

Subordination Agreements Overview



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A Comprehensive Guide by The Housing Assistant



Introduction

Subordination Agreements are legal documents used to change the lien priority of two or more mortgages. They are critical in refinance transactions where an existing second mortgage or home equity line of credit (HELOC) must remain in place.

What is a Subordination Agreement?

When a borrower refinances their first mortgage but has a second lien (such as a HELOC or second mortgage), the second lien must 'agree' to stay in second position behind the new first mortgage. A Subordination Agreement legally acknowledges this order of priority.

Why Subordination Matters

- Without subordination, the second lien could unintentionally become the first lien.
- Investors and lenders require first lien position to protect their security interest.
- Closing cannot occur without completed subordination documentation if required.

Common Subordination Scenarios

- Refinancing a first mortgage while keeping an existing HELOC.
- Refinancing with a new first lien but borrower still has a second lien or silent second.

Steps for Handling Subordination

- ✓ Identify if any subordinate financing exists early in the process.
- ✓ Contact the second lienholder to request subordination requirements.
- ✓ Submit required documents (e.g., preliminary title report, payoff demand, borrower application).
- ✓ Obtain and review the Subordination Agreement for accuracy.
- ✓ Title must record the new first lien and subordination agreement properly at closing.

Best Practices

- ✓ Start subordination requests early — they often take several weeks.
- ✓ Confirm subordination fees and ensure they are disclosed on the LE and CD.
- ✓ Ensure the new loan amount and terms match the approved subordination agreement.
- ✓ Work closely with the title company to ensure proper recording sequence.

THA Tip:

- ◆ Always review title reports carefully — even dormant or inactive HELOCs can delay closings without proper subordination.