

Why Title Reviews Should Not Create Unnecessary Barriers to HAF Assistance

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Some Homeowner Assistance Fund programs may decide to structure HAF assistance as an interest-free loan payable upon transfer of the property and forgivable over a period of time. We recommend that if HAF programs choose this structure, they avoid creating undue barriers to assistance such as requiring insurable title or conditioning assistance upon the resolution of outstanding liens or potential liens in order to assure priority of the program's lien.

- **Insurable lien priority is not necessary:** If assistance is structured as a secured loan, grantees should not require applicants to convey a lien whose priority is insurable by a title company. Stringent title requirements cause unnecessary delay when, e.g., a mortgage paid off in a prior refinance becomes an exception to title due to an imperfection in land records, and clearing those issues increases administrative costs far beyond their utility to programs and homeowners.
- **Aim for minimum viable liens to trigger repayment upon sale or refinance:** Rather than trying to obtain security comparable to what a conventional lender would require because their business model depends on strict lien priority, programs should accept whatever security interest an eligible owner is able to convey at time of qualification that are reasonably likely to trigger repayment upon sale or refinance. This will ease access for heirs' properties, divorcees, or those with unprobated estates, while still allowing the program to achieve its objective of recovering funds upon sale or refinance in most cases.
- **UCC-1s:** Programs should examine the viability of filing UCC-1 financing statements in lieu of recording mortgages where possible, in order to reduce administrative costs and preserve assistance for homeowners.
- **Title barriers are discouraged:** In its August 2, 2021 guidance for HAF, Treasury discourages programs from imposing additional and unnecessary eligibility criteria including "the existence of liens on the property". Requiring applicants to convey effectively makes the existence of liens an eligibility criteria. Title reviews should not be used to create barriers to accessing assistance or cause delays in getting needed assistance out to homeowners in a timely manner.
- **Non-recourse grants:** HAF programs that are providing assistance through non-recourse grants should not require a title review.