

**REMEDIES UNDER ARTICLE 9 OF THE UCC, DEEDS IN LIEU OF
FORECLOSURE AND SECRET LIENS**

Utah State Bar – Mid Year Meeting
Saturday, March 15, 2008

1. REMEDIES UNDER ARTICLE 9 OF THE UCC

1.1 Utah UCC. Chapter 9a of title 70A of the Utah Code, Utah Code Ann. §§ 70A-9a-101 *et seq.*, governs security interests in personal property. Part VI of Chapter 9a governs remedies.

1.2 Default. Article 9 does not define what constitutes "default." Rather, default is governed by the terms of the loan documents.

1.3 General Structure of Article 9 Remedies. Article 9 sets forth the secured party's rights and remedies with respect to the collateral after default and limits those rights and remedies by requiring the secured party to give minimum protections to the debtor and other interested parties. Many of these minimum protections are not waivable under Article 9 and all aspects of remedies must be commercially reasonable.

1.4 Secured Party's Options After Default

(a) Judicial Foreclosure. After default, a secured party sue for judgment or foreclosure of its personal property security interests -- Utah Code Ann. § 70A-9a-601(1).

(b) Documents. The secured party may proceed against the documents or the goods which they cover - Utah Code Ann. § 70A-9a-601(1).

(c) Possession / Breach of the Peace. Under Article 9, after default the secured party may take possession or control of the collateral, but only if it can do so without a breach of the peace. Collateral can be surrendered under a "Peaceful Surrender" agreement or repossessed. Once collateral is collected or possessed it can be retained, applied against the debt or disposed of by the secured party pursuant to the rules described below.

(d) Collection.

(i) Accounts and Instruments. After default (and prior to default if so agreed by the parties) a secured party has the right to notify account debtors or persons obligated on instruments to pay the secured party directly and to exercise the rights of the debtor to enforce the obligations. § 9a-607(1).

(ii) Sale of Accounts or Instruments. For transactions in which the sale of accounts or instruments includes recourse to the debtor (recourse factoring, for example),

collection and enforcement must be conducted in a commercially reasonable manner. Utah Code Ann. § 70A-9a-607(3). For transactions subject to Utah Code Ann. § 70A-9a-607(3), a secured party may deduct from the collections reasonable expenses of collection and enforcement, including reasonable attorney's fees and legal expenses incurred by the secured party. Utah Code Ann. § 70A-9a-607(4).

(iii) Supporting Deed of Trust Obligation. Under Utah Code Ann. § 70A-9a-607(2), a secured party that is the assignee of an obligation secured by a real estate mortgage has the right to become the mortgagee or beneficiary of record upon the debtor's default in order to foreclose non-judicially on the deed of trust. To accomplish this, the secured party may record in the County Recorder's Office where the deed of trust is recorded

(1) a copy of the security agreement that creates or provides for a security interest in the obligation secured by the deed of trust; and

(2) the secured party's sworn affidavit in recordable form stating that a default has occurred and that the secured party is entitled to enforce the deed of trust non-judicially.

(iv) Deposit Accounts. Under Utah Code Ann. § 70A-9a-607(1)(d) and (e), a secured party with control over a deposit account may receive and apply to the secured debt the funds contained in the deposit account. Normally, a notice of exclusive control is given upon default if exclusive control was not previously obtained.

(e) Strict Foreclosure -- Retention of Collateral in Full or Partial Satisfaction of Secured Debt.

(i) Under Utah Code Ann. § 70A-9a-620, a secured party in a commercial transaction may retain collateral in **partial** satisfaction of the secured debt, and the secured party may retain collateral in satisfaction even if the secured party is not in possession of the collateral (as in the case of intangible collateral like accounts.)

(ii) To retain collateral, the secured party must notify the debtor and other parties obligated on the secured debt of the proposed retention by an "authenticated" notice (vs. written) and may retain the collateral if no objection is received within **21** days. The debtor may waive the right to receive notice and to object to retention only after default.

(iii) Under Utah Code Ann. § 70A-9a-621, a secured party must notify other secured parties and lienholders who are of record **10** days before the debtor consented to the retention of the collateral, *i.e.*, the secured party contemplating retention has constructive notice of other interests in the collateral, and persons who have recorded their interests need not send any additional notice to senior secured parties. Those with unrecorded interests may, before the debtor consents to the retention of the collateral, provide authenticated notification of their claims to the secured party, and the secured party must provide them with authenticated notice.

