Overview

When asked to sign a sales contract, mortgage, or insurance policy, do you actually read the document before you sign it? If you don’t, chances are you lack a basic understanding of the legal principles used to make business decisions. This course can help you remedy that. It is designed to familiarize you with basic legal principles that affect your personal and professional life. By gaining a working knowledge of the law as it applies to business, you can better protect both your personal and business interests.

The information needed to achieve this goal—specifically in relation to U.S. law—is presented in the textbook titled *Basic Business Law* (second edition) and this study guide. The textbook, which was published by Regents/Prentice Hall in 1994, was written by Charles Hemphill, Jr. and Judy Long. The study guide, written by staff and faculty at The Hadley School for the Blind, is designed to guide you through the textbook.
Study guides are a popular component of distance education courses. They identify what you should be able to do after completing each chapter. They summarize and occasionally clarify or supplement the material in the textbook. They also include the assignments that enable your instructor to evaluate your progress throughout the course. To benefit the most from this type of distance learning, follow the directions in this study guide, which explain how to proceed through each chapter of the textbook.

“Business Law 1,” which is a prerequisite to this course, covered the first 18 chapters of the textbook, *Basic Business Law*. This course, “Business Law 2,” covers the last 14. The study guide for this course divides the textbook into units. There are four units in this course.

Unit 1 covers Chapters 19 to 22 of the textbook. Chapter 19 briefly explains how the criminal justice system works and identifies crimes that commonly occur in businesses. Chapter 20 is concerned with the development and application of the law of
sales. Chapter 21 describes sales contracts and specifies who is responsible for loss in various types of sales arrangements. Chapter 22 describes sales warranties and includes a discussion of relevant consumer protection legislation.

Unit 2 covers Chapters 23 to 25. Chapter 23 identifies various types of liens and mortgages, then explains how they function. Chapters 24 and 25 are both devoted to commercial paper. Chapter 24 classifies commercial paper (which includes checks, drafts, promissory notes, and certificates of deposit) and discusses who may be an owner, or holder. Chapter 25 discusses negotiations related to commercial paper and the relationship between banks and depositors.

Unit 3 is relatively brief, covering Chapters 26 and 27. Chapter 26 describes how partnerships operate once they are established; and it includes definitions of joint ventures, limited partnerships, and franchises. Similarly, Chapter 27 describes how corporations operate once they are established, and it explains how stocks are issued
and dividends are declared.

Unit 4 is the final unit in “Business Law 2.” It covers Chapters 28 to 32. Chapter 28 describes legal aid for creditors, or lenders, then discusses attachments and garnishments as well as the role of a guarantor in protecting creditors. Chapter 29 outlines a debtor’s privileges and protections, as well as the bankruptcy process. Chapter 30 discusses the function of insurance in reducing risks to individuals and businesses. Chapter 31 identifies legal resources and authorities. The concluding chapter in the course, Chapter 32, is devoted to employment laws, such as those governing collective bargaining, equal employment opportunities, workers’ compensation, and the Occupational Safety and Health Act (OSHA). It also includes a supplementary section on the Americans with Disabilities Act.

To complete “Business Law 2,” you need the materials that The Hadley School for the Blind has provided and writing materials for the medium of your choice. If you are taking the audiocassette
version of this course, you will also need your own cassette player. For your convenience, each cassette is tone indexed. When fast-forwarding or rewinding the study guide cassette, you will find that chapters are identified by double tones and assignments are identified by single tones. When fast-forwarding or rewinding the recorded textbook, you will find that the beginnings of chapters are identified by double tones and that directed reading activities are identified by single tones.

The directed reading questions in each chapter of this study guide are for your personal development only. So do not send your answers to your Hadley instructor. You are required, however, to submit the assignments included in each unit. As you complete each assignment, send it to your instructor at

The Hadley School for the Blind

700 Elm Street

Winnetka, IL 60093
You may send your assignments in envelopes labeled “Free Matter for the Blind” provided the assignments are in braille or large print type (14 point or larger), or on cassette or computer diskette. If you prefer to send
your assignment electronically, contact your instructor to obtain an e-mail address.
Chapter 23.
Liens; Mortgages; and Deeds of Trust

Chapter 23 is concerned with some legal documents that affect the ownership and transfer of personal property and real estate. The chapter begins by describing various types of liens, which are defined as claims that one party holds on the property of another party, generally as a consequence of a debt or loan. The most common example of a lien is a mortgage, which is created when real estate is used to secure a loan. Other types of liens are discussed—for example, a lien placed on a customer’s property in order to secure payment for services. Chapter 23 also describes your rights and obligations in any type of lien or mortgage agreement. Familiarizing yourself with the information in this chapter will enable you to evaluate and compare the terms of mortgages and other liens.
Objectives

After completing this chapter, you will be able to
1. Describe various types of liens and their functions
2. Explain how various types of mortgages work

Key Terms

The following terms appear in this chapter. Familiarize yourself with their meanings so that you can use them in your course work or on the job.

Default (on a mortgage): To fail to pay the financial obligation of the mortgage agreement.

Lien: The right to take and hold or sell the property of a debtor as security for a debt. In many cases, this right is established by law rather than by an agreement or contract between the parties involved.

Mortgage: An arrangement that allows real property to be used as security for a debt. A mortgage is also the deed or deed of trust by which this agreement is made.
Liens

A lien is a hold, or claim, against the property of another as security for a debt or charge. Liens can be held against both personal property and real estate. They fall into two categories: voluntary, such as mortgages, and involuntary, such as tax liens and mechanic’s liens.

