

## **CHAPTER 9-06 FORMATION OF CONTRACT**

### **9-06-01. Express and implied contracts defined.**

A contract is either express or implied. An express contract is one the terms of which are stated in words. An implied contract is one the existence and terms of which are manifested by conduct.

### **9-06-02. What contracts may be oral.**

All contracts may be oral except such as are specially required by statute to be in writing.

### **9-06-03. Written contract prevented by fraud - Oral contract enforceable.**

When a contract which is required by law to be in writing is prevented from being put into writing by the fraud of a party thereto, any other party who by such fraud is led to believe that it is in writing and acts upon such belief to that party's prejudice may enforce it against the fraudulent party.

### **9-06-04. Contracts invalid unless in writing - Statute of frauds.**

The following contracts are invalid, unless the same or some note or memorandum thereof is in writing and subscribed by the party to be charged, or by the party's agent:

1. An agreement that by its terms is not to be performed within a year from the making thereof.
2. A special promise to answer for the debt, default, or miscarriage of another, except in the cases provided for in section 22-01-05.
3. An agreement for the leasing for a longer period than one year, or for the sale, of real property, or of an interest therein. Such agreement, if made by an agent of the party sought to be charged, is invalid unless the authority of the agent is in writing subscribed by the party sought to be charged.
4. An agreement or promise for the lending of money or the extension of credit in an aggregate amount of twenty-five thousand dollars or greater.
5. An agreement or promise to alter the terms of repayment or forgiveness of a debt that is in an aggregate amount of twenty-five thousand dollars or greater.

### **9-06-05. Contracts unenforceable unless in writing - Statute of frauds.**

Repealed by S.L. 1965, ch. 296, § 32.

### **9-06-06. Auction sale - Auctioneer memorandum sufficient.**

When a sale of any goods or choses in action is made by auction, an entry by the auctioneer in the auctioneer's salebook at the time of the sale of the kind of property sold, the terms of sale, the price, and names of the purchaser and person on whose account the sale is made is a sufficient memorandum.

### **9-06-07. Written contract supersedes oral negotiations.**

The execution of a contract in writing, whether the law requires it to be written or not, supersedes all the oral negotiations or stipulations concerning its matter which preceded or accompanied the execution of the instrument.

### **9-06-08. Written contract takes effect on delivery.**

A contract in writing takes effect upon its delivery to the party in whose favor it is made or to that party's agent.

### **9-06-09. Law of transfers of property applies.**

The provisions of the laws of this state concerning the delivery of grants, absolute and conditional, apply to all written contracts.

**9-06-10. How seal affixed.**

Repealed by S.L. 1973, ch. 80, § 21.

**9-06-11. Seals abolished.**

All distinctions between sealed and unsealed instruments are abolished.