

# Lien Subordination

## Tips and Tricks to Identify Subordination Within Governing Docs:

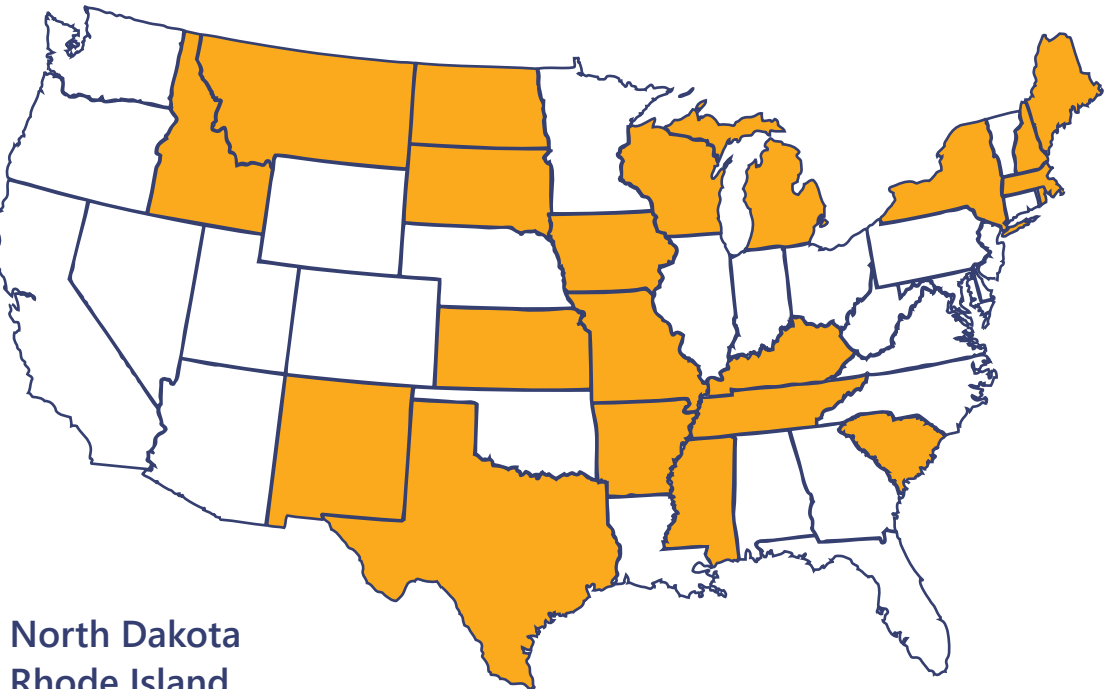
Verbiage to look for within the governing documents to verify priority of the first mortgage can be found within the section pertaining to assessments, it is typically encompassed within the first subsection that is more times than not titled Creation of lien or Personal Obligation of assessments. The section below is the common verbiage used to support the lien's subordination.

*Any lien of the association for common expense assessments, or other charges is subordinate to the first mortgage on any unit, after the date of recordation of the first mortgage.*

If the verbiage above and or similar verbiage verifying subordination are not found within that sub section, you can also look for another sub section that is very commonly labeled as Lien to Mortgage Subordination.

If the above verbiage and or similar verbiage, in addition to the Lien to Mortgage Subordination subsection are not found within the governing documents, read through the Governing documents for the above verbiage and or similar verbiage somewhere else in the documents, if none is found then there is no subordination.

Arkansas  
Washington, D.C.  
Idaho  
Iowa  
Kansas  
Kentucky  
Maine  
Massachusetts  
Michigan  
Mississippi  
Missouri  
Montana  
New Hampshire  
New Mexico  
New York  
North Dakota  
Rhode Island



North Dakota  
Rhode Island  
South Carolina  
South Dakota  
Tennessee

Texas  
Wisconsin  
Wyoming

**States That Have  
No Subordination Statute**

# What is DUE post Deed in Lieu?

DIL is only included within these state's statutes regarding what is owed post DIL completion

- Florida
- Nevada
- Maryland
- Illinois
- Oregon

To determine what is owed after completion of DIL based on the governing documents, review the subsections within the assessment portion for the lien forgiveness/priority amount clause. If DIL is encompassed the below verbiage would be present.

- ...result of a Deed given in Lieu of Foreclosure...
- ...or by deed in lieu of foreclosure...
- ...or in preceding in lieu of...



## Illinois The Red Headed Step-Child...

Did you know the REO property holders are responsible for assessments starting the first day of the first month after the date of foreclosure, and if not paid the full past due balance can be owed? Below are some tips to ensure you are paying the association appropriately and in a timely manner to avoid paying a hefty bill.

Associations typically will not provide assessment information if you state it is for a foreclosure property so attempt contacting them for simply confirmation of the assessment information – mailing address, frequency and amount. This way you can issue a good faith payment and issue your assessments moving forward.

When issuing the good faith payment only send the amount required to keep current on assessments owed, so the first day of the first month after the date of foreclosure, this may require some math to determine if the dues are not monthly.

- Annual assessments should be prorated from the 1st of the following month to the end of that coverage period, for example if the assessments are for coverage 01/01/2020 – 12/31/2020 and the foreclosure was 02/15/2020 you would prorate 03/01/2020 – 12/31/2020.
- Quarterly assessment should be prorated from the 1st of the following month to the end of that coverage period, for example if the assessments are for coverage 01/01/2020 – 03/31/2020 and the foreclosure was 02/15/2020 you would prorate 03/01/2020 – 03/31/2020.

After the good faith payment is sent, negotiations can begin for a statute compliant ledger, which would only be fees assessed post foreclosure. Bear in mind that associations in most cases will not provide the statute compliant ledger without the recorded foreclosure deed, so it is important to keep issuing the assessments, as you can negotiate late fees, interest and legal fees to be assessed in the interim.

Six months priority may also be assessed but is not owed by the bank, and it is owed at the time of repurchase by the future buyer. Some associations keep the priority amount on the account, but ensure you obtain in writing, that they will not assess any subsequent fees.

## THE PHOENIX IMPACT

**ON AVERAGE, PHOENIX SAVES THEIR CLIENTS BY USING NEGOTIATION TACTICS:  
2019 4TH QUARTER AVERAGE SAVINGS PER PROPERTY – \$1520 PER PROPERTY**