(iv) For consumer-goods collateral, the debtor cannot consent to retention while he is in possession of the collateral. The secured party can retain collateral only in **full** satisfaction of the secured debt. Also, disposition of the collateral is mandatory if

60% of the cash price (for PMSI), or 60% of the principal amount of the secured obligation in a non-purchase-money transaction, has been paid.

(v) A secured party will not be deemed to have taken the collateral in satisfaction of the secured debt unless it takes the steps set forth in the statute.

(vi) Under Utah Code Ann. § 70A-9a-622 subordinate interests are discharged when a senior secured party retains collateral (even if the secured party does not comply with the statute). However, failure to comply may subject the secured party to liability under Utah Code Ann. § 70A-9a-625.

(f) Disposition of Collateral

(i) General. Collateral in the possession or control of the secured party may be sold and the proceeds applied to the secured debt.

(ii) Public vs. Private. A disposition may be to the public or a small group of private parties. A secured party may bid at a private sale, but not at a public sale.

(iii) Commercially Reasonable Dispositions. The "commercial reasonableness" standard:

(1) In a commercial transaction, 10 days prior notice of disposition is *per se* reasonable. Utah Code Ann. § 70A-9a-612(2). The notice must be given **after** default. No safe-harbor period applies to consumer transactions. Whether the notice of disposition is commercially reasonable is a question of fact, and comment 2 to Utah Code Ann. § 70A-9a-612 states that a notification that is sent so near to the disposition date that a notified person could not be expected to act on or take account of the notification would be unreasonable.

(2) A secured party may now dispose of the collateral by license, as well as by sale or lease (e.g. software).

(3) A secured party may disclaim or modify the warranties that apply by operation of law to voluntary dispositions of the type of property being disposed of. Utah Code Ann. § 70A-9a-610(5). The disclaimer need not be written, but it must be a "record" (per Utah Code Ann. § 70A-9a-102(72), defined as "information that is inscribed on a tangible medium or that is stored in an electronic or other medium and is retrievable in perceivable form"); an oral communication is not sufficient. Section 25-9-610(6) provides that a disclaimer is sufficient to disclaim warranties if it indicates "There is no warranty relating to title, possession, quiet enjoyment, or the like in this disposition" or uses words of similar import.

(iv) Notice of Disposition.

(1) Parties to Receive Notice. Per Utah Code Ann. § 70A-9a-611, the secured party must provide "reasonable authenticated notification of disposition" to the debtor, to any secondary obligor, and, for collateral other than consumer goods, to any other person from which the secured party received an authenticated notification of a claim of an interest in the collateral, and to all

secured parties and lienholders of record **10** days before the notification date before proceeding with a disposition of collateral. The notice requirement does not apply if the collateral is perishable or likely to rapidly decline in value.

(2) Safe Harbor / Lien Searches - Responses. Section 9-611(e) sets forth "safe harbor" provisions for complying with the notice requirements:

a. If the secured party requests, no later than **20** days nor earlier than **30** days before the notification date and in a commercially reasonable manner, information from secured parties and other lienholders of record concerning financing statements indexed under the debtor's name in the appropriate filing office(s), and

b. before the notification date the secured party did not receive a response to the request for information, or received a response to the information request and sent an authenticated notification of disposition to each secured party or other lienholder named in that response whose financing statement covered the collateral.

(3) Form of Notice of Disposition. Section 9-613(5) provides a safe-harbor form of notification of disposition of collateral for non-consumer-goods transactions and states that the safe-harbor form for consumer-goods transactions contained in Utah Code Ann. § 70A-9a-614(3) can also be used for non-consumer-goods transactions. (The reverse, however, is not true.).

