

## Construction Finance Modifications and Workouts: Key Considerations for Lenders and Distressed Borrowers

Responding to Project Shutdowns and Delays

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TUESDAY, OCTOBER 11, 2022

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## **Construction Loan Modifications and Workouts: Key Considerations for Lenders and Distressed Borrowers**

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Tuesday, October 11, 2022, at 1:00 p.m. (EDT)



# I.

## INTRODUCTION

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Supply chain disruption and worker shortages can cause construction delays and, in some instances, the shutdown of ongoing projects. The result may increase carrying costs for developers, extend timelines for completion, and require changes in building plans or design. All of these factors **have ramifications for the construction loan and the borrower's financial health**. Construction lenders must be able to respond to a default scenario or with a loan modification that facilitates the completion of the project and eventual repayment of the loan.

Threshold questions include whether a project has lost value and the ability of contractors, subcontractors, architects, and suppliers to perform under the construction contract. Parties must identify **whether insurance coverage is available** to cover losses associated with disruptions, the disbursement obligations of the lender under the loan agreement, and the financial condition of the borrower and guarantors.

## I.

## INTRODUCTION (cont.)

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Construction loan modifications present particular problems for lenders. All interested loan parties, including participants, must consent to changes. Determining the status of the title and any competing liens may be problematic, as title officers may have a backlog due to government-mandated closures. State law may **require the lender to file a notice of modification to protect its lien priority**. Further issues may arise on the site if the pandemic continues to impact contractors and suppliers.

In this environment, it is critical that every bank, credit union, mortgage lender, private money lender, broker and investor have a plan to deal with their distressed borrowers. Lenders must be ready to swiftly take steps to keep loans performing in a manner which will hopefully prevent the type of litigation which can ensue in a non-performing loan situation.

This webinar will provide critical and time-sensitive information which every bank, credit union, mortgage lender, private money lender, broker and investor can use to create a plan to deal with distressed borrowers while we continue to move forward toward a possible recession.

## I.

**INTRODUCTION (cont.)**

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Modifying loan terms allows the lender to provide the borrower with some “breathing room,” keep loans from going into default, avoid foreclosures, and in the construction loan context, may allow for advancing additional funds to keep the project moving forward.

At the same time, lenders (or those servicing the loans), especially in the shadow of a possible recession, must be careful to preserve the lender’s rights, deal properly with borrowers to avoid future lawsuits, and to make careful business decision, including the protection of lien priority, title insurance coverage, including lien priority, title insurance coverage and to avoid “plastering over” unresolved problems and issues.

Appropriate policies must be prepared and implemented.

**Real Estate markets and the economy always change, but now we must deal with keeping loans performing in a the shadow of a possible recession.**

## II.

**IMPACT OF SUPPLY CHAIN ISSUES AND SHORTAGE OF WORKERS ON CONSTRUCTION  
LOANS AND THE CONSTRUCTION INDUSTRY**

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- Lack of Materials
- Unavailability of Materials
- Lack of Construction Professionals
- Lack of Construction Workers
- Costly Delays
- Government Approvals

## DEVELOP A POLICY TO DEAL WITH REQUESTS FOR LOAN MODIFICATIONS AND FORBEARANCE AGREEMENTS (1 of 3)

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- A. Introduction (some apply to all mortgage loans, some apply solely to commercial/business purposes loans).
- B. Create a careful log for any requests for a modification or forbearance (likely for the deferral of payments).
- C. Consider a blanket deferral of 2 months of payments for certain “vanilla” requests (subject to your consideration of the recommendations in this webinar).
- D. Consider creating a request for deferral form (including that title insurance and a release will be required).

## DEVELOP A POLICY TO DEAL WITH REQUESTS FOR LOAN MODIFICATIONS AND FORBEARANCE AGREEMENTS (2 of 3)

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- E. Confirm what other assets, loan programs, disaster relief programs, SBA loans or other help the borrower could – or is – getting. You may not want to provide payment relief if sufficient relief was already obtained from other sources.
- F. Consider written agreements for even minimal deferrals (as discussed further in this webinar).
- G. Consider the use of a “protocol” agreement (as discussed further in this webinar).
- H. Consider foreclosure technicalities (as discussed further in this webinar)

## DEVELOP A POLICY TO DEAL WITH REQUESTS FOR LOAN MODIFICATIONS AND FORBEARANCE AGREEMENTS (3 of 3)

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- I. Consider requests for new financing.
- J. Consider potential appraisal issues, including the type of property acting as security.
- K. Appropriate endorsements to your Loan Policy of Title Insurance.
  - Remember the Loan Policy of Title Insurance which you have today is not the same policy which you had during the Great Recession and coverage for mechanics liens has been greatly limited.

