

**DISTRICT OF COLUMBIA**  
**OFFICIAL CODE**

**TITLE 16.**  
**PARTICULAR ACTIONS, PROCEEDINGS**  
**AND MATTERS.**

**CHAPTER 37.**  
**REPLEVIN.**

**2001 Edition**

# DISTRICT OF COLUMBIA OFFICIAL CODE

## CHAPTER 37. REPLEVIN.

---

### TABLE OF CONTENTS

---

§ 16-3701. Demand prior to action; costs.

§ 16-3702. Form of complaint.

§ 16-3703. Affidavit; contents.

§ 16-3704. Undertaking to abide judgment of the court.

§ 16-3705. Failure of officer to obtain possession; procedure.

§ 16-3706. Publication against defendant.

§ 16-3707. Default.

§ 16-3708. Motion for return of property; procedure; objection to sufficiency of security.

§ 16-3709. Notice to officer of intention to move for return; duty of officer; time of motion.

§ 16-3710. Determination and measure of plaintiff's damages.

§ 16-3711. Judgment for defendant and determination of damages.

§ 16-3712. Verdict where goods are eloigned.

§ 16-3713. Judgment where goods are eloigned.

§§ 16-3731 to 16-3740. Jurisdiction; form of complaint; affidavit; contents; undertaking to abide judgment of the court; failure of officer to obtain possession; publication against defendant; default; retention of property by marshal; sufficiency of undertaking, quashing writ, and return of property; motion for return of property; procedure; objection to sufficiency of security; determination and measure of plaintiff's damages; judgment for defendant and determination of damages.[Repealed]

# CHAPTER 37. REPLEVIN.

## § 16-3701. DEMAND PRIOR TO ACTION; COSTS.

In an action of replevin brought to recover personal property to which the plaintiff is entitled, that is alleged to have been wrongfully taken by or to be in the possession of and wrongfully detained by the defendant, it is not necessary to demand possession of the property before bringing the action; but the costs of the action may be awarded as the court orders.

(Dec. 23, 1963, 77 Stat. 604, Pub. L. 88-241, § 1.)

### *HISTORICAL AND STATUTORY NOTES*

#### *Prior Codifications*

1981 Ed., § 16-3701.

1973 Ed., § 16-3701.

## § 16-3702. FORM OF COMPLAINT.

A complaint in replevin shall be in the following or equivalent form:

"The plaintiff sues the defendant for (wrongly taking and detaining) (unjustly detaining) the plaintiff's goods and chattels, to wit: (describe them) of the value of \_\_\_\_ dollars. And the plaintiff claims that the same be taken from the defendant and delivered to him; or, if they are eloigned, that he may have judgment of their value and all mesne profits and damages, which he estimates at \_\_\_\_ dollars, besides costs."

(Dec. 23, 1963, 77 Stat. 604, Pub. L. 88-241, § 1.)

### *HISTORICAL AND STATUTORY NOTES*

#### *Prior Codifications*

1981 Ed., § 16-3702.

1973 Ed., § 16-3702.

## § 16-3703. AFFIDAVIT; CONTENTS.

At the time of filing a complaint in replevin, the plaintiff, his agent, or attorney shall file an affidavit stating that --

- (1) according to affiant's information and belief, the plaintiff is entitled to recover possession of chattels proposed to be replevied, being the same described in the complaint;
- (2) the defendant has seized and detained or detains the chattels; and
- (3) the chattels were not subject to the seizure or detention and were not taken upon a writ of replevin between the parties.

(Dec. 23, 1963, 77 Stat. 604, Pub. L. 88-241, § 1.)

### *HISTORICAL AND STATUTORY NOTES*

#### *Prior Codifications*

1981 Ed., § 16-3703.

1973 Ed., § 16-3703.

## § 16-3704. UNDERTAKING TO ABIDE JUDGMENT OF THE COURT.

At the time of filing a complaint in replevin, the plaintiff shall enter into an undertaking by himself or his

agent with surety, approved by the clerk, to abide by and perform the judgment of the court.

(Dec. 23, 1963, 77 Stat. 604, Pub. L. 88-241, § 1.)

