

CREATION & ATTACHMENT OF SECURITY INTERESTS

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SIs are created by contract (security agreement), and security agreements are typically in writing, signed by the debtor and include a description of the collateral

- Once a SI attaches, the creditor is secured, meaning creditor has a right to take the collateral if debtor defaults (i.e., fails to pay)

Requirements for attachment—three requirements for a SI to attach:

- 1) **Valid security agreement**—agreement memorializing SI (see *Card 6*)
 - » May be evidenced by (1) an authenticated security agreement or (2) an oral security agreement in conjunction with creditor's possession or control of collateral
 - » Authenticated security agreement—record authenticated by debtor that describes collateral
 - Signing, initialing, etc. is adequate proof of authentication
 - Agreement must reasonably identify collateral
- 2) **Value**—secured party (i.e., creditor) must give value to create a SI
 - » E.g., creditor loans debtor money or delivers equipment in exchange for SI
 - » Almost any consideration is sufficient
- 3) **Rights in collateral**—debtor must have rights in property he offers as collateral
 - » Ownership or possessory interest is usually sufficient

See *Card 6—Security Agreement Provisions*