

Chapter 50—Bailments and Documents of Title

A. Essential Elements of a Bailment

- 1. delivery of possession from a bailor to a bailee**
- 2. delivery of personal property not real property**
- 3. possession without ownership by the bailee for a determinable period of time; and**
- 4. an absolute duty on the bailee to return the property to the bailor or to dispose of it according to the bailor's directions.**

A bailment may be created by operation of law from the facts of a particular situation; thus, a bailment may be implied or constructive.

B. Special Types of Bailments

Pledges

The bailee (secured party) takes possession of the property in order to secure a debt. The secured party does not take title but may assign her interest in the property despite objection by the debtor.

Warehousing

A warehouser is a bailee who, for compensation, receives goods to be stored in a warehouse. Under the common law, a warehouser's duties and liabilities were the same as those of an ordinary bailee for compensation, who must exercise reasonable care to protect the safety of the stored goods and to deliver them to the proper person. Today, however, warehousers are subject to extensive state and federal regulation. Also, the receipts warehousers issue for storage are

regarded as documents of title and are governed by Article 7 of the UCC.