



## PLEDGE- AS A METHOD OF USING THE PROPERTY OF OTHERS IN BUSINESS ACTIVITY

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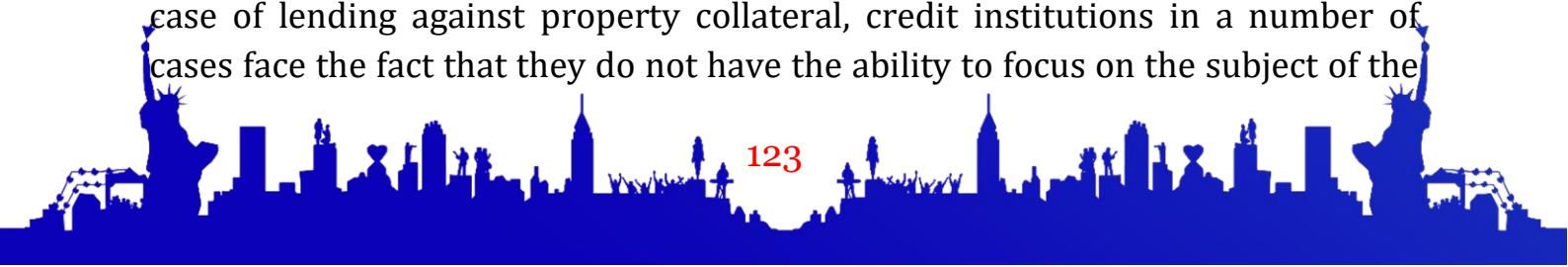
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**Annotation :** One of the methods of the subject of entrepreneurial activity to carry out his activity and freely dispose of his property by entering the property belonging to him into civil circulation is collateral relations. In this case, a number of rights and obligations are assigned to the parties of collateral relations, which have a special place in determining the legal regime of the property of the business entity. Based on this, in this thesis, the issue of collateral as a method of using other people's property in business activities is covered in detail.

**Key words :** pledge, contract, regime, entrepreneur, property, right, law.

According to the general rule, the pledge agreement is recognized as a legal relationship that acquires a secondary character. As a means of ensuring the fulfillment of the obligations arising under a certain civil-legal contract, the pledge agreement is important because it provides for the restriction of the civil treatment of the debtor's property and the preferential satisfaction of the pledgee's demands from the debtor's pledged property, compared to other creditors, if the conditions and requirements stipulated in it are not fulfilled. is considered Therefore, the non-fulfillment of the conditions stipulated in the collateral contract is usually related to the non-fulfillment of the debtor's obligations under the main contract. At the same time, the preservation and storage of the pledged object, that is, the pledge, the risk of its destruction or damage, as well as the implementation of prohibited actions in relation to the pledge, are violations of the obligations of the parties in the pledge agreement.

At the current stage of economic development, collateral is of great importance as a way to ensure the fulfillment of obligations. In most cases, this mechanism is used by individuals and legal entities, banks and non-bank credit institutions that lend to business entities, as well as mortgage loans. Of course, in the case of real risk, credit institutions establish such a system of managing their risks that this system is reliable and focuses on maximum provision of financial stability. At present, the situation in the credit markets is such that, even in the case of lending against property collateral, credit institutions in a number of cases face the fact that they do not have the ability to focus on the subject of the





collateral. In order to reduce the risk of such unpleasant situation (events), as well as to reduce their own credit risk, the bank can use a risk management method such as insurance. Insurance is one of the methods of risk management in credit activity, it allows to distribute the risk between the insurer and credit market participants, increases the reliability of the lending system. The quality of the organization of insurance of property pledged by the bank allows not only to reduce the credit risk of the organization, but is also an element of its competitiveness in the consumer credit market [1].

There are several types of insurance that help guarantee the repayment of loans given by the bank. Such types of insurance include, in particular, property insurance (collateral insurance) and life and health insurance of the debtor, which is given as a guarantee for the repayment of a loan given by the bank.

