and moneys shall be paid within 60 days from the time when the same became due, said hotel, motel, inn, boardinghouse, or lodging house keeper may sell said baggage and property at public auction to the highest bidder, within ten days after giving notice of such sale by publication of a notice containing the name of the debtor, the amount due, a brief description of the property to be sold, and the time and place of such sale, in a newspaper published in Guam, and also by mailing, at least 15 days before such sale, a copy of such notice addressed to such guest, boarder or lodger at his post office address, if known, and if not known, such notice shall be addressed to such guest, boarder or lodger at the place where such hotel, motel, inn, boardinghouse, or lodging house is situated; and after satisfying such lien out of the proceeds of such sale together with any reasonable costs that may have been incurred in enforcing said lien, the residue of said proceeds of sale, if any, shall upon demand made within six months after such sale, be paid by said hotel, motel, inn, boardinghouse, or lodging house keeper to such guest, boarder or lodger; and if not demanded within six months from the date of such sale, such residue shall be paid into the treasury of Guam; and if the same be not claimed by the owner thereof, or his legal representatives, within one year thereafter, the same shall be paid into the general fund of said treasury; and such sale shall be a perpetual bar to any action against said hotel, motel, inn, boardinghouse or lodging house keeper for the recovery of such baggage or property of the value thereof, or for any damages growing out of the failure of such guest, boarder or lodger to receive such baggage or property; provided, however, that if any baggage or property becoming subject to the lien herein provided for does not belong to the guest or lodger or boarder who incurred the charges on indebtedness secured thereby, at the time when such charges or indebtedness were incurred, and if the hotel, motel, inn, boarding or lodging house keeper entitled to such lien receives notice of such fact at any time before the sale of such baggage or property hereunder, then, and in that event, such baggage and property which is subject to said lien and did not belong to said guest, boarder or lodger at the time when such charges or indebtedness were incurred shall not be subject to sale in the manner

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hereinbefore provided, but such baggage and property may be sold in the manner provided by Title 7 of this Code for the sale of property under a writ of execution, to satisfy a judgment obtained in any action brought to recover the said charges or indebtedness.

This section does not apply to:

1. Any musical instrument of any kind or description which is used by the owner thereof to earn all or a part of his living; [and]
2. Any prosthetic or orthopedic appliances personally used by a guest, boarder, or lodger.

SOURCE: CC § 1861 added by P.L. 9-245.

§ 41404. Lien of Keepers of Apartments, etc.

Keepers of apartment houses, apartments, cottages, mobile homes, or bungalow courts shall have a lien upon the baggage and other property of value belonging to their tenants or guests, and upon all the right, title and interest of their tenants and guests in and to all property in the possession of such tenants or guests which may be in such apartment house, apartment, cottage, mobile home, or bungalow court, for the proper charges due from such tenants or guests, for their accommodation, rent, services, meals, and such extras as are furnished at their request, and for all moneys expended for them, at their request, and for the costs of enforcing such lien, with the right to the possession of such baggage and other property of value until such charges are paid, and such moneys are repaid. Unless such charges shall be paid and unless such moneys shall be repaid within 60 days from the time when such charges and moneys, respectively, become due, said keeper of an apartment, cottage, mobile home, or bungalow court, may sell said baggage and property, to the highest bidder, at a public auction, held within ten days after giving notice of such sale by publication of a notice containing the name of the debtor, the amount due, a brief description of the property to be sold and the time and place in a newspaper published in Guam, and also by mailing, at least 15 days prior to the date of sale, a copy of such notice addressed to such tenant or guest at his post office address, if known, and if not known, such notice shall be addressed to such tenant or guest at the place where such apartment, apartment house, cottage, mobile home, or bungalow court is situated; and, after satisfying such lien out of the proceeds of such sale together with any reasonable costs that may have been incurred in enforcing said lien, the residue of said proceeds of sale, if any, shall, upon demand made within six months after such sale, be paid by

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said keeper of an apartment, apartment house, cottage, mobile home, or bungalow court to such tenant or guest; or if not demanded within six months from the date of such sale, said residue, if any, shall be paid into the treasury of Guam; and if the same be not claimed by the owner thereof, or his legal representative within one year thereafter, it shall be paid into the general fund of the said treasury; and such sale shall be a perpetual bar to any action against said keeper of an apartment, apartment house, cottage, mobile home, or bungalow court for the recovery of such baggage or property, or of the value thereof, or for any damages, growing out of the failure of such tenant or guest to receive such baggage or property.

This section does not apply to:

(a) Any musical instrument of any kind or description which is used by the owner thereof to earn all or part of his living.

(b) Any prosthetic or orthopedic appliance personally used by a tenant or guest.

(c) Table and kitchen furniture, including one refrigerator, washing machine, sewing machine, stove, bedroom furniture, one overstuffed chair, one davenport, one dining table and chairs, and also all tools, instruments, clothing and books used by the tenant or guest in gaining a livelihood; beds, bedding and bedsteads, oil paintings and drawings drawn or painted by any member of the family of the tenant or guest, and any family portraits and their necessary frames.

(d) All other household, table or kitchen furniture not expressly mentioned in paragraph (c), including but not limited to radios, television sets, phonographs, records, motor vehicles that may be stored on the premises, except so much of any such articles as may be reasonably sufficient to satisfy the lien provided for by this section; and provided further, that such lien shall be secondary to the claim of any prior bona fide holder of a chattel mortgage¹ on and the rights of a conditional seller² of such articles, other than the tenant or guest.

SOURCE: CC § 1861a added by P.L. 9-245.

COMMENT: ^{1 2} Both chattel mortgages and conditional sales have been abolished by P.L. 13-150 and replaced by Title 13 of this Code (UCC).

§ 41405. Sale of Unclaimed Baggage.

