



LOS ANGELES COUNTY
**CONSUMER &
BUSINESS AFFAIRS**

Lien Position and Foreclosure Protections



LOS ANGELES COUNTY
**CONSUMER &
BUSINESS AFFAIRS**

“To promote a fair and vibrant marketplace, we serve consumers, businesses, and communities through education, advocacy, and complaint resolution.”

Serving Los Angeles County consumers and businesses since 1976

Presenters

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Senior Foreclosure Prevention
Counselor

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Foreclosure Prevention Counselor

Agenda

- California Foreclosure Process
- Deed of Trust
- Other Types of Liens
- Lien Superiority
- Protections and Limitations

Foreclosure



The legal process used by lenders to recover the balance of a loan, secured against a property, when the property owner fails to meet the obligations of the loan

- Judicial
 - A mortgage which involves a borrower and a lender
 - Lender must sue in court in order to foreclose
- Non-Judicial
 - A Deed of Trust involves a borrower, a lender and a trustee Lender instructs the trustee to foreclose when a borrower defaults
 - No court proceedings are necessary

California has both processes, however, non judicial is most common.

Documents with the Power of Sale



A **Deed of Trust** is recorded when a loan is taken against your property.

- Borrower/Mortgagor = Owner
 - Lender/Mortgagee = Lender
 - Trustee = Third party
 - Legal Description
- Purchase Money Loans
 - Refinances
 - Hard Money
 - Reverse Mortgages

Assessment Liens

- Home Owner Association – CC&R
- Foreclosure can begin as soon as an owner owes \$1,800 in dues
- 90-day right of redemption
- Can be Judicial or Non-Judicial



Defaulted Tax Liens

- Unpaid property taxes for a minimum of 5-years
- Notice of defaulted taxes recorded
- TTC auctions property
- California Controller's property tax Postponement program available to qualifying seniors.



Lien Priority in California

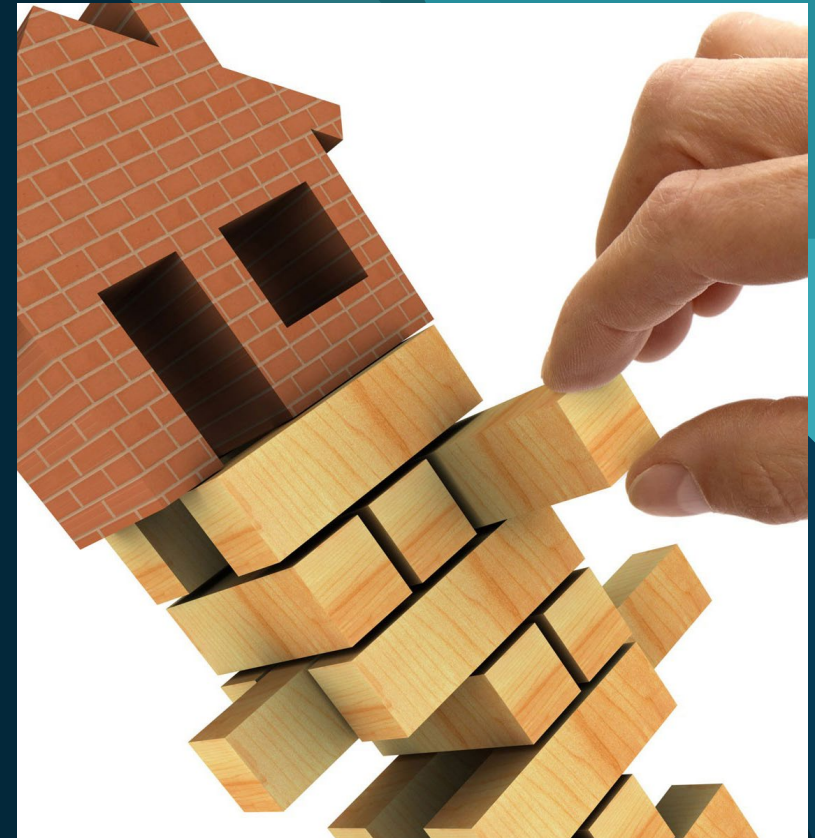
Priority rules are set to establish superior and subordinate status when two or more liens are recorded against a property.



- Liens can be established in two ways:
 - Consensual, for example a Deed of Trust
 - Non-Consensually / involuntary
- Timing is going to play a large role in position
- Recording helps secure position

Foreclosure with Multiple Liens

- All liens secured against a property with the power of sale have the right to foreclose, despite position.
- It is a common misconception that Junior or Subordinate liens cannot foreclose if there is a lien ahead of them
- When a superior lien forecloses, junior liens will lose their security instrument against the property.
- This does not always mean they will lose their ability to collect the debt. Most commonly, a junior lien may make a claim against excess proceeds.



