

# CREDIT UNION ISSUES IN CHAPTER 13 CASES

NACTT Academy Webinar  
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# Cross-Collateralization

Multiple Assets collateralizing one or more Loans

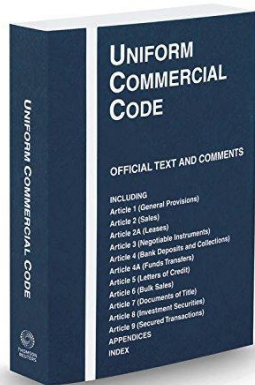


A Single Asset to collateralize two or more Loans

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# Cross-Collateralization

UCC 9-204



UCC Article 9 revised in 2001

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- “You are giving us a security interest in [property].”
- “The security interest secures this loan and any other loans.”
- “Collateral securing other loans will also secure this loan.”
- “You pledge as security all joint and individual deposit accounts you have now and in the future.”

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## Example #1



 01/01/2015	Security interest in shares/deposits in CU. Security interest in 2012 Nissan Altima.
 01/01/2017	Security interest in shares/deposits in CU.

Does the car secure signature loan?

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## Example #2




 <p>01/01/2015</p>	<ul style="list-style-type: none"> <li>• Security interest in shares/deposits in CU.</li> <li>• Security interest in 2012 Nissan Altima.</li> <li>• Security interest secures this loan and all other loans at CU.</li> </ul>
 <p>01/01/2017</p>	<ul style="list-style-type: none"> <li>• Security interest in shares/deposits in CU.</li> <li>• Collateral securing other loans at CU also secures this loan.</li> </ul>

Does the car secure the signature loan?

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## Example #3

 <p>01/01/2012</p>	<ul style="list-style-type: none"> <li>• Security interest in shares/deposits in CU.</li> <li>• Collateral securing other loans at CU also secures this loan.</li> </ul>
 <p>01/01/2015</p>	<ul style="list-style-type: none"> <li>• Security interest in shares/deposits in CU.</li> <li>• Security interest in 2012 Nissan Altima.</li> <li>• Security interest secures this loan and all other loans including credit card loans that you owe now or in the future.</li> </ul>
 <p>01/01/2017</p>	<ul style="list-style-type: none"> <li>• Security interest in shares/deposits in CU.</li> <li>• Collateral securing other loans at CU also secures this loan.</li> </ul>



Does the car secure the signature loan?

Does the car secure the credit card debt?

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## Example #4

 <p>Car loan 01/01/2015</p>	<ul style="list-style-type: none"> <li>• Security interest in shares/deposits in CU.</li> <li>• Security interest in 2012 Nissan Altima.</li> <li>• Security interest secures this loan and all other loans at CU.</li> <li>• Collateral securing other loans at CU also secures this loan.</li> </ul>
 <p>Car loan 01/01/2017</p>	<ul style="list-style-type: none"> <li>• Security interest in shares/deposits in CU.</li> <li>• Security interest in 2006 Lexus.</li> <li>• Security interest secures this loan and all other loans at CU.</li> <li>• Collateral securing other loans at CU also secures this loan.</li> </ul>

If Nissan loan is paid off, can CU still look to the Nissan as security for the Lexus loan?

If Nissan loan is paid off, must CU release its lien?

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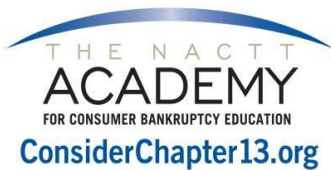
## Proof of Claim Issues

<p style="text-align: center;"><b>Loan #101</b></p> <p>01/01/2012 signature loan</p> <p>16% interest</p> <p>Balance: \$2,000</p>	<p style="text-align: center;"><b>Loan #102</b></p> <p>01/01/2015 car loan</p> <p>7% interest</p> <p>Balance: \$9,000</p> <p style="text-align: center;"><b>Car secures all 3 loans</b></p>	<p style="text-align: center;"><b>Loan #103</b></p> <p>01/01/2019 credit card</p> <p>13% interest</p> <p>Balance: \$1,500</p>
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## Proof of Claim Issues