## COMMUNICATION WITH PARTIES TO CONSTRUCTION PROJECTS AND CONSTRUCTION LOANS (1 OF 2)

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- A. Borrower
- B. Guarantors
- C. Loan Participants
- D. Take Out Lenders
- E. General Contractors
- F. Subcontractors (*beware of lender liability issues*)
- G. Material Suppliers (*beware of lender liability issues*)
- H. Escrow Agent
- I. Title Insurer
- J. Holders of Junior Liens

COMMUNICATION WITH PARTIES TO CONSTRUCTION  
PROJECTS AND CONSTRUCTION LOANS (2 OF 2)

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K. Regulators

L. News Media (*beware of lender liability issues*)

## IX.

**USE OF A “PROTOCOL” (“PRE-WORKOUT AGREEMENT”)**

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- A. Introduction.
- B. No waiver of rights by entering into negotiations for a potential modification of the loan terms.
- C. Complete confidentiality.
- D. No change in loan terms until a new written agreement is signed by all parties and title insurance coverage is obtained.
- E. Inadmissible evidence.
- F. Including everyone, e.g., principals of the borrower and guarantors.
- G. Be circumspect if you cannot get all signatures to a protocol agreement.

## IX.

**USE OF A “PROTOCOL” (“PRE-WORKOUT AGREEMENT”)(cont.)**

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H. Parties

1. Borrower
2. Principals of the borrower
3. Guarantors

- Communications are not confidential without it

I. Terms To Consider

1. Judicial reference or arbitration
2. List of claims and defenses
3. Release of claims

XII.

ASSESSING THE VALUE OF THE PROJECT POST-PANDEMIC (1 of 2)



## ASSESSING THE VALUE OF THE PROJECT POST-PANDEMIC (2 of 2)

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- A. Type of Property (i.e., Retail Shopping Mall vs. Apartment Building)
- B. Is your appraisal “post” the recent interest rate increases?
- C. Does your analysis take into consideration the potential adverse impact of recent interest rate increases on the value of the property?

## XIII.

**OPTIONAL VS. OBLIGATORY ADVANCES**

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Is the loan in a condition of default and are all further disbursements optional such that the further disbursement will lose priority — whether in whole or part — to any subordinate lien on the property?

- In the event of a default, consider:
  - Title insurance policy.
  - Junior liens.

XIV.

INSURANCE COVERAGE: PROPERTY, LIABILITY, EARTHQUAKE, HURRICANE (1 of 2)



## XIV.

INSURANCE COVERAGE: PROPERTY, LIABILITY, EARTHQUAKE, HURRICANE (2 of 2)

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- Lender As Loss Payee
- Who Gets The Insurance Proceeds
- Documentation Which Confirms The Above

**RECENT DEVELOPMENTS IN ESCROW INSTRUCTIONS AND TITLE  
INSURANCE COVERAGE (?) FOR MECHANICS LIENS (1 OF 2)**

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Hall CA-NV, LLC v. Old Republic National Title Insurance  
Company (5<sup>th</sup> Cir. 2021) 990 F3d. 933

Captiva Lake Investments, LLC v. Fidelity National Title  
Insurance Company (8<sup>th</sup> Cir. 2017) 883 F. 1038

BB Syndication Services, Inc. v. First American Title Insurance  
Company (7<sup>th</sup> Cir. 2013) 780 F3d. 825

## RECENT DEVELOPMENTS IN ESCROW INSTRUCTIONS AND TITLE INSURANCE COVERAGE (?) FOR MECHANICS LIENS (2 OF 2)

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- Instructing your escrow agent to only record your Deed of Trust/Mortgage as a first priority lien
- Consideration must be considered to advances when there are known junior liens

## RESPONDING TO THE BORROWER'S REQUEST FOR A LOAN MODIFICATION AGREEMENT (1 OF 2)

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- A. Obtain a Protocol Agreement from all relevant parties.
- B. Obtain current financial statements from the Borrower and all Guarantors.
- C. Conduct a litigation search on the Borrower, and all the Guarantors.
- D. Have your attorney obtain a current appraisal on the Property.

