

FOUR FAST FACTS

ON: BASIC SECURITY INTEREST CONCEPTS

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1 What is a security interest?

The subject of security interests is complex. This publication touches on some headline security interest concepts.

A security interest is an interest taken by a creditor in property to secure payment of a debt or performance of an obligation.

Various other commercial arrangements that *in substance* secure payment or performance of an obligation are also deemed to be security interests that are registrable on the Personal Property Securities Register (PPSR).

Security interests can be taken over any type of property.

A guarantee is not a security interest.

2 Types of security interests

Security over interests in land are usually taken by electronic registration of a mortgage against the record of title using LandOnline.

Security interests over personal property (basically every type of asset except for interests in land) are usually taken in a security agreement – most commonly a general security deed (all personal property) or a specific security deed (specific assets).

3 Why take a security interest?

If a lender has taken security, it can enforce its interest by selling the secured property and using the proceeds towards paying the debt.

In an insolvency of the debtor, secured creditors generally have priority over unsecured creditors to the proceeds of sale of the secured property.

Secured creditors who have a registered 'purchase money security interest' gain a 'super priority' over other secured creditors in respect of property they have provided the 'purchase money' for. This includes financiers, lessors, and vendors of goods sold on retention of title terms.

4 Enforceability considerations

There are a number of issues that can complicate enforcement of security interests. They include:

- issues related to documentation of the security,
- issues related to registration of the security,
- competing interests and priorities between secured creditors, and
- the debtor's solvency status when it granted the security interest.

Contact your usual [Bell Gully adviser](#) for advice on taking security interests.