How do I use personal property to secure a debt?

A: Personal property is any type of property not classified as real estate. This includes:

- tangible goods, such as furniture, equipment and vehicles;
- general intangibles, such as the goodwill of a business, accounts receivable and business income;
- instruments and documents, such as notes, whether or not they are secured by a mortgage; and
- other items, such as cash and contract rights.

In contrast, a **real estate fixture** is personal property permanently attached or affixed to the land or buildings located within the parameters of a parcel of real estate and made part of the real estate.

Intent to establish a fixture as real estate or personal property is usually manifested in a written agreement. Thus, in a real estate transaction, the owner and lender demonstrate their *intent* to treat an item as personal property, not a real estate fixture, by creating a lien on the item with the proper documentation.

Two documents are used to properly secure a debt with personal property located on real estate:

- a **security agreement** which creates a lien on the personal property and grants the lienholder a security interest in the personal property; and
- a **UCC-1 Financing Statement** which is recorded to give public notice of the lien, called *perfecting the lien*.

Perfecting the lien by filing the UCC-1 with the Secretary of State establishes the mortgage holder's interest and priority over all other security interests in the personal property acquired by others after the UCC-1 is filed.

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