## RESPONDING TO THE BORROWER'S REQUEST FOR A LOAN MODIFICATION AGREEMENT (2 OF 2)

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- E. Review the other projects and assets of the Borrower, its Principals and all Guarantors.
- F. Obtain a list of the Borrowers claims and defenses.

## LENDER ALTERNATIVES IN THE EVENT OF DEFAULT

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1. Events of default, e.g., monetary, technical, litigation, bankruptcy, recordation of mechanic's lien, stop payment notice, etc.
2. Immediately notify borrower and guarantor – *in writing* – of default and request that they cure.
3. Depending on nature of default, immediately inform in writing the title insurer, escrow agent and/or surety.
4. Determine if the borrower(s)/guarantor(s) can increase their equity contribution to the project.
5. Determine whether borrower can obtain additional financing.
6. Determine whether borrower can obtain additional investors.
7. Determine whether borrower can reduce the scope of the construction project.
8. Determine whether the borrower can sell the property in its “as-is” incomplete current condition.
9. Determine if the construction loan can be sold at an acceptable discount.
10. Multi-beneficiary loan issues.

## SHOULD THE LENDER RECORD A NOTICE OF DEFAULT WHILE IN NEGOTIATIONS WITH THE BORROWER OVER A POSSIBLE LOAN MODIFICATION OR FORBEARANCE AGREEMENT?

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- A. The effect of a notice of default may lessen the value of the property, lessen the borrower's ability to complete the project, etc.
- B. Frequently, a modification agreement is considered as a result of a default by a borrower which would entitle the lender to record a notice of default.
- C. Frequently, the borrower will request that the lender not record a notice of default during the period of time that the borrower and the lender are discussing a possible forbearance agreement
- D. In the event that the borrower files for bankruptcy, the lender will not be able to record a notice of default until it first obtains relief from the automatic stay.
- E. The recordation of a notice of default by the lender will avoid the risk to the lender that the borrower, during the negotiations over the forbearance agreement, will file for bankruptcy and prevent the lender from recording a notice of default until after relief from the automatic stay is obtained.

THE MODIFICATION AGREEMENT SHOULD EXPRESSLY PROVIDE THAT EXCEPT AS EXPRESSLY MODIFIED ALL OTHER OBLIGATIONS REMAIN IN FULL FORCE AND EFFECT AND ARE REAFFIRMED BY THE BORROWER AND ALL GUARANTORS

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- A. Introduction.
- B. A modification agreement is an agreement by the parties to an existing contract to alter their obligations without deleting any of the elements essential to the validity of the original contract. *Carlson Collins, Gordon & Bold v. Banducci* (1967) 257 Cal.App.2d 212.
- C. A modification of the details of a contract which leaves its general purpose undisturbed is a modification rather than a rescission. *Travelers Ins. Co. v. Workmens Comp. App. Bd.* (1967) 68 Cal.2d 7, 17.

## KEY PROVISIONS TO INCLUDE IN THE MODIFICATION AGREEMENT

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- A. Parties agree that the time and terms are adequate to complete the construction and adequate consideration has been provided.
- B. Alternative dispute resolution.
- C. Choice of venue.
- D. Statute of limitations.
- E. Limits on recoverable damages.
- F. Releases.
- G. Borrower's admissions of defaults.
- H. Borrower's lack of defenses to the obligation.
- I. State loan balance is unquestionably owed.
- J. Consider interest rate adjustment commensurate with increased risk and fees and costs.

## XXI.

**ADDRESS THE RISK OF FUTURE EVENTS OF DEFAULT BY THE BORROWER**

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- A. Provision which states that the granting of a loan modification is not a guarantee of further modifications of the loan.
- B. Expressly reserve the right to deny any request for a further modification of the loan.