(4) Certificated Titles and Title Clearing.

a. Section 9-619 provides a title clearing mechanism to effect a transfer of record of titled collateral to a foreclosure purchaser, making it easier for a secured party to dispose of collateral covered by a certificate of title or subject to a registration system (such as a copyright). Unless federal law preempts state law with regard to such a transfer, Utah Code Ann. § 70A-9a-619 provides that a transferee may present a "transfer statement" (along with any applicable fee and a request form) to the official or office responsible for maintaining any official filing, recording, registration, or certificate-of-title system covering the collateral.

b. A "transfer statement" means a record authenticated by a secured party stating:

i. That the debtor has defaulted in connection with an obligation secured by specified collateral;

ii. That the secured party has exercised its post-default remedies with respect to the collateral;

iii. That, by reason of the exercise, a transferee has acquired the rights of the debtor in the collateral; and

iv. The name and mailing address of the secured party, debtor, and transferee.

c. The official/office is required to "promptly amend its records" to reflect the transfer of title. The mechanism may be used to transfer title from the debtor to the secured party before the secured party exercises its acceptance or disposition rights, or it may be used following the exercise of those rights to transfer title to a third party. Transfer of record or legal title in this manner does not relieve the duties of a secured party with respect to enforcement of its security interest, nor does it discharge any of the debtor's rights with respect to such enforcement.

(g) Limitations on Secured Party's Disposition of Collateral.

(i) As set forth in Utah Code Ann. § 70A-9a-610(2), all aspects of a disposition of collateral must be "commercially reasonable." What constitutes reasonable conduct has been much debated and litigated. For requirements not covered by safe-harbor provisions, Utah Code Ann. § 70A-9a-627 sets out criteria for judging whether conduct was commercially reasonable:

- (1) in the usual manner on any recognized market;
- (2) at the price current in any recognized market at the time of the disposition; or
- (3) otherwise in conformity with reasonable commercial practices among dealers in the type of property that was the subject of the disposition.
- (4) A collection, enforcement, disposition, or acceptance is commercially reasonable if it has been approved:
 - a. in a judicial proceeding;
 - b. by a *bona fide* creditors' committee;
 - c. by a representative of creditors; or
 - d. by an assignee for the benefit of creditors.

Note that the parties can contract in advance regarding the standard by which commercial reasonableness may be judged, but the debtor cannot waive the requirement that disposition be commercially reasonable. Though (b) sets forth methods of disposition that are commercially reasonable as a matter of law, they are not the exclusive means of conducting a commercially reasonable disposition.

(h) Waivers.

(i) Non-Waivable Rights. Section 9-602 lists thirteen provisions granting rights to debtors or obligors and/or imposing duties on a secured party and states that a debtor or obligor may not waive or vary them.

(ii) Section 9-624 is a limited exception to Utah Code Ann. § 70A-9a-602, allowing waivers by an agreement between the parties entered into and authenticated **after** default:

(1) waiver by a debtor or secondary obligor of the right to receive notification of disposition of collateral under Utah Code Ann. § 70A-9a-611

(2) waiver by a debtor of the right to require disposition of collateral under § 620(5)

(3) and (c) **except in a consumer-goods transaction**, waiver by a debtor or secondary obligor of the right to redeem collateral under Utah Code Ann. § 70A-9a-623.

(i) Redemption of Collateral.

(i) Under Utah Code Ann. § 70A-9a-623, the debtor, any secondary obligor, or any other secured party or lienholder may redeem collateral at any time before a secured party:

(1) has collected collateral pursuant to Utah Code Ann. § 70A-9a-607;

(2) has disposed of collateral or entered into a contract for its disposition under Utah Code Ann. § 70A-9a-610; or

(3) has accepted collateral in full or partial satisfaction of the obligation is secures under Utah Code Ann. § 70A-9a-622.

(ii) To redeem collateral, a person must tender:

(1) fulfillment of all obligations secured by the collateral; and

(2) the reasonable expenses (including, where agreed to and not prohibited by law, reasonable attorney's fees and legal expenses) incurred by the debtor in retaking, holding, preparing for disposition, processing, and disposing of the collateral.

(j) Surplus or Deficiency.

(i) Under Utah Code Ann. § 70A-9a-626, in an action regarding a surplus or deficiency following disposition of collateral in a **non-consumer** transaction, the secured party must prove its compliance with Article 9 procedures only if the debtor or a secondary obligor places the secured party's compliance in issue. If the secured party fails to prove that its actions were in compliance, then the liability of the debtor or a secondary obligor for a deficiency is limited to an amount by which the sum of the secured obligation, expenses, and attorney's fees exceeds the greater of

(1) the proceeds of the collection, enforcement, disposition, or acceptance, or

(2) the amount of proceeds that would have been realized had the secured party proceeded in accordance with the default provisions of Article 9.

