

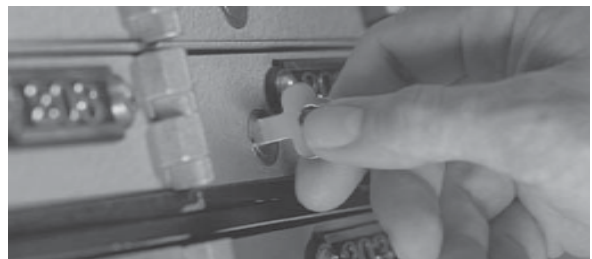


# Safe deposit box procedures must be followed to avoid unlimited liability

Another great article from *The Rooms Chronicle*®, the #1 journal for hotel rooms management! \*\*\*Important notice: This article may not be reproduced without permission of the publisher or the author.\*\*\* College of Hospitality and Tourism Management, Niagara University, P.O. Box 2036, Niagara University, NY 14109-2036. Phone: 866-Read TRC. E-mail: editor@roomschronicle.com

Notice: The ideas, opinions, recommendations, and interpretations presented herein are those of the author(s). The College of Hospitality and Tourism Management, Niagara University/The Rooms Chronicle® assume no responsibility for the validity of claims in items reported.

Nearly every hotel makes safe deposit boxes available for the convenience of their guests. Realistically, very few travelers actually make use of these boxes to safeguard their most important valuables. Nevertheless, it is incumbent that front desk personnel follow a hotel's established safe deposit procedures exactly to ensure the safety of guests' deposited belongings, promote a sense of confidence amongst guests who do deposit their valuables with the hotel, and most significantly, minimize potential hotel liability in the event a claim is filed against the hotel by a depositor.



While most hotels choose to provide safe deposit boxes for the convenience of their guests, the motivation to do so is not purely service-oriented. Rather, it is somewhat self-serving. Hotels typically choose to provide this service in order to afford itself the protections of limited liability for guests' valuables that are brought on property. To better understand this, a brief lesson in history is in order.

### Brief history of safe deposit boxes

In the medieval times and throughout the dark ages, there were very few inns that afforded refuge for travelers. Many innkeepers were unscrupulous individuals who would steal the personal possessions of their guests in the middle of the night. They would disclaim any knowledge of such transgressions nor accept responsibility for a guest's loss. To combat this deceitful practice, the strict liability doctrine of *infra hospitium* (Latin for "within the inn") was passed making innkeepers responsible for all property of guests brought within the confines of the inn. Therefore, if a guest's property was stolen or otherwise disappeared from the inn, the innkeeper was liable to reimburse the guest, even if the innkeeper did not contribute to the loss.

This new doctrine essentially resulted in a drastic decrease in innkeeper theft and spurred lodging establishments to explore new means to protect guest valuables. As time passed and technology developed, the hotel safe was introduced and guests were permitted to store items of value in individual envelopes in such safe. The modern day version of the single hotel safe is a set of safe deposit boxes that afford multiple guests privacy and security to secure their valuables.

### Limited liability protections

Aside from offering guests a place of secure storage for their valuables, safe deposit boxes fulfill an important legal prerequisite for hotels. Every state in the United States has passed legislation affording hotels protection against unlimited liability for guest valuables that are lost, stolen or damaged, provided that an individual hotel complies with certain requirements established by the legislature. These are referred to as "limiting liability statutes". While the limits of a hotel's liability vary from state to state, ranging anywhere from a low of \$0 in Missouri, Montana, New Mexico and Wyoming to a high of \$5,000 in New Jersey, the requirements associated with these limiting liability statutes are generally fairly uniform across all fifty states. In order for a hotel to be afforded the protections of the state's limiting liability statute, generally a hotel must:

1. Provide a safe for use by guests to protect their valuables
2. Post notices in specific locations announcing to guests the availability of safes

3. Post notices in specific locations announcing that the hotel's liability for guest's valuables is limited to a specified amount
4. Comply with other requirements as specified by the limiting liability statute (i.e., issuing receipts for guests' valuables that are deposited for safekeeping).

Hence, the impetus to provide safe deposit boxes serves to protect the hotel as much as it does the guest.

### **Safe deposit box procedures**

It is important to note that, with the exception of Nevada, hotels are not protected by limited liability statutes when the hotel or its employees are negligent in the discharge of their duties associated with guest's property. In other words, even if a hotel offers safe deposit boxes, a hotel will likely be held to unlimited liability for the full value of a guest's valuables if the hotel or its employees are negligent and contribute to a guest's loss. Therefore, it is imperative that front desk personnel be thoroughly trained in and properly follow the hotel's safe deposit box procedures. What follows are some recommended practices to consider incorporating into your hotel's procedures. A sample Safe Deposit Box Agreement card is enclosed as an insert.

