II **Corpus**

A Real security

1 *Volitional* real security

a Concept

b Classifications

2) Volitional real immovable security ("mortgages")

... c) Classifications

1] Conventional mortgages

a] Creation of conventional mortgages

b] Transfer of conventional mortgages

... c] Termination of conventional mortgage

* Causes

† Destruction of the mortgaged thing

† Satisfaction of the principal obligation

† Prescription of the principal obligation

d] Defenses to the enforcement of conventional mortgages

1} Enumeration of defenses against enforcement

a} That the principal obligation is unenforceable

1/ The principal obligation is *absolutely* null

2/ The principal obligation is *relatively* null

b} That the mortgage has been terminated

2} Conditions for asserting a defense to enforcement

a} In general

b} Where the mortgagor has given the mortgage to secure the obligation of someone else

... 2 *Legal* real security

... B Personal security (suretyship)
Assignment:


(2) On “collateral mortgages”, read *Diamond Services Corp. v. Benoit*, 780 So. 2d 367 (La. 2001) [Kilborn’s “Statute & Case Supplement”, pp. 36-51], R.S. 10:9-312(b)(4) [see below], CC art. 3288 cmt. (c), CC arts. 3133-3135, 3152, 3154-3158, R.S. 9:5550, 5554, 5807

La. R.S. § 10:9-312. Perfection of security interests in chattel paper, deposit accounts, documents, goods covered documents, instruments, investment property, letter-of-credit rights, money, life insurance policies, and collateral mortgage notes; perfection by permissive filing; temporary perfection without filing or transfer of possession

. . .

(b) Control or possession of certain collateral. Except as otherwise provided in R.S. 10:9-315(c) and (d) for proceeds:

. . .

(4) a security interest in a collateral mortgage note may be perfected only by the secured party's taking possession under R.S. 10:9-313; and

(5) a security interest in a life insurance policy may be perfected only by control under R.S. 10:9-314.

Louisiana Official Revision Comment - 2001

This section in revised Chapter 9 varies from revised U.C.C. Article 9 to provide special rules for perfection of security interest in collateral mortgage notes and life insurance policies, by adding subsections (b)(4) and (5). A security interest in a collateral mortgage note may be perfected only by the secured party's taking possession under R.S. 10:9-313. See Louisiana Official Revision Comments to R.S. 10:9-102(d)(2) and 9-301. A security interest in a life insurance policy may be perfected only by control under R.S. 10:9-314. See Louisiana Official Revision Comment to R.S. 10:9-107.1.