

**Department of Housing and Community Development
Proposed Amendments to the
Uniform Multifamily Regulations**

**Title 25, California Code of Regulations
Subchapter 19 Section 8315**

Amend Section 8315 as follows:

Section 8315. Subordination Policy.

(a) The Department may execute and cause to be recorded a subordination agreement subordinating the Department's lien so long as the subordination does not increase the Department's risk beyond that contemplated in the Program loan or grant commitment, as may be amended from time to time, and so long as the subordination would further the interest of the Program. However, and except for Projects assisted by the U.S. Department of Housing and Urban Development under the Section 811 or Section 202 programs, the Department shall not enter into a subordination agreement or other agreement that contains any of the following:

(1) Any limitation of, or condition on, the Department's exercise of its remedies including, but not limited to issuing a notice of default based on a breach under the Department's loan documents, including a default based solely on a breach of the senior lien holder's documents.

(2) An agreement that the senior lien holder's acceptance of a deed in lieu of foreclosure would result in the senior lien holder taking title to the Rental Housing Development free and clear of the Department's lien(s).

(3) An agreement permitting any modification or supplement of the senior lien holder's lien without the prior written consent of the Department except an agreement that permits a senior lien holder to make advances to: (i) cure a default under a lien with a higher priority than the Department's lien; (ii) pay delinquent taxes on the security property; (iii) pay delinquent hazard or liability insurance premiums for the security property; or (iv) to protect the health and safety of the tenants.

(4) An agreement that would require the Department to undertake additional obligations to any party.

(b) The Department's lien(s) shall not be subordinated to the liens of a local government lender governmental entity unless the amount of total local governmental assistance to the Project the local government loans is more than

twice the amount of the Department's total assistance to the Project (including both loans and grants).

(c) As used in this section:

(1) "Department's lien" means a deed of trust, regulatory agreement, or other agreement securing payment or performance under an award of Program funds that has been recorded in the office of the recorder of the county in which the Rental Housing Development is located.

(2) "Lien of a local government ~~lender~~ entity" means a recorded deed of trust, regulatory agreement, reversion, or other recorded agreement securing payment or performance, or a covenant running with the land that affects the maintenance, use, operation, or occupancy of the Rental Housing Development. Except that covenants in favor of a community redevelopment agency regarding the use, maintenance, operation, or transferability of a Rental Housing Development including rent limitations or income restrictions on tenants, or prohibiting discrimination, shall not constitute liens subject to the requirements of this section.

(3) "Total local governmental assistance" means the sum of the principal amounts of loans and grants made by the local government entity plus other direct project costs paid for by the local governmental entity and approved by the Department including, but not limited to, costs of site preparation, demolition, environmental remediation, and land acquisition. The value of assistance in the form of land write-downs or donations shall be limited to the cost paid by the public agency to acquire the land, less any sales proceeds paid to the agency; or in the case of a leasehold, the cost paid by the public agency less the present value of projected lease payments.

NOTE: Authority cited: Sections 50406(n), 50517.5(a)(1), 50517.5(a)(3), 50675.1(c), 50675.11 and 50896.3(b), Health and Safety Code. Reference: Sections 50517.5(d)(4)(D), 50675(e), 50675.1(b), 50675.6(d), 50896, 50896.1 and 50896.3 Health and Safety Code.