COURSE DESCRIPTION

This course is about commercial transactions involving the financing activities of lenders, vendors, and other “secured parties”. It examines the law relating to secured transactions in personal property and, in particular, involves a detailed study of the Personal Property Security Act (the “PPSA”).

A secured transaction involves a creditor granting a debtor a loan or some other form of value. Creditors often require the debtor to give them a security interest in personal property or fixtures held by the debtor. After the debtor grants a security interest in her personal property or fixtures, those items become collateral that the secured party uses to secure payment if the debtor fails to repay or perform their obligations. Subject to the PPSA and the contract between the secured party and the debtor, the secured party obtains certain rights in the collateral even though title, use, and possession of the collateral may remain with the debtor.

Although this area of the law arises from the common law, Parliament and all Legislatures have enacted legislative schemes that govern secured transactions. In British Columbia, the British Columbia PPSA governs the area. Topics that will be covered include the scope and application of the PPSA, the validity of security agreements, conflict of laws regarding security interests, registration of security interests, default priority rules, special priority rules, proceeds, the rights of buyers and other transferees, and the rights of secured parties and debtors with respect to enforcement. If time permits, there will be a brief introduction to security interests in personal property and fixtures as regulated by the federal Bank Act. The aim is to give students a strong foundation for future practice or research in commercial law.

COURSE OBJECTIVES

At the end of the course students should have a basic understanding of security devices used in commercial transactions. More particularly, students should understand the common vehicles of commercial lending, the creation and registration of security interests, the priority structure for competing security interests, the basic rules relating to the realization of these securities, and some of the theory underlying their creation and use. Students should be able to apply the provisions of the PPSA, other applicable legislation, and relevant case law to hypothetical problems.

TEACHING METHODOLOGY

This is principally a lecture course, although class participation is very much encouraged. There will also be class discussions to give students the opportunity to critically reflect on the issues surveyed and to apply what they have learned to hypothetical problems.

EXPECTED EVALUATION METHODOLOGY (SUBJECT TO CHANGE)

- 20% mid-term assignment (take home, problem-based)
- 80% final exam (2.5 hours, modified-open book)

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