

**COURSE DATA****Data Subject**

Code	35240
Name	Credit guarantees
Cycle	Grade
ECTS Credits	4.5
Academic year	2018 - 2019

Study (s)

Degree	Center	Acad. Period
1303 - Degree in Law	Faculty of Law	4 Second term

Subject-matter

Degree	Subject-matter	Character
1303 - Degree in Law	33 - Credit guarantees	Optional

Coordination

Name	Department
BLASCO GASCO, FRANCISCO	50 - Civil Law

SUMMARY

“Guarantees of the credit” is an optional subject of the fourth course of the Law Degree inside the itinerary of Private Law as Tort Law, Consumer Protection and Notarial Law. It maintains a special link with other main subjects of the Law Degree as Civil Law II and Civil Law III. In fact, “guarantees of the credit” takes as a reference the existence of a legal relation as a way of exchanging goods and it is referred to the mechanisms that the legal system provides to creditors in order to protect their rights. First it will be analyzed the civil bond, the contract penalty and the new so called “independent or autonomous guarantees” like the security or the lien. After that it will be studied the so called “in rem guarantees” that are related to immovable like the mortgage and antichresis, and also related to movables like chattel mortgage and the pledge that could be registered in the Movable assets Registry. Also it will be offered a study of the personal actions to protect the credit like the action of compliance, the resolution of the contract and the compensation of damages, and also subsidiary actions like the action to revoke and the action to subrogate. Finally it will be taken into consideration the situation of bankruptcy regulated in the Insolvency Act of 2003



PREVIOUS KNOWLEDGE

Relationship to other subjects of the same degree

There are no specified enrollment restrictions with other subjects of the curriculum.

Other requirements

Though formal restriction does not exist to be able to deal this subject, his utilization would demand that there had excelled itself before the matter corresponding to Civil Law II and Civil Law III.

OUTCOMES

1303 - Degree in Law

- Know the content and application of each of the branches of the legal system.
- Understand the legal system as unitary and have an interdisciplinary perspective of legal problems.
- Be able to use legal sources (legal, jurisprudential and doctrinal).
- Be able to read and interpret legal texts.
- Be able to communicate correctly both orally and in writing in the field of law.
- Be able to analyse legal problems and synthesise their approach and resolution.

LEARNING OUTCOMES

COMPETITION ISSUE 1 Ability to recognize, differentiate and know how to apply the private legal guarantees (personal and real) aimed at ensuring the effectiveness of credit and the satisfaction of the creditor.

COMPETITION ISSUE 2 Ability to recognize and know how to apply actions to seek legal redress credit.

COMPETITION ISSUE 3 Ability to recognize and know how to resolve situations of concurrent creditors and creditor's failure heritage.

DESCRIPTION OF CONTENTS

1. INTRODUCTION: Right of credit and Guarantees of the obligation

1. INTRODUCTION: The obligation: concept and structure. Right of credit, debt and responsibility. The distinction between debt and responsibility. The principle of universal responsibility. Concept, characters and pacts.

2. GUARANTEES OF THE CREDIT: Concept, function, classes and characters.



2. GUARANTEES PERSONALS OF THE CREDIT

THE CIVIL BOND. Concept and characters. Types. Subjects, object and form. Relations between parties. Relation to the thirds. Extinction. The supportive bond.

THE AUTONOMOUS OR INDEPENDENT GUARANTEES. Guarantees at first requirement. Insurance of caution. Letters of sponsorship.

THE SECURITY. Concept, types and functions. The doctrinal theory of the security in the case law.

THE CONTRACT OF PENALTY. Concept, nature and function. The compliance of the penalty. The judicial moderation of the penalty.

THE LIEN. Concept and basis. Effects

3. GUARANTEES REAL ESTATE

THE MORTGAGE. Concept, nature and main features. Types. Subjects of the mortgage. Legal capacity. Creation. The object of the mortgage. The objective extension of the mortgage. Mortgage and legal relation. Responsibility rules. Objective plurality in the mortgage and the principle of speciality. The legal mortgages. Content of the mortgage. Privilege and preference of the mortgage loan. Preference and mortgage rank. Modification of the rank. Execution: the action. Extinction and cancellation of the mortgage. THE ANTICHRESIS. Concept and characters. Constitution. Rights and obligations of the parties. Extinction.

4. THE SECURED TRANSACTIONS

CHAPTER 4

THE PLEDGE. Concept and characters. Constitution. Subject. Object. Content. Extinction. Special pledges.