- Restrict access to the safe deposit box area to front desk and accounting personnel only. Do not permit other employees into this area for any reason. If feasible, set aside a locked room with video recording surveillance to house the safe deposit boxes.
- All safe deposit boxes should be bolted or securely fastened to a permanent fixture (e.g., wall, floor, etc.).
- Ensure that the safe deposit boxes for guest use are in complete view of the guest who wishes to deposit their valuables. Do not keep the boxes in a separate room unless you will allow the guest controlled access to that room.
- Only allow one (set of) guest(s) access to the safe deposit box room at a time. Guests should be accompanied by a front desk clerk at all times and locked in while retrieving their box.
- Provide a secure location where guests may deposit, review, and retrieve contents of their box in privacy.
- Fasten the hotel's single "guard key" via cable or chain to the wall or floor so it is not misplaced or disappear. This also makes it easier to find if there are many boxes. The hotel may choose to keep a duplicate guard key in the hotel's vault (not in a safe deposit box) in case the original is broken or becomes inoperable.
- After using the guard key to lock up a guest's box, place the key into a different box, or better yet, hang it up on a hook on the wall. This prevents unauthorized personnel from knowing which box was last accessed and which boxes might contain valuables.
- Do not keep duplicates of individual box keys as this will likely violate a hotel's insurance terms and creates an opportunity for potential theft. Issue to the guest the only unique key that, in conjunction with the hotel's guard key, will open the box. If a guest loses their safe deposit box key, then the box must be drilled by a locksmith. Advise depositors of this policy, both orally and in writing, when issuing the safe deposit box.
- Ensure that the safe deposit box number is stamped on the depositor's box key. Some guests may need to use more than one safe deposit box at a time.
- Before issuing a new box, require every depositor(s) to fully complete the front of the Safe Deposit Box Agreement card and sign at the bottom. All authorized signatures of depositors should be witnessed by a Front Desk representative. Because of insurance regulations, only issue safe deposit boxes to registered guests of the hotel.
- File the Safe Deposit Box Agreement card with the guest's folio in the bucket rather than in separate file. This will cut down on guests checking out and forgetting they have a box. It also ensures that only registered guests (or employees) are issued safe deposit boxes.
- Keys for unused boxes should be kept in a locked cabinet or drawer and not in the key holes of unused boxes. This makes it difficult for unauthorized personnel or potential thieves to determine which boxes may be in use and contain valuables.
- Unless required by law, do not ask the guest what is being deposited or the value of such item(s). Doing so may be interpreted as "constructive notice" being served to the hotel and preclude it from being able to claim limited liability in the event of theft or loss.
- After issuance, always require guest to present the box key and to sign the activity log before granting access to their safe deposit box. Compare the new signature to the authorized signature on the front of the Safe Deposit Box Agreement card. When in doubt or if signatures don't appear to match, request that the guest furnish government issued identification that has both a picture and a signature. Make sure the ID is not adulterated and that the picture matches the guest and the signature matches the Safe Deposit Box Agreement card. If still in doubt, ask the guest to sign their name again to match the authorized signature and then ask them to identify the contents of the safe deposit box before releasing it.
- If you want to add an optional layer of security to the process, have each depositor(s) create a unique password of their choice that they will easily remember and a "hint" that will prompt the password in case they forget. Record the password and hint on the front of the Safe Deposit Box Agreement card. Ask the guest to name the password when they present the box key but before they sign the activity log on the back of the Safe Deposit Box Agreement card. If the guest cannot name the password, do not grant them access to the safe deposit box.

- When the depositor surrenders the safe deposit box, have them sign the Safe Deposit Box Agreement card on the bottom back acknowledging that they have received all property that they deposited. Return the safe deposit box key to the key cabinet/drawer. Do not leave it in the empty box's keyhole.
- Conduct a safe deposit box key audit at least once per week. Every box should either have a corresponding key or a Safe Deposit Box Agreement card that has not been closed out. When conducting an audit, check every current Safe Deposit Box Agreement card in the bucket with the Guest Accounting System to ensure that the guest has not checked out yet and forgot their valuables. If there is no box key and no Safe Deposit Box Agreement card, arrange to have the box drilled open and the contents inventoried. The contents must be secured by the hotel until the waiting period as specified by the state's Statute of Limitations for lost or misplaced property has expired. This is typically thirty to ninety days.
- Maintain all closed out Safe Deposit Box Agreement cards in a secure location for the time period specified by the state's Statute of Limitations. This is typically two to four years.
- Have your hotel legal counsel review your hotel's Safe Deposit Box Agreement card and safe deposit box procedures to ensure that they comply with your state's requirements. ✧

*(Dr. William D. Frye is an associate professor of hotel management at the College of Hospitality and Tourism Management at Niagara University. He is a former resort general manager and hotel night manager.*

*E-Mail: [wfrye@roomschronicle.com](mailto:wfrye@roomschronicle.com).)*

