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Negative Pledge Agreements: Are They Enforceable?

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Western Banking Magazine - Many lenders are willing to provide a commercial line of credit without obtaining a deed of trust, but require the borrower to execute a negative pledge agreement. These negative pledges or negative covenants, which are usually recorded, generally provide that the borrower will not encumber or transfer specified real property during the life of the subject loan. The lender holds "a contractual guarantee that property in which the debtor has an equity will remain unencumbered and unconveyed, and thus available for levy and execution should the creditor reduce his debt to judgment," according to *Tahoe National Bank v. Phillips* in 1971Go.

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