Why is this important

- The CARES act placed a foreclosure moratorium for all loans which were federally backed. Including Government Sponsored Enterprises (GSE) Freddie Mac and Fannie Mae, FHA/HUD, VA or USDA
- Property owners were allowed a temporary forbearance on their payments simply by making a request to their lender
- Forbearance extensions
- It is important to understand the current laws will not permanently protect a property from foreclosure.



AB 3088

The Small Landlord and Homeowner Relief Act

The bill required lenders to review certain property owners for a temporary forbearance, just as the CARES Act did for federally backed loans.

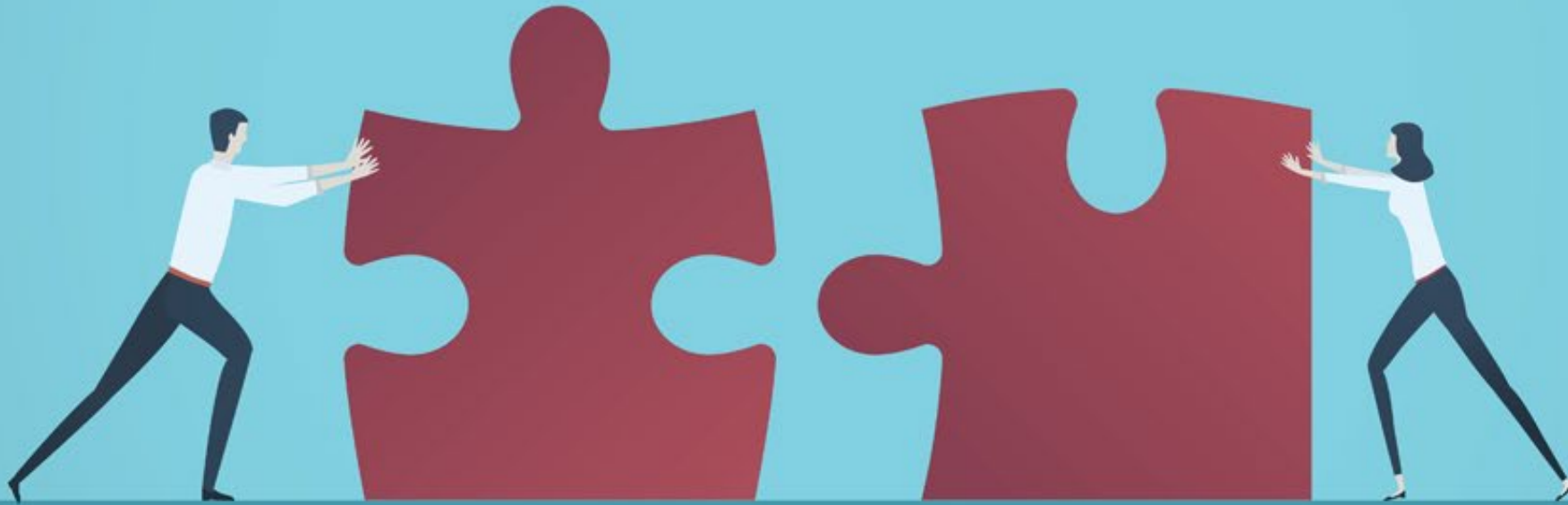
The bill only applied to the following:

- Liens who held the first position
- A property with 1 – 4 units
- Owner occupancy was not required.



AB 3088 continued

- Property owners must have been current on their mortgage as of February 1, 2020.
- Property owners must prove they were financially impacted by COVID-19.
- Lenders now required to give details if a property owner is denied assistance.
- Property owners given an opportunity to appeal or resubmit a request in some situations
- Lenders must also discuss post-forbearance options with homeowners



California COVID-19 Rent Relief Fund

- This fund is available to Landlords as well as tenants through SB 91. \$2.6 billion dollars were allocated to eligible households.
- The program requires both parties to work together to complete the process. For example, a landlord would be provided with 80% of the unpaid rent, as long as the other 20% was forgiven.
- Landlords and tenants should apply online at housingiskey.com or call (833) 430-2122

Los Angeles County Mortgage Relief Program

- The Los Angeles County Board of Supervisors passed a Motion to create a new Mortgage Relief program to property owners.
- The program is providing direct assistance to property owners who qualify, up to \$20,000.
- Residents of the County of Los Angeles are eligible
- Residents of the City of Los Angeles are ineligible.
- Property must be owner occupied.
- Property can contain no more than 4 units.
- Counseling with a HUD approved counselor is required.
- Contact the program directly at (888) 895-2647 for more information and how to apply.





Foreclosure Prevention Division

- Help with exploring options for property owners and landlords of 15 or fewer units
- Free
- Proper application of laws and other guidelines
- Call directly to discuss individual situations





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Contact Us

E-MAIL

Homehelp@dcba.lacounty.gov



BY PHONE

Consumer Services

(800) 593-8222



Multilingual Staff Available

dcba.lacounty.gov/foreclosure-prevention

Questions?