

Introduction to
Property, Property Insurance,
Bailments and Documents of
Title

Types of Property

- Tangible (physical form)
- Intangible (non-physical form)
- Real (land and interests in land)
- Personal (all property not real)
- Fixtures (personal property attached to real property which creates an interest under real property law)

Transfer of Title to personal
Property

- Sale
- Gift
- Will
- Accession

Confusion

- Intermixing of goods belonging to two or more owners where individual identification is impossible
 - If due to mistake, accident, or agreement loss shared proportionately
 - If caused by intentional or unauthorized act, wrongdoer bears loss

Taking Title by Possession

- Abandoned Property
- Lost Property
- Mislaid Property
- Treasure Trove

Fire and Property Insurance

- Insurance
 - Contractual agreement that distributes risk of loss among members through a company
- Coverage
 - Fire & property insurance protects against loss due to fire or related perils
- Co-insurance
 - Insured has coverage for less than full value and shares risk of loss
- Other Insurance Clauses (pro rata for multiple insurers)

Types of Fire

- Friendly
- Hostile

Types of Policies

- Valued policy
 - Covers full value of property as agreed upon by parties at issuance of policy
- Open policy
 - Covers fair market value of property as calculated immediately prior to loss

Nature of Insurance Contracts

- General Contract law
 - Basic principles of contract law apply
- Insurable Interest-financial interest or a factual expectancy interest in someone's property that justifies insuring the property; the interest must exist at the time the loss occurs.
- Premium (amount to be paid for an insurance policy)

Defenses of the Insurer

- Misrepresentation
- Breach of Warranty
- Concealment
- Waiver
- Estoppel
- Termination

Bailments

- Definition
 - Temporary transfer of personal property by one party (the bailor) to another (the bailee)
- Essential elements
 - Delivery of possession
 - Personal property
 - Possession, but not ownership, for a determinable time
 - Restoration of possession to the bailor

Classifications of Bailments

- For the bailor's sole benefit
- For the bailee's sole benefit
- For mutual benefit

Bailee's Duties

- Exercise due care
- Absolute liability
 - when parties agree
 - custom of industry
 - bailed instrument used in unauthorized manner

Bailee's Rights

- To Limit Liability
 - unless prohibited by statute
- To Compensation

Bailor's Duties

- In Bailment for Sole Benefit
 - bailor warrants that he is unaware of any defects
- In all other Bailments
 - bailor has duty to warn of all known defects and all defects he should discover upon a reasonable inspection

Bailee's Duty of Care

- If bailment is for sole benefit of bailor, bailee has a duty of slight care
 - bailor had duty to warn of defects he knew or should have known
- If bailment is for sole benefit of bailee, bailee has duty of utmost care
 - bailor has duty to warn of known defects
- If bailment is for mutual benefit, bailee has duty of ordinary care
 - bailor had duty to warn of defects he knew or should have known

Special Types of Bailment

- Pledge
- Warehouser
- Safe Deposit Boxes
- Carrier of Goods
- Innkeeper

Documents of Title

- Definition - an instrument evidencing ownership of the document and the goods it covers.
- Types
 - Warehouse Receipt - receipt issued by person storing goods.
 - Bill of Lading - document issued to the shipper by the carrier (1) as a receipt for the goods, (2) as evidence of their carriage contract, and (3) as a document of title.

Negotiability

- A document of title is negotiable if, by its terms, the goods are to be delivered to bearer or to the order of a named person.
- Due Negotiation - transfer of a negotiable document in the regular course of business to a holder, who takes in good faith, for value, and without notice of any defense or claim.

Negotiability 2

- Rights Acquired in the Absence of Due Negotiation - transferee acquires all the rights the transferor had.
- Warranties - a person who negotiates or transfers a document of title for value, other than a collecting bank or other intermediary, incurs certain warranty obligations unless otherwise agreed.

Documents

- For a person to obtain title to goods by negotiation of a document, the goods must have been delivered to the issuer of the document by the owner of the goods or by one to whom actual or apparent authority is entrusted by the owner.
- Lost or Missing Documents of Title - claimant may apply to a court for issuance of a substitute document.