THE BORROWER SHOULD PROVIDE DETAILED AFFIRMATIONS TO THE LENDER ABOUT THE LOAN, INCLUDING THE ADMISSIONS OF ANY DEFAULTS

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- A. Introduction.
- B. Frequently, a modification agreement is considered because the borrower and the lender have some issues with respect to the terms of the loan.
- C. To eliminate any disputes between the borrower and the lender with respect to the terms of the loan, the borrower should provide detailed affirmations to the lender about the loan (*i.e.*, the principal amount owed, the current interest rate, *etc.*), that there are no defenses to the loan, no breaches by the lender, nothing which affects title (lien priority), had the opportunity to consult with counsel and had sufficient time to make a decision on the modification.

## XXIII.

**FEES, CHARGES AND A DEPOSIT FOR A MODIFICATION**

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- A. Introduction.
  - B. Original loan documents should provide that a reasonable deposit might be required as part of consideration for a modification.
  - C. Time and expense to negotiate and document the modification.
  - D. Risks to the lender for having agreed to a loan modification.
  - E. The lender should impose fees and charges which are adequate to compensate it for: (1) the time and expense to negotiate and document the modification; and (2) the increased risk to the lender for having agreed to a loan modification.
  - F. Whether a fee, charge or deposit should be required (and whether the lender should finance those and add to loan balance).
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## RISKS WHICH ARE INHERENT IN LOAN MODIFICATION AGREEMENTS

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- A. Introduction.
- B. Litigation:
  - 1. Borrower; and/or,
  - 2. Guarantors.
- C. Bankruptcy.
- D. Third Party Claims, i.e., junior liens.
- E. Title insurance.
- F. Escrow claims.
- G. Each communication – whether internal or external – should be viewed as a potential Borrower’s “Exhibit 1.”

## XXV.

**ANTICIPATE CHALLENGES TO THE MODIFIED MORTGAGE**

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- A. Introduction.
- B. Challenges by the Borrower.
- C. Challenges by the Guarantors.
- D. Challenges by holders of junior liens on the borrower's property.
- E. Challenges by creditors of the borrower.
- F. Challenges by the Borrower's bankruptcy trustee.
- G. Verify that the modification was done correctly in accordance with the agreement of all parties.
- H. Title and Escrow.

## IS A FORECLOSURE SALE PREFERABLE TO A MODIFICATION AGREEMENT? (1 of 2)

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- A. Introduction.
- B. "Optics."
- C. A lender which is considering a modification agreement should consider all other options, including whether a foreclosure sale is preferable to a modification agreement.
- D. While a foreclosure sale will take time and money and is fraught with risk, it should be considered as an alternative because it will allow the lender a "fresh start" to deal with the loan.
- E. Does your underwriting analysis result in it being better to just say no?
- F. Consider junior liens and leases.

SHOULD THE LENDER DECLINE TO ENTER INTO A LOAN MODIFICATION AGREEMENT  
AND INSTEAD REQUIRE THE BORROWER TO REFINANCE THE LOAN?

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- A. Introduction.
- B. Lender's evaluation of the risks and the benefits of a potential loan modification.
- C. The potential benefits and detriments to the lender of a refinance of the existing loan.
- D. Re-underwriting all or part of the loan.
- E. Updating estoppel notices.

## XXVIII.

**THE BENEFITS OF A FORBEARANCE AGREEMENT (1 of 2)**

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- A. Introduction.
- B. It does not change or modify the terms of the loan.
- C. You can forbear from collecting late charges for a period of time.
- D. You can forbear from collecting default interest for a period of time (without waiving your right to collect it).
- E. You can forbear from collecting payments for certain months (without waiving your right to collect it).
- F. You can forbear from collecting late charges (without waiving your right to collect it).

## XXVIII.

**THE BENEFITS OF A FORBEARANCE AGREEMENT (2 of 2)**

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- G. You can obtain the same affirmations of your borrowers' and guarantors' default as you can with a loan modification.
  
- H. Should you obtain the same releases of all of your alleged liability from your borrowers' and guarantors as you can in a loan modification?