(ii) In a non-consumer transaction where an action is brought under Utah Code Ann. § 70A-9a-615(6) regarding the calculation of a surplus or deficiency where the collateral was transferred upon disposition to the secured party, a person related to the secured party, or to a guarantor, the burden is placed on the debtor or obligor to provide that the proceeds of the disposition are significantly below the range of prices that a complying disposition to an unrelated party would have brought. Utah Code Ann. § 70A-9a-626(1)(e).

(iii) In a **consumer** transaction, the court is given discretion to determine whether the secured party proceeded in compliance with the RA9 rules for disposition of collateral. Utah Code Ann. § 70A-9a-626(b).

2. DEEDS-IN-LIEU OF FORECLOSURE

2.1 Deeds-in-Lieu.

(a) A real property remedy similar to a UCC strict foreclosure.

(b) Deeds-in-lieu are often taken by lenders in connection with loan workouts of all types of real property. They are often done as part of bankruptcy workouts and “prepackaged” bankruptcy plans. The property may require major repairs, renovation and rehabilitation. Lenders are often concerned about potential environmental contamination, as well.

(c) A lender will most often pursue a deed in lieu for foreclosure when the borrower lacks any assets to make pursuing a deficiency judgment worthwhile. If the property in question is worth more than the amount owed on it, the lender would be better off to simply liquidate the property rather than pursuing a deed in lieu of foreclosure. Lenders will not typically agree to a deed in lieu if there is equity in the property or if there are excessive or monetarily significant liens subordinate to the lender’s deed of trust or mortgage.

(d) Deeds in lieu of foreclosure are often heavily negotiated.

(e) The consideration stated for a deed in lieu of foreclosure is normally forgiveness of the debt or an agreement not to sue on the debt, or, if the loan is nonrecourse, the agreement of the lender not to foreclose or exercise its rights and remedies under the loan documents for failure to pay the debt.

2.2 Consensual Remedy. A deed in lieu of foreclosure requires the borrower to relinquish its rights in a property to the lender in exchange for being released from some or all of the liabilities specifically named in the loan documents.

2.3 Advantages.

(a) Lender Advantages.

(i) It is faster than a judicial or non-judicial foreclosure. The lender will save considerably on court costs and lawyers’ fees, etc. Possession can transfer quickly.

- (ii) It saves the cost of a foreclosure procedure.
- (iii) A deficiency, if any, can be negotiated..

(b) Borrower Advantages.

(i) A deed in lieu of foreclosure can often be the result of a settlement with the lender. The borrower is freed from having a foreclosure on his or her credit history.

2.4 Intervening Liens, No Equity, Appraisal.

(a) Usually, a lender won't accept a deed-in-lieu unless there are no other mortgage, deed of trust, mechanic or other liens on the property. Unlike a foreclosure, a deed in lieu does not "foreclose out" any subordinate liens and the lender/grantee takes subject to all existing liens, whether known or unknown.

(b) Lenders often require an appraisal to established that there is no equity in the property or to assist in determining a negotiated deficiency.

2.5 Risks.

(a) Re-characterization as an equitable mortgage

(b) Violation of the "clogging the equity" doctrine (i.e., the use of a deed-in-lieu as a means of preventing the borrower from exercising its statutory and/or equitable rights to redeem the property from a foreclosure sale) Re-characterization and "clogging" issues may occur in connection with a deed-in-lieu transaction when the former owner retains a residual right with respect to the property after the conveyance, such as an option to repurchase the property or a right of first refusal, or retains possession of the property under a lease or occupancy agreement from the lender. Courts sometimes conclude that the deed really constituted an equitable mortgage.

(c) Setting aside of the transaction as a fraudulent conveyance or preferential transfer under federal bankruptcy or state fraudulent transfer laws.

Lenders may try to hedge or guard against these risk by use of third party indemnifications or "springing" or "exploding" guaranties, the required establishment of "bankruptcy remote entities," etc.

2.6 Pre-Closing Issues.

(a) Title Commitment, survey and Schedule B-2 document review. Review current title policy.

(b) Obtain and review copies of all leases, licenses and occupancy agreements.

(i) Determine status of security deposits. Determine transferability of non-cash security deposits (including letters of Credit.

(ii) Brokerage commission liabilities.