*HISTORICAL AND STATUTORY NOTES*

*Prior Codifications*

1981 Ed., § 16-3704.

1973 Ed., § 16-3704.

**§ 16-3705. FAILURE OF OFFICER TO OBTAIN POSSESSION; PROCEDURE.**

When the officer's return of a writ of replevin issued pursuant to this subchapter is that he has served the defendant with copies of the complaint, affidavit, and summons, but that he could not obtain possession of the goods and chattels sued for, the plaintiff may prosecute the action for the value of the property and damages for detention, or he may renew the writ in order to obtain possession of the goods and chattels themselves.

(Dec. 23, 1963, 77 Stat. 604, Pub. L. 88-241, § 1.)

*HISTORICAL AND STATUTORY NOTES*

*Prior Codifications*

1981 Ed., § 16-3705.

1973 Ed., § 16-3705.

**§ 16-3706. PUBLICATION AGAINST DEFENDANT.**

When the officer's return of a writ of replevin is that he has taken possession of the goods and chattels sued for, but indicates that personal service on the defendant could not be made, the court, subject to the provisions of section 13-340 as to mailing notice, may order that the defendant appear to the action by a fixed day. The plaintiff shall cause notice of the order to be given by publication in a newspaper published in the District at least three times, the first publication to be at least twenty days before the day fixed for the defendant's appearance.

(Dec. 23, 1963, 77 Stat. 605, Pub. L. 88-241, § 1.)

*HISTORICAL AND STATUTORY NOTES*

*Prior Codifications*

1981 Ed., § 16-3706.

1973 Ed., § 16-3706.

**§ 16-3707. DEFAULT.**

If, after notice as provided by section 16-3706, the defendant fails to appear, the court may proceed as in case of default after personal service.

(Dec. 23, 1963, 77 Stat. 605, Pub. L. 88-241, § 1.)

*HISTORICAL AND STATUTORY NOTES*

*Prior Codifications*

1981 Ed., § 16-3707.

1973 Ed., § 16-3707.

**§ 16-3708. MOTION FOR RETURN OF PROPERTY; PROCEDURE; OBJECTION TO SUFFICIENCY OF SECURITY.**

(a) On the taking possession of the goods and chattels by the marshal by virtue of a writ of replevin, the defendant may, on one day's notice to the plaintiff or his attorney, move for a return of the property to his possession. Thereupon, the court may inquire into the circumstances and manner of the defendant's obtaining possession of the property, and, if it seems just, may order the property to be returned to the possession of the defendant, to abide the final judgment in the action. The court may require the defendant to enter into an undertaking with surety or sureties, similar to that required of the plaintiff upon the

commencement of the action. In such case, the court shall render judgment against the surety or sureties, as well as against the defendant.

(b) When it appears that the possession of the property was forcibly or fraudulently obtained by the defendant, or that the possession, being first in the plaintiff, was procured or retained by the defendant without authority from the plaintiff, the court may refuse to order the return of the property to the possession of the defendant. The defendant may also, on similar notice, object to the sufficiency of the security in the undertaking of the plaintiff, and the court may require additional security, in default of which the property shall be returned to the defendant, but the action may proceed as if the property had not been taken.

(Dec. 23, 1963, 77 Stat. 605, Pub. L. 88-241, § 1.)

*HISTORICAL AND STATUTORY NOTES*

*Prior Codifications*

1981 Ed., § 16-3708.

1973 Ed., § 16-3708.

**§ 16-3709. NOTICE TO OFFICER OF INTENTION TO MOVE FOR RETURN; DUTY OF OFFICER; TIME OF MOTION.**

If the defendant in an action of replevin notifies the officer taking possession of the property, in writing, of his intention to make either of the motions specified by section 16-3708, the officer shall retain possession of the property until the motion is disposed of, if the motion is filed and notice given, as provided by section 16-3708, to the plaintiff or his attorney, within two days thereafter.

(Dec. 23, 1963, 77 Stat. 605, Pub. L. 88-241, § 1.)