## OBTAIN THE WRITTEN CONSENTS OF ALL INTERESTED PERSONS, INCLUDING BORROWER AND GUARANTORS

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- A. Introduction.
- B. Obtain the participation of all borrowers and all guarantors in any discussions with respect to a potential modification.
- C. Obtain the signatures of all borrowers, principals of borrowers and all guarantors to a protocol agreement before negotiations are commenced.
- D. Obtain the participation of all borrowers, all guarantors, all loan participants, escrow and title to any proposed modification agreement before it is effective.
- E. The failure to obtain the written consent of all borrowers, all guarantors, all loan participants, escrow and title can materially adversely affect the loan modification.

## XXX.

HAVE ALL GUARANTORS REAFFIRM THEIR GUARANTEES AND EXPRESSLY CONSENT TO ALL OF THE CHANGES IN THE LOAN TERMS WHICH ARE PROVIDED FOR IN THE MODIFICATION AGREEMENT

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- A. Introduction.
- B. When the issue of a potential modification agreement is first raised, the lender should make it clear that as a condition to any modification agreement all guarantors must expressly consent to all of the changes in the loan terms which are provided for in the modification agreement, and reaffirm their obligations under the loan as modified.
- C. The guarantors should be required to participate in any negotiations with the borrower relative to a potential modification agreement and the lender should candidly inform the guarantors of the risks.

## DETERMINE THE STATUS OF TITLE TO THE PROPERTY BEFORE ENTERING INTO NEGOTIATIONS AND BEFORE EXECUTING THE MODIFICATION AGREEMENT

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- A. Introduction.
- B. It is difficult in many states to determine the status of title to the property. In California a CLTA Condition of Title Guaranty – not a preliminary report – should be obtained.
- C. There are a variety of ways that the status of the property could have been altered since the initial loan was made.
- D. The lender should make it clear to the borrower and all guarantors that the status of the title to the property must be as good, if not better, as it was when the original loan was made.

## AVOIDING THE LOSS OF THE PRESUMED PRIORITY OF THE CURRENT MORTGAGE

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- A. Introduction.
- B. Construction commencing before the recordation of the Deed of Trust.
- C. The modification of the current mortgage loan may result in a loss of priority.
  - 1. The loss of priority could be a complete loss of priority to any junior lien.
  - 2. The loss of priority could be a loss only to the extent that a junior lien was prejudiced by the modification.
- D. How do you know who has a junior lien interest in the secured property?
- E. Inaction by a secured lender may, under certain circumstances, lead to a loss of lien priority.

**BEST PRACTICE: OBTAIN ESCROW COMPANY CONSENT AND TITLE INSURANCE COVERAGE FOR THE MODIFIED MORTGAGE**

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- A. Introduction.
- B. There is a substantial risk that the title insurer will take the position that the title insurance coverage terminated if there is a modification of the insured mortgage.
- C. There is a material risk that the title insurer will take the position that the loan policy of title insurance does not extend to the modified mortgage.
- D. Obtain title insurance coverage for the modified mortgage, whether by an endorsement to the original policy or by the re-issuance of the policy.
- E. Beware of title company affidavits which make you liable.
- F. Determine the availability of “gap” coverage.
- G. Provide your loan file to the title insurer and escrow agent.

**BEST PRACTICE: HAVE THE TITLE COMPANY  
RECORD A NOTICE OF THE MODIFICATIONS**

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- A. Introduction.
- B. The lender should cause to be prepared a written memorandum relative to the modification of the loan agreement.
- C. The lender should request the title company to record the notice of the modification of the loan agreement.

## ALTERNATIVES TO A LOAN MODIFICATION AGREEMENT OR A FORBEARANCE AGREEMENT

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1. **Additional Loan Guaranty**
2. **Security from the Borrower and/or Guarantors**
3. **A “mini-perm” by the construction lender.**
4. **Sale of the project.**
5. **Sale of note.**
6. **Bridge financing.**
7. **Participating mortgage.**
8. **Litigation.**
9. **Bankruptcy.**

## STOP PAYMENT NOTICES AND MECHANICS LIENS

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- A. What caused the problem?
- B. Immediate demand upon borrower, guarantors, escrow agent and title insurer.
- C. Who is responsible?
- D. How does the construction get completed?
- E. The roll of tolling agreements.
- F. The lender's obligation to withhold funds upon receipt of a Bonded Stop Notice.