(iii) Leasing agreements

- (c) Obtain and review copies of all service and maintenance contracts and equipment leases
- (d) Determine which contracts and leases are to be assigned and which are to be terminated
- (e) Management agreements.
- (f) Licenses and permits.
- (g) Personal property inventory.
- (h) Engineering Report and ADA Compliance Report.
- (i) Phase 1 (or Phase 2) Environmental Site Assessment Report(s).
- (j) UCC, tax lien, litigation and judgment searches.
- (k) Appraisal.

2.7 Required Deed in Lieu Documents. Most sophisticated lenders have a specific procedure for deeds-in-lieu, including:

- (a) Deed-In-Lieu or Settlement Agreement
- (b) Deed with non-merger language
- (c) 1099s and other tax documents
- (d) Assignment of Leases and Contracts
- (e) Tenant estoppels and tenant letters, if applicable
- (f) Bill of Sale for personal property
- (g) Covenant Not to Sue on Note
- (h) Release of Lender if not in deed in lieu agreement
- (i) Legal Opinion
- (j) Title Documents: Escrow Agreement, Gap Undertaking, Owners Affidavit (ALTA Statement), etc.

2.8 Additional Closing Deliveries.

- (a) See diligence list above.
- (b) Keys, Password and Combinations
- (c) Copies of leases and contracts

- (d) CofO, business licenses and permits
- (e) Plans and Specifications
- (f) Books and Records

2.9 Preservation of the Mortgage Lien.

(a) Since a deed in lieu does not “foreclose out” any subordinate liens, the lender/grantee takes subject to all existing liens, whether known or unknown.

(b) Many lenders will not cancel the note, but will instead give the borrower a covenant not to sue (in case the deed is later set aside for legal or equitable reasons or the title company fails) and will keep the mortgage of record and not discharge or release it until the property is resold. Utah merger law follows the intent of the parties.

(c) Lender’s normally attempt to preserve their note and deed of trust lien. There is a general exception to the merger rule – i.e., that a deed of trust or mortgage is not extinguished if the parties express their intention in the deed not to terminate the deed of trust or mortgage. Recent case law generally supports the ability of a lender to foreclose its mortgage after acceptance of a deed in lieu of foreclosure, at least where the deed contains an anti-merger provision.

(d) To attempt to eliminate these liens, the lender still must foreclose the mortgage or otherwise deal with each of the existing encumbrances. The lender actually may have an incentive to pay something on lien claims to avoid a contested foreclosure proceeding; after all, the primary purpose of a deed-in-lieu transaction usually is to avoid foreclosure.

2.10 Title Insurance Issues

(a) Title Policy and Endorsements: The lender normally obtains a new title policy with typical endorsements and the following specific endorsements:

- (i) A non-merger endorsement
- (ii) Deletion of the creditors’ rights exclusion (which will only occur if the title company is satisfied that there is no equity in the property).

(b) Appraisals. The title insurance company will usually want a copy of the appraisal or other evidence showing that the value of the property being transferred is less than the debt. The title insurer will usually supply the lender with a confidentiality letter with respect to the appraisal at the lender's request.

3. **SECRET LIENS, TRUSTS AND RELATED RISKS**

3.1 Effect on Collateral. The value of a lender’s collateral depends on the priority of the lender’s interest in it. Various statutory trusts and “secret” liens that cannot be detected by a standard lien search when the loan closes can rob the secured creditor of that priority.

- (a) What we are really talking about is “How valuable is our collateral?”
 - (i) will collection be diluted?

- (ii) will collection be delayed?
- (b) Everyone is familiar with basic competing interests or claims to collateral:
 - (i) UCC Art 9 Security Interests (pmsi, control, possession and other perfection methods can cause additional problems in verifying liens)
 - (ii) Judgment Liens
 - (iii) Some other statutory liens - e.g. federal tax liens
 - (iv) Mechanic's liens

3.2 Competing Interests in collateral: Are they all liens or security interests?

- (a) Some are traditional liens
 - (i) ERISA liens
- (b) Some are not liens, such as trust arrangements, but have similar effects on collateral value
 - (i) constructive trust under PACA
 - (ii) "*Hot-goods doctrine*" derived from the Fair Labor Standards Act
 - (iii) Reclamation rights of sellers of goods under UCC Article 2
- (c) Why are these interests or claims called "Secret" or "Hidden" liens?
 - (i) Some liens do not require any public notice or filing. These will be missed in standard financing statement and judgment searches.
 - (1) Effectiveness
 - (2) Priority
 - (3) Timing.
 - a. Addressed at loan underwriting or origination
 - i. Hot Goods reps and warrants - min wage and overtime requirements
 - ii. ERISA warranties - underfunded pension plans
 - b. Administration, workout or collection of the credit.
 - i. Tax liens – 25 day notice period, 45 day rule
 - ii. Lender must to remain diligent

