

SECURED TRANSACTIONS

CHAPTER 9: SECURED TRANSACTIONS

9.1: INTRODUCTION

The Uniform Commercial Code (UCC) governs secured transactions. A secured transaction is a transaction in which a creditor takes a security interest in personal property of a debtor to secure payment of a debt.

9.2: SECURITY INTEREST

A security interest is a creditor's right to take possession of or control personal property of a debtor in the event of default.

9.3: PERFECTION

Perfection is the process of making a security interest enforceable against third parties. It is achieved by filing a financing statement or by taking possession of the collateral.

9.4: PRIORITY

Priority rules determine the order in which creditors are paid in the event of liquidation. The general rule is that the first creditor to perfect its security interest has the highest priority.

9.5: EXHAUSTION

Exhaustion rules determine the order in which a secured creditor's remedies are applied to the collateral. The general rule is that the secured creditor must first exhaust its remedies against the collateral before seeking payment from the debtor.

9.6: REMEDIES

The secured creditor has the right to take possession of the collateral or to sell it. The creditor must follow certain procedures to ensure that the remedies are exercised fairly and equitably.

9.7: DEFENSES

The debtor may raise certain defenses against the creditor's claims, such as discharge in bankruptcy or expiration of the statute of limitations.

PROCEEDINGS FOR CREATING A SECURITY INTEREST

1. IDENTIFICATION OF COLLATERAL

The creditor must identify the collateral with reasonable certainty. This can be done by describing the collateral in the financing statement.

2. AGREEMENT

The debtor must agree to grant the security interest to the creditor. This agreement is typically found in the security agreement.

3. PERFECTION

The creditor must perfect its security interest by filing a financing statement or by taking possession of the collateral.

4. PRIORITY

The creditor must determine its priority relative to other creditors. This is done by checking the filing records and the status of other creditors.

5. EXHAUSTION

The creditor must follow the proper procedures for exercising its remedies against the collateral.

CREATING A SECURITY INTEREST

1. IDENTIFYING THE DEBTOR

The creditor must identify the debtor with reasonable certainty. This can be done by describing the debtor in the financing statement.

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Orkun Akseli



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Secured Transactions Debra Vollweiler, 2019-05 Essential 6 page laminated quick reference to secured transactions designed for students of law and those already practicing to see the significance of the details within the larger scheme of the law Reviewers say this is a must have for class as well as the Bar Exam with sub parts being clear concise and consolidated in a way that sheds light on the big picture BarCharts Inc was founded on our law guides created by the owner as a daily refresher and exam review because with so much to retain in law school and beyond this guide is the quick reference you need at an unmatched value 6 page laminated guide includes Scope of Article 9 Consignment Leases Pledges Terminology Definitions Procedures for Creating a Security Interest Classification of Collateral Creating a Security Interest Perfection Purpose Effect of Perfection Means of Perfection Tools for Perfection Financing statement Perfection by Filing a Financing Statement 9 310 Effectiveness of Filing a Financing Statement Time Duration of Filing a Financing Statement Place of Perfection in Multistate Transactions Termination of Perfection Perfection by Possession or Control No Financing Statement Perfection by Possession Perfection by Control Automatic Perfection Perfection of Goods Covered by a Certificate of Title Perfection of Rights to Proceeds Rules of Priority Basic Rule of Priority Secured Parties vs Statutory Lien Holders Basic Rule of Priority Secured Parties vs Judicial Lien Creditors Basic Rule of Priority Special Priority Rules for Fixtures Special Rules for PMSI Priority Special Priority Rules for Buyers of Goods in Ordinary Course of Business 9 320 Special Priority Rules for Accessions Special Priority Rules Regarding Bankruptcy Default Repossession Right to Redeem Foreclosure

Secured Transactions Law Reform Louise Gullifer, Orkun Akseli, 2016-10-20 Secured transactions law has been subjected to a close scrutiny over the last two decades One of the main reasons for this is the importance of availability of credit and the consequent need to reform collateral laws in order to improve access to finance The ability to give security effectively influences not only the cost of credit but also in some cases whether credit will be available at all This requires rules that are transparent and readily accessible to non lawyers as well as rules that recognise the needs of small and medium sized enterprises This book critically engages with the challenges posed by inefficient secured credit laws It offers a comparative analysis of the reasons and the needs for a secured transactions law reform as well as discussion of the steps taken in many common law civil law and mixed law jurisdictions The book written under the auspices of the Secured Transactions Law Reform Project informs the debate about reform and advances novel arguments written by world renowned experts that will build upon the existing literature and as such will be of interest to academics legal practitioners and the judiciary involved in secured transactions law around the world The text considers reform initiatives that have taken place up to the end of April 2016 It has not been possible to incorporate events since then into the discussion However notable developments include the banks decree passed by the Italian Government on 29th June 2016 and the adoption of the Model Law on Secured Transactions by UNCITRAL on 1st July 2016 **Secured Transactions Law in Asia** Louise Gullifer, Dora Neo, 2021-03-25

This collection of essays offers a unique insight and overview of the secured transactions law in many of the most important countries in Asia as well as reflections on the need for benefits of and challenges for reform in this area of the law. The book provides a mixture of general reflections on the history, successes and challenges of secured transaction law reform and critical discussion of the law in a number of Asian countries. In some of the countries the law has already been reformed or reform is under way and here the reforms are considered critically with recommendations for future work. In other countries the law is not yet reformed and the existing law is analysed so as to determine what reform is desirable and whether it is likely to take place. First, this book will enable those engaging with the law in Asia to understand better the contours of the law in both civil and common law jurisdictions. Second, it provides analytical insights into why secured transactions law reform happens or does not happen, the different methods by which reform takes place, the benefits of reform and the difficulties that need to be overcome for successful reform. Third, it discusses the need for reform where none has yet taken place and critically assesses the reforms which have already been enacted or are being considered. In addition to providing a forum for discussion in relation to the countries in question, this book is also a timely contribution to the wider debate on secured transactions law reform which is taking place around the world.

