

TITLE 9
EVIDENCE

CHAPTER 5
INDISPENSABLE EVIDENCE -- STATUTE OF FRAUDS

9-501. PERJURY AND TREASON. Perjury and treason must be proved by testimony of more than one (1) witness. Treason by the testimony of two witnesses to the same overt act; and perjury by the testimony of two (2) witnesses, or one (1) witness and corroborating circumstances.

[(9-501) C.C.P. 1881, sec. 933; R.S., R.C., & C.L., sec. 6005; C.S., sec. 7972; I.C.A., sec. 16-501.]

9-502. WILLS TO BE IN WRITING. A last will and testament, except a nuncupative will, is invalid unless it be in writing and executed with such formalities as are required by law. When, therefore, such a will is to be shown, the instrument itself must be produced, or secondary evidence of its contents be given.

[(9-502) C.C.P. 1881, sec. 934; R.S., R.C., & C.L., sec. 6006; C.S., sec. 7973; I.C.A., sec. 16-502.]

9-503. TRANSFERS OF REAL PROPERTY TO BE IN WRITING. No estate or interest in real property, other than for leases for a term not exceeding one (1) year, nor any trust or power over or concerning it, or in any manner relating thereto, can be created, granted, assigned, surrendered, or declared, otherwise than by operation of law, or a conveyance or other instrument in writing, subscribed by the party creating, granting, assigning, surrendering or declaring the same, or by his lawful agent thereunto authorized by writing.

[(9-503) C.C.P. 1881, sec. 935; R.S., R.C., & C.L., sec. 6007; C.S., sec. 7974; I.C.A., sec. 16-503.]

9-504. EXCEPTIONS TO PRECEDING SECTION. The preceding section must not be construed to affect the power of a testator in the disposition of his real property by a last will and testament, nor to prevent any trust from arising or being extinguished by implication or operation of law, nor to abridge the power of any court to compel the specific performance of an agreement, in case of part performance thereof.

[(9-504) C.C.P. 1881, sec. 936; R.S., R.C., & C.L., sec. 6008; C.S., sec. 7975; I.C.A., sec. 16-504.]

9-505. CERTAIN AGREEMENTS TO BE IN WRITING. In the following cases the agreement is invalid, unless the same or some note or memorandum thereof, be in writing and subscribed by the party charged, or by his agent. Evidence, therefore, of the agreement cannot be received without the writing or secondary evidence of its contents:

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 [9-506](#), Idaho Code.

3. An agreement made upon consideration of marriage, other than a mutual promise to marry.

4. An agreement for the leasing, for a longer period than one (1) year, or for the sale, of real property, or of an interest therein, and such agreement, if made by an agent of the party sought to be charged, is invalid, unless the authority of the agent be in writing, subscribed by the party sought to be charged.

5. A promise or commitment to lend money or to grant or extend credit in an original principal amount of fifty thousand dollars (\$50,000) or more, made by a person or entity engaged in the business of lending money or extending credit.

[(9-505) C.C.P. 1881, sec. 937; R.S., R.C., & C.L., sec. 6009; am. 1919, ch. 149, sec. 79a, p. 472; C.S. sec. 7976; I.C.A., sec. 9-505; am. 1993, ch. 397, sec. 1, p. 1460; am. 1996, ch. 177, sec. 1, p. 566.]

9-506. ORIGINAL OBLIGATIONS -- WRITING NOT NEEDED. A promise to answer for the obligation of another, in any of the following cases, is deemed an original obligation of the promisor, and need not be in writing:

1. Where the promise is made by one who has received property of another upon an undertaking to apply it pursuant to such promise; or by one who has received a discharge from an obligation in whole or in part, in consideration of such promise.

2. Where the creditor parts with value, or enters into an obligation, in consideration of the obligations in respect to which the promise is made, in terms or under circumstances such as to render the party making the promise the principal debtor, and the person in whose behalf it is made, his surety.

3. Where the promise, being for an antecedent obligation of another, is made upon the consideration that the party receiving it cancels the antecedent obligation, accepting the new promise as a substitute therefor; or upon the consideration that the party receiving it releases the property of another from a levy, or his person from imprisonment under an execution on a judgment obtained upon the antecedent obligation; or upon a consideration beneficial to the promisor, whether moving from either party to the antecedent obligation, or from another person.

4. Where a factor undertakes, for a commission, to sell merchandise and guarantee the sale.

5. Where the holder of an instrument for the payment of money, upon which a third person is, or may become, liable to him, transfers it in payment of a precedent debt of his own, or for a new consideration and in connection with such transfer, enters into a promise respecting such instrument.

[(9-506) C.C.P. 1881, sec. 938; R.S., R.C., & C.L., sec. 6010; C.S., sec. 7977; I.C.A., sec. 16-506.]

9-507. REPRESENTATIONS OF CREDIT TO BE IN WRITING. No evidence is admissible to charge a person upon a representation as to the credit of a third person, unless such representation, or some memorandum thereof, be in writing, and either subscribed by, or in the handwriting of, the party to be charged.

[(9-507) C.C.P. 1881, sec. 939; R.S., R.C., & C.L., sec. 6011; C.S., sec. 7978; I.C.A., sec. 16-507.]

9-508. REAL ESTATE COMMISSION CONTRACTS TO BE IN WRITING. No contract for the payment of any sum of money or thing of value, as and for a commission or reward for the finding or procuring by one person of a purchaser of real estate of another shall be valid unless the same shall be in writing, signed by the owner of such real estate, or his legal, appointed and duly qualified representative.

[(9-508) 1915, ch. 131, sec. 1, p. 287; compiled and reen. C.L., sec. 6012; C.S., sec. 7979; I.C.A., sec. 16-508.]