# THE LENDER'S OBLIGATION TO WITHHOLD FUNDS UPON RECEIPT OF THE STOP NOTICE

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- Discretionary – if the stop notice is not bonded.
- Obligatory – if the stop notice is bonded.
- The lender's liability for failure to withhold funds.
- Clawback of your earned interest, points and fees?  
Familian Corp. v. Imperial Bank (1989) 213 Cal.App.3d 681 and Steiny & Co. v. Citicorp Real Estate, Inc. (1999) 72 Cal.App.4th 199.

## TENDERING A COMPLAINT TO FORECLOSE A MECHANIC'S LIEN TO THE LENDER'S TITLE INSURER AND ESCROW AGENT

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- Claims against the title insurer.
- The *Insurance Code* and the California *Fair Claims Settlement Practices Regulations*.
- Claims against the escrow agent.
- Should you have a tolling agreement?
- Monitoring the representation provided by the title insurer and/or escrow agent.
- Insured's duty to cooperate, including allowing the title insurer to file a Complaint in the name of the lender.

## XIX.

## CONSENSUAL WORKOUT OF A DEFAULTED LOAN

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- Modification Endorsement for the Loan Policy of Title Insurance. [ALTA Forms 11-06, 11.1-06 and 11.2-06 and CTLA Forms 110.11-06, 110.11-06 and 110.11.2-06]
- Inclusion of all necessary parties. [First California Bank v. McDonald (2014) 231 Cal.App.4th 550]
- The potential for the Borrower to disrupt the workout:
  - Litigation
  - Bankruptcy

# LOAN DEFAULT AND DISPUTE RESOLUTION

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- Jury waivers Grafton Partners v. Sup. Ct. (2005) 36 Cal.4th 944. (unenforceable in California)
- Mediation (*adding a requirement in the loan documents requiring mediation before a lawsuit may be filed?*)
- Arbitration
  - Do you have one? Is it enforceable?
  - Recommended provisions: opt-outs, retired judge, follows California law, based on admissible evidence and the decision follows the law and the facts.
  - Federal arbitration act?
- Judicial Reference
- Litigation
  - State Court
  - Federal Court

**IS A DEED IN LIEU OF FORECLOSURE PREFERABLE  
TO A FORBEARANCE AGREEMENT, LOAN MODIFICATION OR FORECLOSURE?**

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- A. Introduction.
- B. The “true” deed in lieu of foreclosure.
- C. The “modified” deed in lieu of foreclosure where the loan survives.

## FORECLOSURE OF A CONSTRUCTION LOAN DEED OF TRUST

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- Obtain consent of loan participants.
- Assign defaulted loan to a special purpose entity.
- Non-judicial foreclosure.
  - Obtain Trustee's Sale Guarantee from current title insurer.
- Judicial foreclosure.
  - Obtain Litigation Guarantee from current title insurer.
- Appointment of a receiver.
- Concurrent non-judicial and judicial foreclosures.
- Credit bid risks.
- Attacking the foreclosure sale:
  - Attacks by the borrower, junior creditors and/or third parties.

## XLIII. CONCLUSION

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Modification agreements and forbearance agreements can be useful to both the borrower and the lender. However, the entry into a modification agreement or a forbearance agreement raises most, if not all, of the issues which are associated with the origination of the loan. In this environment, where the entire country is in the advent of a possible recession, even more issues exist. Accordingly, the lender should commit sufficient time and resources to make sure that the modification or the forbearance is appropriately done so as to keep the loan performing and to avoid litigation or jeopardizing the security of the existing loan.

## John L. Hosack—*Presenter*

John L. Hosack is a Shareholder in the firm's Litigation Practice Group in Los Angeles, a member of the firm's Mortgage Banking Group and co-chair of ACMA's title insurance committee. Mr. Hosack represents mortgage brokers, secured lenders and property owners at trial and on appeal in real property disputes including, broker liability, lender liability, fraud, breaches of contract, mechanic's liens, stop notices, judicial foreclosures, receiverships, escrow claims and title insurance claims. His transactional practice includes commercial real property loan documentation, loan workouts, REO sales and foreclosures. He is an Affiliate Member of the California Mortgage Association and a member of the Los Angeles Mortgage Association, a Fellow of the American College of Real Estate Lawyers and a Fellow of the American College of Mortgage Attorneys. He is the author of "California Title Insurance Practice (First Ed., Calif. Cont. Ed. Bar), the first book on title insurance, and is a past Chair of the ABA's Title Insurance Litigation Committee.