- Single claim vs separate claim for each account
  - Internal accounting issues
    - Amount of secured claim
      - Arrearage amounts
      - Documentation
      - Amended claims



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## Proof of Claim Suggestion

### PROOF OF CLAIM #1

Loan #101

01/01/2012 signature loan

16% interest

Balance: \$2,000

Secured \$2,000 (cross-collateralized by car, Loan # 102)

### PROOF OF CLAIM #2

Loan #102

01/01/2015 car loan

7% interest

Balance: \$9,000

Secured: \$9,000

Car secures all 3 loans; Value is \$12,000

### PROOF OF CLAIM #3

Loan #103

01/01/2019 credit card

13% interest

Balance: \$1,500

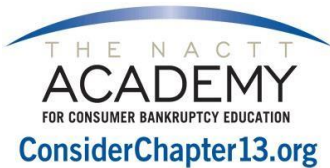
Secured: \$1,000 (cross-collateralized by car, Loan #102)

**TIPS:** Attach documentation; include narrative description; attach worksheet showing calculations of secured amounts

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## Plan Treatment Issues

- Local plan form variations
  - Local rules/custom
    - Need to treat each claim
      - Direct payment
        - Valuation
          - 910-claims
          - Surrender



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## Valuation in Plan

### Request for Valuation:

Name of creditor	Estimated amount of creditor's total claim	Collateral	Value of collateral	Amount of claims senior to creditor's claim	Amount of secured claim
Credit Union Claim #2	\$9,000	2012 Nissan	\$12,000	\$0	\$9,000
Credit Union Claim #1	\$2,000	2012 Nissan (cross-collateralized)	\$12,000	\$9,000	\$2,000
Credit Union Claim #3	\$1,500	2012 Nissan (cross-collateralized)	\$12,000	\$11,000	\$1,000

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## Valuation in Plan

### Request for Valuation:

Name of creditor	Estimated amount of creditor's total claim	Collateral	Value of collateral	Amount of claims senior to creditor's claim	Amount of secured claim
Credit Union Claim #2	\$9,000	2012 Nissan	\$8,000	\$0	\$8,000
Credit Union Claim #1	\$2,000	2012 Nissan (cross-collateralized)	\$8,000	\$8,000	\$0
Credit Union Claim #3	\$1,500	2012 Nissan (cross-collateralized)	\$8,000	\$8,000	\$0

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## 910-Claim

### Secured claims excluded from 11 U.S.C. § 506.

Name of creditor	Collateral	Amount of claim
Credit Union Claim #2	2012 Nissan	\$9,000

### Request for Valuation

Name of creditor	Estimated amount of creditor's total claim	Collateral	Value of collateral	Amount of claims senior to creditor's claim	Amount of secured claim
Credit Union Claim #1	\$2,000	2012 Nissan (cross-collateralized)	\$12,000	\$9,000	\$2,000
Credit Union Claim #3	\$1,500	2012 Nissan (cross-collateralized)	\$12,000	\$11,000	\$1,000

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# 910-Claim

## Secured claims excluded from 11 U.S.C. § 506.

Name of creditor	Collateral	Amount of claim
Credit Union Claim #2	2012 Nissan	\$9,000

## Request for Valuation

Name of creditor	Estimated amount of creditor's total claim	Collateral	Value of collateral	Amount of claims senior to creditor's claim	Amount of secured claim
Credit Union Claim #1	\$2,000	2012 Nissan (cross-collateralized)	\$8,000	\$9,000	\$0
Credit Union Claim #3	\$1,500	2012 Nissan (cross-collateralized)	\$8,000	\$9,000	\$0

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# Partial Surrender

Evolve Fed. Credit Union v. Barragan-Flores (In re Barragan-Flores), 984 F.3d 471 (5th Cir. 2021)



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## Deposit Accounts

### Security interest under UCC -

“You pledge as security all joint and individual deposit accounts you have now and in the future.”



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## FRBP Service on Credit Unions

### Rule 7004(b)(3):

- Service on business entity
- First class mail
- To agent authorized to accept service of process

### Rule 7004(h):

- Service on “insured depository institution”
- Certified mail
- To officer

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# Q & A