- (d) Secret Liens (i.e. competing interests in collateral) vary by
 - (i) Industry and borrower type
 - (1) Example, agricultural - PACA, PSA
 - (2) Interline Trust Doctrine
 - (ii) State or jurisdiction

3.3 Common Law, Equitable or Statutory Trust Arrangements.

(a) Limits on Ownership of Right to Pledge. The secured lender's interest in collateral is limited to the interest held by the borrower. A statute or regulation that imposes a trust on property deprives the borrower of its ownership and may invalidate its attempt to pledge the property as collateral. The law imposes trusts in a broad range of circumstances.

(i) Trust fund taxes: The most common statutory trust protects the federal government's collection of taxes and FICA withholdings from an employee's wages. The U.S. Supreme Court decided that the employer had no ownership in employee withholdings. Since the employer has no interest in the withheld funds, they cannot be transferred as collateral to a secured creditor. State and local governments have also successfully asserted trusts on companies' property for their tax obligations.

(ii) Other statutory trusts: Federal and state laws impose trusts in a variety of situations which effectively prevent the secured lender from including the trust property as part of its collateral. For example, federal law imposes a trust to protect the seller of perishable agricultural products from the risk of nonpayment. The Interline Trust Doctrine

(iii) Common Law or Equitable Trusts. Interline Trust doctrine example in trucking industry, PACA trusts, etc. A bankruptcy court recently relied on an escrow regulation to impose a trust on all of the property of a trucking company in favor of its drivers.

3.4 Secret, Hidden or Unrecorded liens.

(a) Utah's Miscellaneous Liens – Utah Code Title 38. There are twelve Sections relating to liens in Title 38.

- (i) 38-12-102 requires notice of lien (but then the exception swallows the rule)
- (ii) Examples of subordinate and priority liens in Title 38
 - (1) Repairman's lien- 38-2-3 - subordinate by its terms
 - (2) Compensation - Attorney's lien - not subordinate
 - a. Lien for compensation due

b. Attaches to client's property including personal property which is the subject of the representation

c. Arises at the time of employment - relates back.

d. Attorney may file a notice

e. Anyone who takes an interest in personal property with actual or constructive knowledge of the lien, is subordinate

f. No cases to date to interpret the transaction in multiple state transactions, transactions where attorney is in Utah and property is not, the exact opposite situation, etc.

(iii) Landlord's lien

(1) Lien for as long as they occupy the property and for 30 days thereafter.

(2) Time is limited, not amount

(3) Contrast with Kentucky: "not for more than 120 days rent"

(b) Bank accounts: Funds on deposit at a bank or other financial institution can be subject to secret liens.

(i) The financial institution holding the funds has first priority in them to secure an obligation owed to it by the depositor.

(ii) Other parties can obtain a security interest in the funds senior to the recorded security interest of the depositor's lender by entering into a control agreement with the depositor and financial institution. Because the control agreement does not need to be recorded and the bank has no obligation to disclose its existence, the depositor's lender must either become the financial institution maintaining the account or rely on its customer not to enter into a control agreement.

(c) Other "Secret Liens"

(i) Federal Tax Liens

(ii) State and Local Tax Liens

(iii) Repairman's, Artisan's and Mechanic's Liens

(iv) Landlord and Lessor Liens

(v) Warehouseman's Storage Liens

(vi) Rights of Subrogation

(vii) UCC Article 2 Liens - Post Sale Liens and Reclamation Claims or Rights

- (viii) PBGC and Pension Liens
- (ix) Federal and State Environmental Liens
- (x) “Hidden” Article 9 Security Interests
- (xi) Rights of Offset
- (xii) Fraudulent Transfers and Bankruptcy Rights
- (xiii) “Hot Goods Doctrine” and Unpaid Labor Liens
- (xiv) Perishable Agricultural Commodities Act, Packers and Stockyards Act, and other Agricultural and Livestock Liens.
- (xv) Bankruptcy Utility shut off. The recent amendment to the Bankruptcy Code authorizes a utility to terminate service 30 days after the case filing unless adequate assurance of payment.