THE CHATTEL MORTGAGE. Concept. Subjects. Objects. The legal relation guaranteed. Content. Procedures for execution. Extinction. Cancellation and expiration of the inscription in the Movable assets registry.

THE PLEDGE WITHOUT POSSESSION. Concept. Constitution. Object. Content. Procedures for execution. Extinction. Cancellation and expiration of the inscription in the Movable assets registry.

5. DEFENSIVE CUSTODY OF CREDIT

THE ACTION OF COMPLIANCE. Specific performance. Compensation of damages. Some specialties in reciprocal contracts. The resolution of the contract. THE ACTION TO SUBROGATE. Concept. Requisites and effects. THE ACTION TO REVOKE. Concept, requisites and effects. THE DIRECT ACTION.

**6. ATTENDANCE OF CREDITORS AND FAILURE OF DEBTOR'S ASSETS.**

THE INSOLVENCY.THE PRINCIPLE PAR CONDITIO CREDITORUM AND ITS EXCEPTIONS.THE ACT 22/2003, 9 JULY ON INSOLVENCY.

WORKLOAD

ACTIVITY	Hours	% To be attended
Theoretical and practical classes	45,00	100
Attendance at events and external activities	5,00	0
Development of group work	5,00	0
Development of individual work	5,00	0
Study and independent work	16,00	0
Readings supplementary material	5,00	0
Preparation of evaluation activities	15,50	0
Preparing lectures	5,00	0
Preparation of practical classes and problem	6,50	0
Resolution of case studies	3,50	0
Resolution of online questionnaires	1,00	0
TOTAL	112,50	

TEACHING METHODOLOGY

English version is not available

EVALUATION

Composition of the final qualification.- The final qualification composes of a:

- **30 % OF CONTINUOUS EVALUATION.**
- **70 % OF EVALUATION OF THEORETICAL And PRACTICAL KNOWLEDGES.**

Activities computable in the continuous evaluation.- In the **CONTINUOUS EVALUATION** will value the follow-up continued and the preparation of the distinct contents of the programs and will have **LIKE MINIMUM TWO evaluate acts** consistent mainly in the resolution of cases, test-objective proof, individual work or in group, etc..



In any case, each professor reserves the faculty to realize activities of additional continuous evaluation, that will be recorded in the corresponding Annex to the Educational Guide.

Punctuation of the continuous evaluation. - In the continuous evaluation will not obtain any punctuation if it does not surpass AT LEAST THE 40 PERCENT of the same. In consequence, those that do not arrive to the 40 percent will have zero points of continuous evaluation. It pretends with this improve the work continued of the student.

The continuous evaluation will compute so much in first as in second announcement.

Modality of the final proof.- The modality of the FINAL PROOF of knowledge's (test, short questions or of development, theoretical or theoretical-practical, oral examination, etc.) will determine by each professor and will communicate to the students with the due advance.

In case of coincidence of examinations, will be able to vary the type of examination concerning the planned with general character (p.And., test, oral, writing).

Need to approve the Final Proof. - To overcome the course it will be ESSENTIAL TO PASS THE FINAL PROOF.

Qualification in case of have not marked the continuous evaluation. - Those students that have not participated regularly in the activities that allow the continuous evaluation will be evaluated by the result of the final proof, to which anyway will be able to present the students enrolled. In such supposition, the maximum final qualification that they can obtain these students will be of 7 points on 10.

Qualification in case of concurred automatic cause of suspense.- If concurred automatic cause of suspense, according to the criteria of this Educational Guide or of the Annex of each professor, the maximum note that will obtain the student is a 4.

REFERENCES

Basic

- BÉRCOVITZ RODRÍGUEZ CANO, R. (DIR), Y OTROS, Tratado de contratos, T.IV, Tirant lo Blanch Tratados, 2009.
- ATIENZA NAVARRO, M^a L, Y OTROS, (COORD. JR DE VERDA) Derecho civil II, Tirant lo Blanch., 2011, Valencia
- ATIENZA NAVARRO, M^a L, Y OTROS, (COORD. JR DE VERDA) Derecho civil III, Tirant lo Blanch., 2011, Valencia



Additional

- BALLARÍN HERNÁNDEZ R., Y OTROS, Contratos y cuasicontratos: casos y cuestiones, Tecnos, Madrid, 1.997.
- BALLARÍN HERNÁNDEZ R., Y OTROS, Derechos reales: casos y cuestiones, Tecnos, Madrid, 1.996.