*HISTORICAL AND STATUTORY NOTES*

*Prior Codifications*

1981 Ed., § 16-3709.

1973 Ed., § 16-3709.

**§ 16-3710. DETERMINATION AND MEASURE OF PLAINTIFF'S DAMAGES.**

Whether, in an action of replevin, the defendant answers and the issue thereon joined is found against him, or judgment is rendered against him on proper motion under rules of court, or he makes default after personal service or publication, the plaintiff's damages shall be ascertained by the jury trying the issue, where one is joined, or by a jury of inquest, where jury trial had been waived or there is no issue of fact, and the damages shall be the full value of the goods, if eloiigned by the defendant, including, in every case, the loss sustained by the plaintiff by reason of the detention, and the judgment shall be rendered for the plaintiff accordingly.

(Dec. 23, 1963, 77 Stat. 605, Pub. L. 88-241, § 1.)

*HISTORICAL AND STATUTORY NOTES*

*Prior Codifications*

1981 Ed., § 16-3710.

1973 Ed., § 16-3710.

**§ 16-3711. JUDGMENT FOR DEFENDANT AND DETERMINATION OF DAMAGES.**

When, in an action of replevin, the issue is found for the defendant, or the plaintiff dismisses or fails to prosecute his suit, or judgment is rendered against the plaintiff on proper motion under rules of court, the judgment shall be that the goods, if delivered to the plaintiff, be returned to the defendant with damages for their detention, or, on failure, that the defendant recover against the plaintiff and his surety the damages sustained by him. The damages shall be assessed by the jury trying the issue; or, where jury trial had been waived, or judgment is rendered against the plaintiff prior to trial on proper motion under rules of court, or he dismisses or fails to prosecute his suit, by a jury of inquest.

(Dec. 23, 1963, 77 Stat. 606, Pub. L. 88-241, § 1.)

*HISTORICAL AND STATUTORY NOTES*

*Prior Codifications*

1981 Ed., § 16-3711.

1973 Ed., § 16-3711.

**§ 16-3712. VERDICT WHERE GOODS ARE ELOIGNED.**

If the defendant in an action of replevin has eloigned the things sued for, the court may instruct the jury, if they find for the plaintiff, to assess such damages as may compel the defendant to return the things.

(Dec. 23, 1963, 77 Stat. 606, Pub. L. 88-241, § 1.)

*HISTORICAL AND STATUTORY NOTES*

*Prior Codifications*

1981 Ed., § 16-3712.

1973 Ed., § 16-3712.

**§ 16-3713. JUDGMENT WHERE GOODS ARE ELOIGNED.**

The judgment in a case where the defendant has eloigned the goods sued for, shall be that the plaintiff recover against the defendant the value of the goods as found and the damages so assessed, to be discharged by the return of the things, within ten days after the judgment, with damages for detention, which the jury shall also assess.

(Dec. 23, 1963, 77 Stat. 606, Pub. L. 88-241, § 1.)

*HISTORICAL AND STATUTORY NOTES*

*Prior Codifications*

1981 Ed., § 16-3713.

1973 Ed., § 16-3713.

**§§ 16-3731 TO 16-3740. JURISDICTION; FORM OF COMPLAINT; AFFIDAVIT; CONTENTS; UNDERTAKING TO ABIDE JUDGMENT OF THE COURT; FAILURE OF OFFICER TO OBTAIN POSSESSION; PUBLICATION AGAINST DEFENDANT; DEFAULT; RETENTION OF PROPERTY BY MARSHAL; SUFFICIENCY OF UNDERTAKING, QUASHING WRIT, AND RETURN OF PROPERTY; MOTION FOR RETURN OF PROPERTY; PROCEDURE; OBJECTION TO SUFFICIENCY OF SECURITY; DETERMINATION AND MEASURE OF PLAINTIFF'S DAMAGES; JUDGMENT FOR DEFENDANT AND DETERMINATION OF DAMAGES.[REPEALED]**

(July 29, 1970, 84 Stat. 564, Pub. L. 91-358, title I, § 145(o)(1).)

*HISTORICAL AND STATUTORY NOTES*

*Prior Codifications*

1981 Ed., §§ 16-3731 to 16-3740.