

§ 1-478. Defendant's undertaking for replevy.

At any time before the delivery of the property to the plaintiff, the defendant may, if he does not except to the sureties of the plaintiff, require the return thereof, upon giving to the sheriff a written undertaking, payable to the plaintiff, executed by one or more sufficient sureties, to the effect that they are bound in double the value of the property, as stated in the affidavit of the plaintiff, for the delivery thereof to the plaintiff, with damages, not less than the difference in value of the property at the time of the execution of the undertaking and the value of the property at the time of its delivery to the plaintiff, together with damages for detention and the costs, if delivery can be had, and if delivery cannot be had, for the payment to him of such sum as may be recovered against the defendant for the value of the property at the time of the wrongful taking or detention, with interest thereon, as damages for such taking and detention, together with the costs of the action. If a return of the property is not so required, within three days after the taking and service of notice to the defendant, it must be delivered to the plaintiff, unless it is claimed by an interpleader.

The defendant's undertaking shall include liability for costs, as provided in this section, only where the undertaking is given in actions instituted in the superior court. (C.C.P., s. 181; Code, s. 326; 1885, c. 50, s. 2; Rev., s. 795; 1911, c. 17; C.S., s. 836; 1961, c. 462.)