Whenever any trunk, carpetbag, valise, box, bundle, baggage or other personal property has heretofore come, or shall hereafter come into the

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possession of the keeper of any hotel, inn, or any boardinghouse or lodging house, apartment house, mobile home park, or bungalow court and has remained or shall remain unclaimed for the period of six months, such keeper may proceed to sell the same at public auction, and out of the proceeds of such sale may retain the charges for storage, if any, and the expenses of advertising and sale thereof;

But no such sale shall be made until the expiration of four weeks from the first publication of notice of such sale in a newspaper published in Guam. Said notice shall be published once a week, for four consecutive weeks in such newspaper, daily or weekly, of general circulation, and shall contain a description of each trunk, carpetbag, valise, box, bundle, baggage, or other personal property as near as may be; the name of the owner, if known, the name of such keeper, and the time and place of such sale;

And the expenses incurred for advertising shall be a lien upon such property in a ratable proportion, according to the value of such piece of property, or thing, or article sold;

And in case any balance arising from such sale shall not be claimed by the rightful owner within one week from the day of sale, the same shall be paid into the treasury of Guam; and if the same be not claimed by the owner thereof, or his legal representatives, within one year thereafter, the same shall be paid into the general fund of said treasury.

SOURCE: CC § 1862 added by P.L. 9-245.

§ 41406. Keeper to Post Rates of Charges.

Every keeper of a hotel, inn, boarding or lodging house, shall post in a conspicuous place in the office or public room and in every bedroom of said hotel, boardinghouse, inn, or lodging house, a printed copy of this section, and a statement of charges or rate of charges by the day, for meals and items furnished, and for lodging. No charge or sum shall be collected or received by any such person for any service not actually rendered, or for any item not actually delivered, or for any greater or other sum than he is entitled to by the general rules and regulations of said hotel, inn, boarding or lodging house. For any violation of this section, or any provision herein contained, the offender shall forfeit to the injured part three times the amount of the sum charged in excess of what he is entitled to.

SOURCE: CC § 1863 added by P.L. 9-245.

§ 41407. Keeper to Maintain Register.

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Every keeper of a hotel, inn, boarding or lodging house shall keep for a period of three years a register which shall show the name, residence, date of arrival and departure of his guests. Violation of this section shall constitute a violation punishable by a fine not to exceed one hundred dollars (\$100.00).

SOURCE: CC § 1864 added by P.L. 9-245 amended by P.L. 13-187:13 (1/1/78).

ARTICLE 5
FINDING

- § 41501. Obligation of Finder.
- § 41502. Finder of Property, Generally.
- § 41503. Claimant Must Prove Ownership.
- § 41504. Reward to Finder.
- § 41505. Finder may Place in Storage.
- § 41506. When Finder may Sell.
- § 41507. How Sale is Made.
- § 41508. Ownership Going to Finder.
- § 41509. Property Abandoned.

§ 41501. Obligation of Finder.

One who finds a thing lost is not bound to take charge of it, but if he does so he is thenceforward a depository for the owner, with the rights and obligations of a depository for hire.

SOURCE: CC § 1865.

§ 41502. Finder of Property, Generally.

If a finder of a thing, other than a domestic animal, takes possession thereof, or if a person saves any such animal from drowning or starvation, he must, within a reasonable time, inform the owner thereof, if known, and make restitution to him upon demand, without compensation, except a reasonable charge for saving and caring therefor. If the owner is not known to such finder or saver, he must, within ten days, notify the nearest police officer or patrolman particularly describing the property and the time, place

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and circumstances under which it was found or saved. Such policeman or patrolman must then appraise the property, and must make two lists of the valuation and description of the property, and keep one copy on file in his office, and the other list must be delivered to such finder or saver. The police officer or patrolman must, within five days thereafter, cause it to be filed for record in the office of chief of police, who must record it in a book known as the "estrays and lost property book."

SOURCE: CC § 1866.

§ 41503. Claimant Must Prove Ownership.

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

SOURCE: CC § 1867.

§ 41504. Reward to Finder.

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

SOURCE: CC § 1868.

§ 41505. Finder may Place in Storage.

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

SOURCE: CC § 1869.

§ 41506. 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 cannot, with reasonable diligence, be found, or 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.

SOURCE: CC § 1870.

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§ 41507. How Sale is Made.

A sale under the provisions of the last section must be made in the same manner as the sale of a thing pledged.

SOURCE: CC § 1871.

COMMENT: That part of the Civil Code dealing with the pledges was repealed by P.L. 13-150 and replaced by appropriate parts of Title 13 of this Code (UCC).

§ 41508. Ownership Going to Finder.

If no owner appears within three months after such finding or saving and offers reasonable proof of his ownership, and compensates, or in good faith, offers to compensate, the finder or saver for the expense necessarily incurred by him, then such property vests in such finder or saver, unless it is of greater value than \$20.00. If of such greater value, then he must publish a copy of such verified list for three successive weeks on the public bulletin boards in Agana and those nearest the place where the object was found, and if the owner does not, within one year after the completion of such publication, prove the property and pay, or in good faith, offer to pay all charges thereon, the title thereto vests in such finder or saver. If the finder or saver of property does not comply with the provisions of § 41502, or if, though he does so comply, he refuses to surrender the property to an owner who has made reasonable proof of ownership, and paid, or in good faith offered to pay, all legal charges thereon, he is liable to the owner for double the value of the property, and the owner may exonerate himself from all liability arising out of such property by surrendering, or offering to surrender it, in satisfaction thereof.

SOURCE: CC § 1872.

§ 41509. Property Abandoned.

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

SOURCE: CC § 1873. This Article was renumbered from Article IV by P.L. 9-245.

NOTE: No 1970 Civil Code §§ 1874-1877 existed.

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