

PROBLEM LOANS AND FORECLOSURE?

*First American's UCC Division has
a retroactive fix for you*

Nothing should sound better to a lender or its counsel with a problematic mezzanine loan. In the event of borrower default, using First American's *EAGLE 9[®] UCC Insurance Policy for Lenders* to retroactively fix the structure of a real estate mezzanine loan transaction may be the difference between an effective exit strategy and no exit strategy at all.

Photo: Scott Rothwell Photography



**First American
Title Insurance Company**

UCC DIVISION

5 First American Way, Santa Ana, CA 92707
800.700.1191 ▼ www.firstam.com
www.eagle9.com

As with any insurance contract, there are exceptions, exclusions, and conditions to coverage contained in the policy. Some coverages may not be available in your area, or for your transaction, due to legal, regulatory, or underwriting considerations. Please contact First American for further information. Depending on the states involved, First American's *EAGLE 9[®] UCC Insurance Policies* are issued through either First American Title Insurance Company and its subsidiaries, or First American Property & Casualty Insurance Company, members of The First American Corporation family of companies.

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UCC INSURANCE PRODUCTS

*"I'm unsure of
my perfection
and priority
status."*

*"I'm not a
Protected
Purchaser."*

*"I insured my
equity collateral
as a General
Intangible."*

*"I'm going to
lose a lot of
money."*

TURN TO
THE UCC DIVISION
FOR SOLUTIONS



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SUPERIOR PROTECTION FROM THE INDUSTRY LEADER

EAGLE 9® LENDER'S POLICY

Lending on General Intangible equity collateral means you could be subordinated to a subsequent lender who perfects its security interest in the same equity collateral through control of Investment Property. Fortunately, you can insure your Protected Purchaser status retroactively. Certification of the pledged equity is meaningless under the UCC if the collateral is a General Intangible. However, if the issuer subsequently "opts in" to Article 8, we can insure control perfection and enhance your Article 9 Secured Creditor status insurance. The standard manner for a lender to structure a real estate mezzanine loan transaction is set forth in a report by Moody's Investors Service.*

Moody's Report Criteria	EAGLE 9® Solutions
Moody's expects a pledge of 100% of the equity ownership in the real property owning entity.	We can retroactively insure the pledgor's ownership of and your lien priority in all or any added pledged equity collateral.
Moody's expects that the mortgage borrower will irrevocably "opt-in" to Article 8 of the UCC and will certificate the pledged equity collateral.	If the loan structure involved perfection of your security interest in the equity collateral as a General Intangible, there are a number of protective measures that we can provide to solidify your collateral position.
UCC-1 financing statements should additionally be filed, as "fail-safe" protection.	If you neglected to file a financing statement, we can prepare and file the necessary financing statements and insure that there are no intervening priming filings.
The mortgage borrower's organizational documents should have provisions prohibiting both the issuance of additional interests and opting-out of Article 8 without the lender's written consent.	Our experts have suggestions and form language to remedy this problem by proxy, amendment to the operating agreement or otherwise limit the ability of the issuer to opt out of Article 8.
Moody's generally expects that mezzanine loans presented for rating will have the benefit of a 'UCC insurance policy' where available.	It's available. We will be happy to retroactively insure your transaction.

* Source: "US CMBS and CRE CDO: Moody's Approach to Rating Commercial Real Estate Mezzanine Loans," *The Moody's Report*.

THE EAGLE 9® SOLUTION

Because we can retroactively fix problem loan structures, **EAGLE 9® UCC Insurance** is an effective means of file review and repair. Even if you didn't get UCC insurance at the loan's inception, don't worry. There's still time to cure the problem. Our UCC insurance products resolve problems and put the lender in the strongest possible position in the face of a workout or insolvency. Don't wait until the trustee in bankruptcy comes knocking—call First American.

EAGLE 9® BUYER'S POLICY

Through our Buyer's Policy, we can insure not only that the assets being acquired at a foreclosure sale are free of liens, but also, with our Equity Ownership Endorsement, we insure that the buyer is a Protected Purchaser under Article 8.

The importance of Article 8 to the acquisition of equity interests is clear. Having the buyer of the equity attain the status of a "Protected Purchaser" is of significant protective value, through cutting off all adverse claims to the equity. In many instances, our Buyer's Policy can also replace a securities law opinion from seller's counsel, for cost-effective and convenient risk reduction.

FORECLOSURE NOTICE POLICY

The Foreclosure Notice Policy enables the foreclosing creditor under Part 6 of Article 9 to meet certain statutory requirements for a commercially reasonable notice. The specific notice requirements covered by the policy involve notice to secured parties and lien holders of record for either public or private sales and for acceptance of collateral in full or partial satisfaction of the obligation secured. As part of our underwriting, we search the appropriate Filing Office and advise the Insured, through the Foreclosure Notice Report which is attached to the policy, of the secured parties and lien holders of record who are to be notified.



CONSULTATIVE FILE REVIEW

First American is here to help you. Let us review your existing mezzanine loan file and advise you of your current Secured Creditor/Protected Purchaser status. We can suggest additional steps to obtain retroactive or modified UCC insurance coverage, insuring both your enhanced Secured Creditor status and your Protected Purchaser status under Article 8. Let First American prove "**Better Late than Never.**"

Visit www.eagle9.com or call 800.700.1191 to learn more about First American's Eagle 9® UCC Insurance Program.

First American **IS** the UCC Insurance Company.

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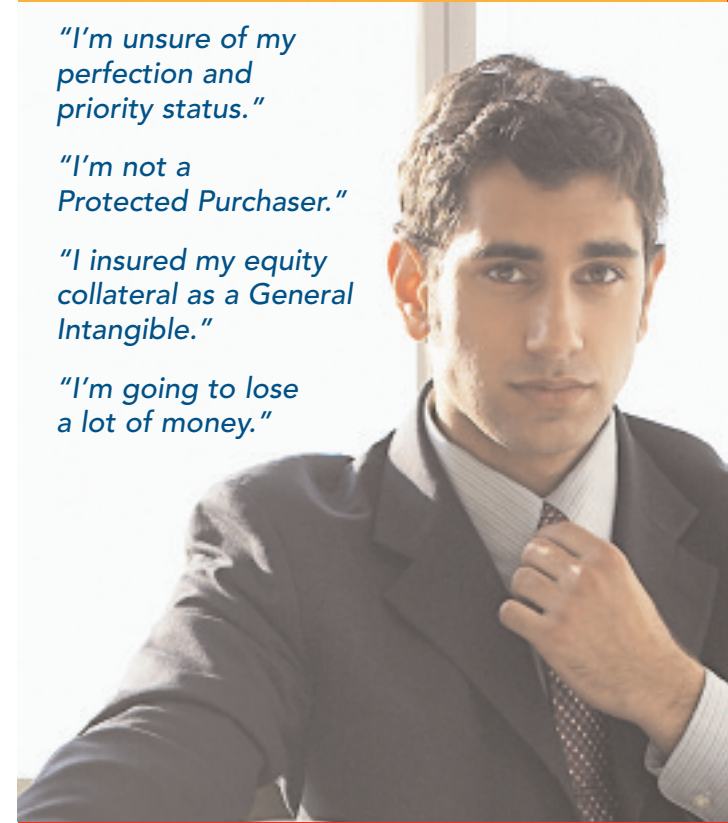
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