**John L. Hosack**  
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## Jason E. Goldstein—*Presenter*

Jason E. Goldstein is a Shareholder and Co-Chair of Buchalter's Mortgage Banking Group. Mr. Goldstein specializes in "private money," real property related litigation, title, escrow, trade secrets and business litigation. Mr. Goldstein has an extensive legal background which includes defending lenders, brokers and servicers in court (negligence, fraud, TILA, RESPA, HBOR, wrongful foreclosure, lender/servicer liability defense, etc.), prosecuting escrow and title insurance litigation (on behalf of the insured), insurance coverage (Title, CGL, E&O, etc.), litigating misappropriation of trade secret claims, defending and prosecuting claims on behalf of general contractors and prosecuting receiverships. Mr. Goldstein is a fellow of the American College of Mortgage Attorneys ("ACMA") and a member of the ACMA Title Insurance Committee.



**Jason E. Goldstein**  
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## **Rick Rodriguez—*Presenter***

Mr. Rodriguez is the founder and principal of Rodriguez and Associates Advisory Group (“R&A”), a Los Angeles based consultancy firm that has provided a unique array of services to its clients since 1992. For the past 30 years, R&A has successfully formulated creative workout and loan restructure resolutions to complex multi-party debtor-creditor transactions in judicial and non-judicial settings.

Having spent approximately 20 years as a banker, primarily with Security Pacific National Bank, Mr. Rodriguez has personal experience in due diligence, loan administration and workout of all types of loans, from consumer credit to large commercial complex syndicated credits. Mr. Rodriguez is a seasoned expert witness in banking, finance and real estate matters who testifies at jury trials, bench trials, arbitration proceedings, and mediation sessions; both by deposition and declaration.



**Rick Rodriguez**  
Founder & Principal  
Rodriguez & Associates  
Advisory Group

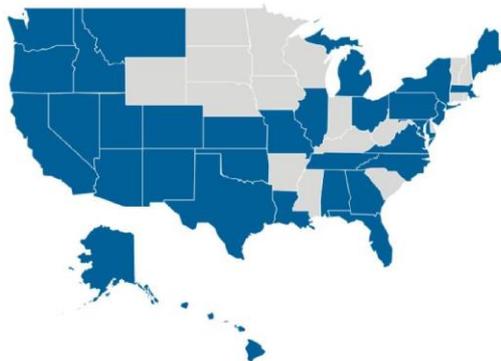
# Buchalter Firm Overview

Since the Firm's inception in 1933, Buchalter has established itself as a full-service law firm that provides counsel to clients at all stages, and helps them navigate any legal challenges and decisions they may face. Our clients are engaged in a diverse global economy governed by complex laws and regulations, and trust us as advisers and business partners.

**375+ Attorneys Serving You In 17 Practice Areas | 35+ Industry Specialties | 10 Office Locations**

## Our Practices

Commercial Finance | Corporate | Energy & Natural Resources | Environmental Law | Government, Regulatory & Administrative | Health Care | Insolvency & Financial Law Group | Intellectual Property | International Business and Trade | Japan Practice | Labor & Employment Litigation | Privacy & Data Security | Products Liability | Real Estate | Tax, Benefits, & Estate Planning | White Collar & Investigations



■ States where Buchalter Attorneys are Licensed to Practice

## Diversity & Inclusion

**TOP FIRM WITH THE MOST DIVERSE EQUITY PARTNERSHIPS**  
Ranked as having one of the highest percentage of minority equity partners for law firms with 251-600 attorneys.  


**HUMAN RIGHTS CAMPAIGN CORPORATE EQUALITY INDEX**  
Buchalter Earns 100 out of 100 in Human Rights Campaign's 2021 Corporate Equality Index  


Premier Law Firm



Best Lawyers