The mortgaged property insurance system can be explained as follows:

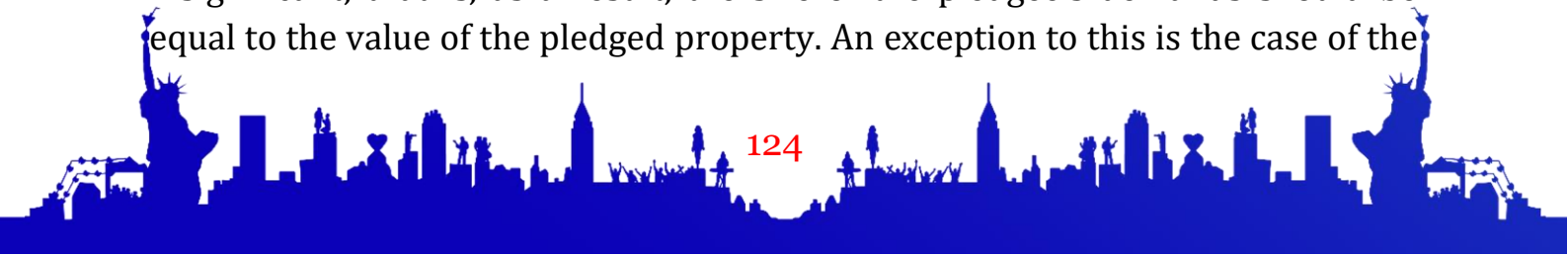
1. Complex insurance of protection against risks in the field of housing mortgage credit. It includes mortgage insurance, title insurance, and borrower's life and health insurance;
2. Insurance of other assets of legal entities and individuals (for example, transport, building, structure, equipment, goods, etc.);
3. The so-called "collateral" insurance (for example, the life and health insurance of the debtor) is used as an additional guarantee of the return of loan funds in collateral insurance [2].

pledged property, the following two criteria for determining the insurance value are defined. First, the amount of the full value of the pledged property, and secondly, the amount not less than the amount of the demand secured by the pledge. In other words, the purpose of insuring the risk of loss or damage to the pledged property is to provide additional security for the claim secured by the pledge. If the collateral object is lost or damaged, Mabololo will satisfy the collateral requirement at the expense of the insurance money.

According to D.V. Soboleva, collateral insurance is the insurance of the property given to secure the loan in the minimum amount of the insurance amount, which is determined at the level of the requirements for securing the insured property against the risk of loss or damage [3].

Yu.S. Povarov states that insurance of the collateral is the main condition of the collateral contract [ 4 ] .

According to D.B.Radnaeva, the breach of obligation by the debtor should be insignificant, that is, as a result, the size of the pledgee's demands should be equal to the value of the pledged property. An exception to this is the case of the





pledgee's foreclosure against the pledged object before the deadline for performance of the obligation. Such cases include non-fulfillment of the obligation to insure collateral [ 5 ] .

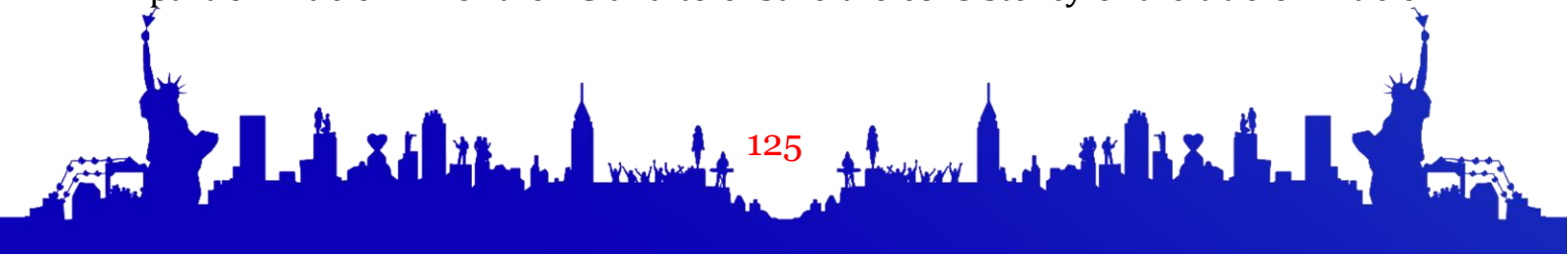
In our opinion, the pledger has the obligation to insure the pledged property, regardless of the subject of the pledge, and failure to fulfill this obligation creates unfavorable legal consequences for the pledger. In the event of non-fulfillment of the obligation to insure the pledged property, the pledgee has the right to cancel the contract before the fulfillment of the obligation secured by the pledge, to direct the recovery to the pledged property, or to require the pledger to immediately insure the pledged property.

