

MINISTRY OF EDUCATION AND TRAINING  
HO CHI MINH CITY UNIVERSITY OF LAW

**INFORMATION OF THE NEW CONTRIBUTIONS  
OF THE THESIS**

**Dissertation title:** Security for performance obligations with property rights in commercial banks in Vietnam

**Mayor:** Economic Law

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**THE NEW CONTRIBUTIONS OF THE THESIS**

The new points contributed by the thesis:

First, the thesis clarifies the connotation and characteristics of property rights, in order to distinguish property rights as a type of property used to secure obligations from other property rights, such as other property-related rights according to the Civil Code and other actual rights. Besides, the thesis clarifies types of property rights, mainly focusing on the content and nature of some specific property rights, such as land use rights, property rights to subjects of intellectual property rights, the right to demand payment of debts (debt claims), stakes, and shares.

Second, the thesis analyzed the concept of property rights according to Vietnamese law and other countries' laws around the world, thereby determining that the property rights used to secure obligations under Vietnamese Law have a narrower connotation than in some countries, typically in the Us and Australia and the connotation is also narrower than in Uncitral's definition. Countries approach property rights used to secure obligations in the direction of "security interest", which allow parties to agree on any rights and interests as collateral, provided that they demonstrate a guarantee function. "Security interests" is a solution that can best exploit the economic value of property rights and has been proposed to apply to Vietnam.

Third, the thesis analyzed legal regulations and practical analysis to evaluate the appropriateness and completeness of identifying the types of property rights used to secure obligations. The analysis process has pointed out the inadequacies in the regulation: the content of debt collection rights has not been defined clearly, and some property rights have overlapping interests but lack specific regulating regulations. Since then, the thesis has proposed several solutions to overcome these shortcomings.

Fourth, the thesis clarifies the theoretical basis and objectively analyzes the inadequacies of legal regulations regarding the conditions for property rights to secure obligations. Relied on the unique characteristics of property rights such as land use rights, the right to demand payment of debts (debt claims), property rights to subjects of intellectual property rights, stakes, and shares, and based on disputes arising from loans secured by theses, the thesis has analyzed the conditions for property rights to become collateral. Therefore, the thesis has found inadequacies in law and practice.

The thesis has proposed solutions to overcome the limitations of the law. They include several regulations determining the property rights that must belong to the guarantor, especially land use rights, as well as ownership rights in some specific cases. For example, the emergence of new property rights determines the subjects of intellectual property rights, involving many parties. The highlight is the proposal to develop a roadmap for determining and defining future property rights used to secure obligations and to propose the scope of future property rights for some specific cases.

Fifth, the thesis evaluates the appropriateness of regulations on handling secured property rights for some specific property rights by analyzing legal regulations and related judgments. Through analysis and evaluation, the thesis showed some limitations of the law. The thesis also proposed solutions to overcome limitations, such as the right to seize collateral rights of commercial banks, determining the scope of collateral rights, and the right to dispose of collateral rights of commercial banks on assets derived from secured property rights, as well as determining payment priority among entities related to secured property rights. The outstanding solution proposes to develop the concept of derivative assets and regulations derived from secured property rights for some types of property rights specifically.

Sixth, the new point of the thesis shown in the approach, starts from the principle of credit risk prevention, taking the protection of the interests of the secured party as the bank as the foundation. At the same time, it also protects the legitimate rights and interests of the

securing party and other subjects about property rights without focusing on the one-sided protection of any party.

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