

Security for Leases

SECURITY	ADVANTAGE	DISADVANTAGE
Cash bond	Can be paid to the landlord with the landlord having the benefit of the interest.	Subject to claims by a liquidator/receiver of the lessee. Can be charged by a charge under the <i>Personal Property Securities Act</i> .
Bank guarantee	Not subject to a claim by a liquidator or receiver of the lessee. As good as cash.	Landlord does not have the benefit of any interest earned.
Personal guarantee	Allows for a claim can be made against the guarantor whose assets are separate from the lessee. Practically – psychologically a guarantor will wish to avoid a claim as it affects the guarantors' credit rating.	The time period for court proceedings to be processed and a judgment obtained – assets are dissipated.
Charging clause in lease	A properly drawn charging clause can allow the lodgement of a caveat and a mortgage over the lessee's interest in any real estate at any time after default.	"Selling" it to the lessee as a normal provision in commercial documents (eg hire car agreements and equipment hire agreements).
Secured guarantee (charging clause in personal guarantee)	A properly drawn charging clause can allow the lodgement of a caveat and a mortgage over the guarantor's interest in any real estate at any time after default.	"Selling" it to the guarantor as a normal provision in commercial documents (eg hire car agreements and equipment hire agreements).



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