

554.7601 Lost and missing documents.

1. If a document has been lost, stolen or destroyed, a court may order delivery of the goods or issuance of a substitute document and the bailee may without liability to any person comply with such order. If the document was negotiable the claimant must post security approved by the court to indemnify any person who may suffer loss as a result of nonsurrender of the document. If the document was not negotiable, such security may be required at the discretion of the court. The court may also in its discretion order payment of the bailee's reasonable costs and counsel fees.

2. A bailee who without court order delivers goods to a person claiming under a missing negotiable document is liable to any person injured thereby, and if the delivery is not in good faith becomes liable for conversion. Delivery in good faith is not conversion if made in accordance with a filed classification or tariff or, where no classification or tariff is filed, if the claimant posts security with the bailee in an amount at least double the value of the goods at the time of posting to indemnify any person injured by the delivery who files a notice of claim within one year after the delivery.

3. If a warehouse receipt has been lost or destroyed, the warehouse operator shall issue a duplicate upon receipt of:

a. An affidavit that the warehouse receipt has been lost or destroyed.

b. A bond in an amount at least double the value of the goods at the time of posting the bond, to indemnify any person injured by issuance of the duplicate warehouse receipt who files a notice of claim within one year after delivery of the goods.

A duplicate warehouse receipt shall be plainly marked to indicate that it is a duplicate. A receipt plainly marked as a duplicate is a representation and warranty by the warehouse operator that the duplicate receipt is an accurate copy of an original receipt properly issued and uncanceled at the date of the issue of the duplicate, but shall impose upon the warehouse operator no other liability.

A warehouse operator who in good faith delivers goods to the holder of a duplicate receipt issued in accordance with this subsection is liable to any person injured by the delivery, but only to the extent of the security posted in accordance with paragraph "*b*" of this subsection.

4. If a warehouse receipt has been lost or destroyed, the depositor may either remove the goods from the warehouse or sell the goods to the warehouse operator after executing a lost warehouse receipt release on a form prescribed by the department of agriculture and land stewardship. The form shall include an affidavit stating that the warehouse receipt has been lost or destroyed, and the depositor's undertaking to indemnify the warehouse operator for any loss incurred as a result of the loss or destruction of the warehouse receipt. The form shall be filed with the department of agriculture and land stewardship.

5. If a warehouse receipt has been lost or destroyed by a warehouse operator after delivery of the goods or purchase of the goods by the warehouse operator, the warehouse operator shall execute and file with the department of agriculture and land stewardship a notarized affidavit stating that the warehouse receipt has been lost or destroyed by the warehouse operator after delivery or purchase of the goods by the warehouse operator. The form of the affidavit shall be prescribed by the department of agriculture and land stewardship.

[S13, § 3138-a14, -b16; C24, 27, 31, 35, 39, § **8261, 9674**; C46, 50, 54, 58, 62, § 487.17, 542.14; C66, 71, 73, 75, 77, 79, 81, § 554.7601]