International Secured Transactions Law

Orkun Akseli, 2011-03-17. This book focuses on international harmonisation and the law of secured transactions by distilling and analysing the unifying principles of various significant international conventions and instruments such as the UN Convention on the Assignment of Receivables, the Unidroit Convention on International Factoring, the EBRD Model Law on Secured Transactions, the Unidroit Convention on the International Interests in Mobile Equipment and the UNCITRAL Legislative Guide on Secured Transactions. International secured transactions conventions and instruments facilitate credit and promote economic activity through the creation of harmonised rules. Therefore, given the increasing globalisation of markets, international reform efforts for the harmonised modernisation of secured transactions law have gained pace over recent years. International Secured Transactions Law draws on experiences in both English and US laws in order to identify and illustrate the existing problems that need to be addressed as well as identify potential solutions. International Secured Transactions Law will be of interest to scholars, students interested in international commercial law, corporate law or comparative secured transactions and practitioners involved in international commercial transactions.

Secured Transactions Law Reform in Africa Marek Dubovec, Louise Gullifer, 2019-10-31. Over the last few decades many countries have reformed their secured transactions law. One of the main reasons has been the clear link between reform and the availability of credit and the drive to improve access to finance, particularly for micro, small and medium-sized enterprises. This book focuses particularly on developing economies in Africa which have legal frameworks influenced by English, French, Belgian, Roman-Dutch and other laws. Reform in this area of law across African countries has taken a number of forms which are explored and discussed in this book. Secured Transactions Law Reform in Africa is a mixture of a critical description of

the pre reform law and practice and the reform process itself It also includes a comparative analysis of the legal provisions and an examination of the early results of the reforms The book sets out a road map for the future of secured transactions reform primarily in Africa but also in other countries that have undertaken or are contemplating similar reforms This book is the second in a series of books about Secured Transactions Law in countries around the world and its reform both on a national and an international scale The first book *Secured Transactions Law Reform Principles Policies and Practice* was published in 2016

Law and Practice of Secured Transactions: Working With Article 9 Richard F. Duncan, William H. Lyons, Catherine Lee Wilson, 2011

International Legal English Student's Book with Audio CDs (3) Amy Krois-Lindner, TransLegal, 2011-07-14 *International Legal English* Second edition is the definitive course for students who need to work in the international legal community *International Legal English* Second edition teaches learners how to use English in a commercial law environment and is suitable for classroom use or self study This second edition has fully updated content including twice the number of authentic case studies compared to the first edition and contains a new unit on Transnational Commercial Law An updated pull out glossary is included in the Student's Book *International Legal English* Second edition is ideal preparation for the Cambridge *International Legal English Certificate ILEC* and contains exam practice tasks exam tips and a practice ILEC test

Property Law in a Globalizing World Amnon Lehavi, 2019-01-17 Why property law needs globalization strategies Local to global an institutional analysis Land Tangible goods monetary claims investment securities Intellectual property data and digital assets Security interests and proprietary priorities in insolvency

CISG vs. Regional Sales Law Unification Ulrich Magnus, 2012-08-31 In October 2011 the European Commission introduced its Proposal for a Regulation on a Common European Sales Law CESL which covers inter alia international business sales a subject already regulated by the Convention of International Sale of Goods CISG which was ratified by 78 member states How does this new Proposal fit the existing uniform sales law How have other regions of the world managed the coexistence of global and regional sales law unification What can Europe learn from the U S experience concerning the CISG and the Uniform Commercial Code What can we learn from the African OHADA which made CISG more or less the internal law of 17 African states what from Australia where CISG and common law exist alongside All these questions are intensely discussed in this highly recommendable book written by renowned authors like Larry DiMatteo Harry Flechtner Franco Ferrari Robert Koch Ulrich Magnus and Bruno Zeller

Towards Reforming the Legal Framework for Secured Transactions in Nigeria Chima Williams Iheme, 2016-08-16 This book offers a valuable guide to one of the most challenging areas of commercial law now frequently referred to as secured transactions with a focus on Nigerian Canadian and United States perspectives A debtor's ability to provide collateral influences not only the cost of the money borrowed but also in many cases whether secured lenders are willing to offer credit at all The book proposes that increasing access to and indeed lowering the cost of credit could tremendously boost economic development while at the same time arguing that this would

best be achieved if the legal framework for secured transactions in Nigeria and of course any other country with similar experiences were designed to allow the use of personal property and fixtures to secure credit Similarly the creation priority perfection and enforcement of security interests in personal property should be simplified and supported by a framework that ensures that neither the interests of secured lenders nor debtors are hampered so as to guarantee the continuous availability of affordable credit as well as debtors willingness to borrow and do business The book further argues that in addition to the obvious preference for real property over personal property by secured lenders due to the unreformed secured transactions legal framework in Nigeria its compartmentalized nature has also resulted in unpredictability in commerce and the concomitant effects of poor access to credit Through the comparative research conducted in this book utilizing the UCC Article 9 and Ontario PPSA as benchmarks the author provides reformers with a repository of tested secured transactions law solutions which law reformers in the Commonwealth countries in Africa and beyond as well as the business community will find valuable in dealing with issues that stem from secured transactions

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