This reading describes certain liens, such as income tax liens, that do not need to be recorded. An artisan’s lien and work authority give a worker the right to retain the property worked on until payment is received, and to sell it if payment is not made. Artisan’s contracts can specify authorization needed for work and payment, and put restrictions on withholding the object being worked on. The rights of contractors and property owners are included in the description of mechanic’s liens and their activation. A subcontractor may have lien rights against a property owner if the contractor fails to pay for work done. The rights of subcontractors, as well as the landowner’s protection against subcontractors, are outlined at the end of this reading.
Now read the section in your textbook titled “Liens,” which appears on print pages 278–283. On the recorded textbook, this section begins at the first double tone on Track 5. As you read, answer the following questions:

1. Give examples of involuntary and voluntary liens. Which need to be recorded?
2. What rights does an artisan’s lien give to a worker?
3. What is a mechanic’s lien?

When you have finished, compare your answers with those that follow.

Suggested Answers

1. Give examples of involuntary and voluntary liens. Which need to be recorded? Involuntary liens are authorized and enforced by statute. Such liens include tax liens, judgment liens, artisan’s liens, and mechanic’s liens. Most types of involuntary liens do not need to be recorded; however, certain types of mechanic’s liens must be recorded in order to become enforceable. Voluntary liens are those
that come into existence when someone puts up property or real estate as security on a loan. Voluntary liens should be recorded.

2. What rights does an artisan’s lien give to a worker? An artisan has the right to retain property that has been worked on until payment has been made. If the owner fails to pay for the work within a reasonable amount of time, the artisan is usually allowed to sell the property and to deduct the payment owed from the selling price.

3. What is a mechanic’s lien? A mechanic’s lien is a statutory claim against real estate in favor of a building contractor, material supplier, or mechanic. Such a lien gives the lien holder priority in payment for work or materials.

**Mortgages; Deeds of Trust (Trust Deeds)**

The first section in this reading deals at length with mortgages, which are loans that are generally secured by real estate. They may also be secured by personal property; however, in this case, they are called chattel mortgages. This section
distinguishes between two concepts of mortgages: as conveyances, in which the title to the property is transferred to the lender; and as liens, in which the title to the property remains with the borrower. It also outlines the rights of the borrowers, or mortgagors, and those of the lenders, or mortgagees. A fairly long description follows of the history and current laws of foreclosure procedures followed when a mortgagor fails to repay a loan. Provisions that may be included in mortgages are also discussed, as are variable-interest-rate mortgages. The section then covers mortgage assumption; a mortgage is said to be assumed if a second owner agrees to buy the property subject to the existing mortgage. Finally, the section explains chattel mortgages and gives examples.

The second section in this reading briefly describes a deed of trust, which is a form of mortgage involving a third-party trustee.

Now read the sections in your textbook titled “Mortgages” and “Deeds of Trust (Trust Deeds),” which appear on print pages 283–291. On the
recorded textbook, these sections begin at the second single tone on Track 5. As you read, answer the following questions:

1. What are the three basic specifications in a mortgage agreement?
2. Describe some of the borrower’s rights in regard to mortgaged property.
3. What are some of the lender’s rights in a mortgage?
4. In most states, what foreclosure procedures are in effect?
5. What happens when a buyer of property assumes a mortgage?
6. What is a chattel mortgage? Give an example.
7. How does a deed of trust differ from a conventional mortgage?

When you have finished, compare your answers with those that follow.

Suggested Answers

1. What are the three basic specifications in a mortgage agreement? A mortgage agreement specifies the principal amount of the loan, the
rate of interest to be paid, and the terms and conditions for repayment.

2. Describe some of the borrower’s rights in regard to mortgaged property. The borrower has the right to use, occupy, and take the profits from mortgaged property.

3. What are some of the lender’s rights in a mortgage? The lender can freely sell or pledge the mortgage interest and can enforce foreclosure if the mortgagor defaults on the loan.

4. In most states, what foreclosure procedures are in effect? If a mortgagor defaults on a loan, the mortgagee can file a suit for foreclosure and sale. The court ascertains the amount owing and orders a sale under the court’s supervision. If the property sells for more than the amount required to settle the debt, the surplus is paid to the borrower. If the property sells for less than the amount of the loan, the lender can obtain a deficiency judgment against the borrower for the amount remaining.

5. What happens when a buyer of property
assumes a mortgage? The buyer becomes responsible for a mortgage taken out on the property by its previous owner.

6. What is a chattel mortgage? Give an example. A chattel mortgage is a mortgage on personal property rather than real estate, such as a mortgage on a herd of cattle or a growing crop.

7. How does a deed of trust differ from a conventional mortgage? There are two parties to a conventional mortgage, the borrower and the lender. There are three parties to a deed of trust. In addition to the mortgagor and mortgagee, one or more trustees hold legal title to the property that is used to secure the loan. In the event of a default, the trustee or trustees are legally entitled to sell the property to repay the loan.

Note: Both the braille and recorded versions of the textbook include the Questions and Problem Cases that appear at the end of Chapter 23. Nevertheless, you are only required to answer the selected questions and do the assignments that
appear in this study guide. If you are using the recorded version of the text and you do not want the additional end-of-chapter practice, fast-forward the textbook cassette to the next double tone so that you will be ready to begin Chapter 24.