It should be noted that the provision in paragraph 1 of the first part of Article 274 of the FC is aimed at worsening the property situation of the mortgagor and in many cases it seems to be aimed at making it difficult. After all, the mortgagor, when insuring the mortgaged property, undertakes only the obligation within the scope of the demand secured by the pledge, and he does not undertake the obligation for more than that. However, paragraph 1 of Article 274 of the FC imposes such an additional obligation on the mortgagor. After all, the obligation to insure the mortgaged property under this norm leads to additional costs for the mortgagor. Therefore, paragraph 1 of the first part of Article 274 of the FC should be expressed as follows:

"1) insuring the pledged property against the risk of loss or damage for an amount not less than the amount of the claim secured by the pledge at the expense of the pledger";

We can observe that such a provision is provided for in the legislation of a number of foreign countries. In particular, Article 343, Part 1, Clause 1 of the Civil Code of the Russian Federation stipulates exactly such a provision.

it is necessary to dwell on the duplication of the first part of Article 274 of the FC and the first part of Article 12 of the Law of the Republic of Uzbekistan No. 614-I "On Pledge" of May 1, 1998 regarding the insurance of pledged property. The same rule is repeated in the norms of these legal documents. However, it should be noted that the provisions of the first part of Article 12 of the Law "On Pledge" do not correspond to the name of the article. After all, Article 12 of the Law "On Pledge" is entitled "Insurance of the pledged item", and its first part, clauses 2-3, provides provisions on the preservation and protection of pledged property. Therefore, in order not to repeat the provisions of the first part of Article 274 of the FC and to ensure the consistency of the title of Article





12 of the Law "On Pledge" and the content of its first part, this norm should be expressed in the following content:

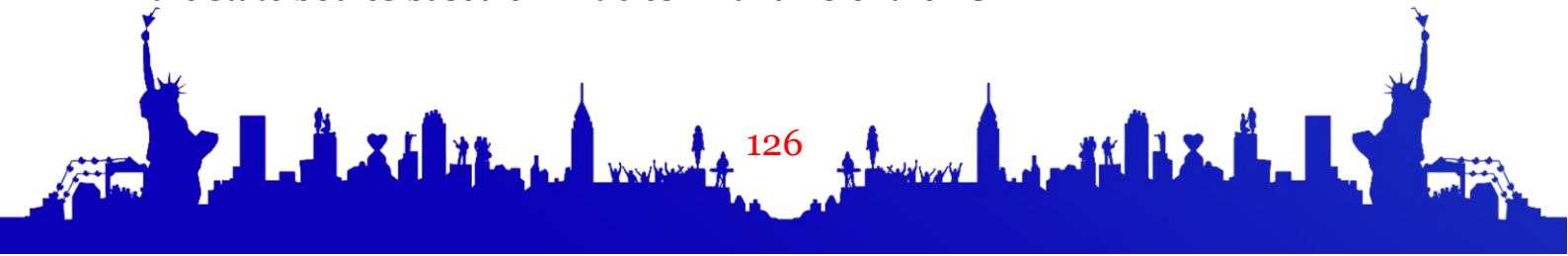
pledged property must be insured at the expense of the pledger in accordance with the requirements of paragraph 1 of the first part of Article 274 of the Criminal Code.

In accordance with the second part of Article 12 of the Law "On Pledge", the execution of acts that stop or interfere with or adversely affect the pledgee by the state management bodies by the pledger with the contract or legal documents and the acceptance of documents (property - confiscation, requisitioning of property), as well as in cases of liquidation or recognition of the economic entity as insolvent, the obligation to provide insurance may be imposed.

It is contrary to the general principles of civil law to include the risk of the consequences of various sanctions of the state administration bodies in the insurance of the obligation secured by the pledge. Let's say a businessman took a loan of 750 million soums from a bank and started building a shopping complex. However, before the construction works were completed and the shopping complex was put into operation, the land plot was found to be wrongly allocated for construction based on the decision of the state administration, and the illegally constructed building was demolished. In this case, the business cannot fulfill its obligations under the loan agreement. Because the business based on his trading complex has ended. The bank demands the return of the given loan amount and claims that it is not its problem that the plot of land will be destroyed due to illegal allocation.

If it is insured on the basis of the second part of Article 12 of the Law "On Collateral", the insurance company covers the loan amount for the entrepreneur's obligation. However, such insurance creates double insurance costs for the entrepreneur. Because, in order to secure the loan, the entrepreneur will have to pay the cost of insuring the property pledged as a pledge, as well as insurance payments against the risk of state sanctions. Therefore, it is necessary to proceed from the issue of applying the provisions of Article 350 of the FC in relation to this situation.

This rule, if it is not possible to fulfill the loan obligation due to the sanctions of the state bodies, even if it is not insured, the damage caused by the non-repayment of the loan funds of the bank debtor should be compensated by the state bodies based on Articles 12 and 15 of the FC.

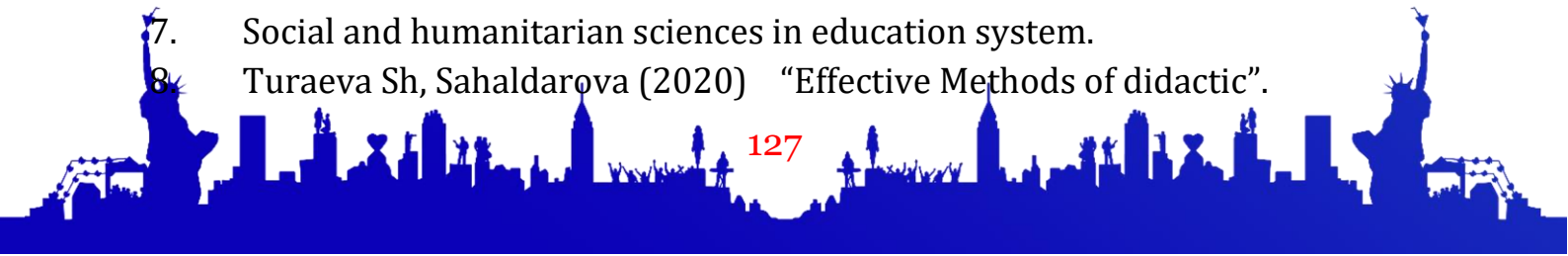




The obligation to preserve and protect the pledged object belongs to both parties to the pledge agreement, and the obligation to preserve and preserve the pledged object is determined based on the identity of the pledged object, and the party holding the pledged object is responsible for the consequences of the accidental destruction of the pledged property. This should be based on the fact that when movable property is pledged, the pledge is with the pledgee, and in the case of immovable property, the pledge is often left with the pledger himself. However, another independent type of pledge, the pledge of property rights (the first part of Article 265 of the FC, the second part of Article 5 of the Law "On Pledge") does not provide for the preservation and preservation of the pledged item . Therefore, it is necessary to include provisions on the protection of the rights of the pledgee in the pledge of rights in the FC. Therefore, while the FC provides for the preservation and protection of the property as a pledge based on the interests of the pledgee, there are no instructions on how to preserve the pledge of rights and put it into circulation or restrict its use in any other way, or how to ensure the interests of the pledgee in this type of pledge. In our opinion, as Article 274 <sup>1</sup> of the FC , it is necessary to introduce an article entitled "ensurement of the rights of the pledgee in the case of pledge of rights" and provide provisions on the measures to ensure the rights of the pledgee when the rights are pledged.

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