



# Homeownership Program Bulletin

October 19, 2009

Program Bulletin #2009-28

To: CalHFA Approved Lenders

## Subordination Process For California Homebuyer's Downpayment Assistance Program (CHDAP) Loans

The California Legislature recently signed into law, two bills, AB X4 12 (Ch. 12, Stat. 2009) and SB 224 (Ch. 172, Stat. 2010). These bills will enable CalHFA to permit the subordination of existing CHDAP loans, if homeowners have demonstrated hardship and are refinancing their first mortgage to avoid foreclosure. The purpose of this legislation is to help existing homeowners to keep their homes by allowing them to take advantage of refinancing their existing first mortgage and not be forced to pay off their existing CHDAP subordinate loan.

To be eligible, all of the following minimum requirements must be met:

- The borrower has a demonstrated hardship
- Subordination is the only method to avoid foreclosure
- The new loan must meet Agency underwriting requirements

### Subordination Requirements

The borrower must meet CalHFA's new first mortgage loan, hardship and foreclosure avoidance requirements and property eligibility criteria listed below.

### New First Mortgage Loan Requirements:

- The loan must be underwritten and approved by the originating lender in accordance with loan programs that refinance the unpaid principal balance of the existing first mortgage loan (no-cash-out refinance).
- The new first loan must lower the borrower's mortgage payment or replace the existing first loan with a more stable product.

## **CalHFA Hardship Requirements:**

- The financial hardship must be explained and documented by the borrower. Examples of financial hardship include, but are not limited to:
  - Temporary unemployment has caused a significant delinquency or new employment has resulted in less monthly income.
  - Employer reduced borrower's pay (Overtime eliminated, regular hours or base pay reduced).
  - One of the borrower's or wage earner's incomes has been reduced or eliminated due to involuntary job loss, death, incarceration, divorce or separation.
  - One of the borrower's or wage earner's incomes has been eliminated or reduced as a result of suffering a permanent or short-term disability or serious illness.
  - Self-employed borrower has suffered a documented decline in business earnings.
  - An increased monthly payment on an existing first loan is beyond that which the borrower can reasonably afford.

Examples of acceptable documentation include, but are not limited to: Current pay stubs, two years of W-2's, two years of Federal tax returns, unemployment notices, EDD Benefits Letter, letter from employer, legal divorce or separation papers, etc.

## **Foreclosure Avoidance Requirements**

Borrower(s) must meet one or more of the following requirements:

- Using one of the following first mortgage refinance programs designed to avoid foreclosure: Fannie Mae's Refi Plus, FNMA DU Refi Plus or Freddie Mac's Relief Refinance Mortgage.
- 1<sup>st</sup> Mortgage currently delinquent more than 60 days.
- Insufficient funds to payoff existing CHDAP loan balance and maintain sufficient reserves in savings accounts (Two months of PITI).
- Lower payment to a more sustainable housing debt-to-income ratio of between 31– 36%.

## **Property Eligibility Criteria**

- The property must be the borrower's principal residence.

## **Submission Documentation**

Requests for subordination of existing CHDAP junior loan must be submitted to CalHFA's Subordinate Loan Administrator (see address below) in the following stacking order: (see attached CHDAP Subordination Submission Checklist)

- Request for Subordination of CalHFA junior loans (See attached Application for CHDAP Subordination).
- Borrower's written and signed hardship and foreclosure avoidance explanation and supporting documentation.
- Copy of credit report.
- Two months of current bank statements (all pages).
- Borrower's most recent mortgage account statement and a copy of the existing promissory note.
- Uniform Underwriting and Transmittal Summary (1008), or FHA MCAW (HUD 92900-WS) as applicable for the new loan.

- Final lender's current manual or automated underwriting approval.
- Final Uniform Residential Loan Application (1003) complete with borrower financial information.
- Copy of preliminary title report.
- Copy of recorded CHDAP Deed of Trust.

CalHFA reserves the right to request additional documentation as deemed appropriate.

Lenders requesting subordination along with required documentation should submit these documents to:

CalHFA  
Homeownership Loan Administration-Special Programs  
1121 'L' Street, 7<sup>th</sup> Floor  
Sacramento, CA 95814  
916.324.8088

Upon receipt of a completed package, CalHFA will:

- Review for compliance with CalHFA Loan Subordination Underwriting Guidelines.
- Send final decision to lender listed on application form.
- Send an original executed and notarized Subordination Agreement and Escrow Instructions to the Title Company if application is approved,. This document will be sent regular mail unless a self-addressed/prepaid overnight courier service label is provided in application package.

For questions about this bulletin, contact CalHFA Homeownership Programs Division by phone 916.324.8088; by fax 916.324.6589; by email at [homeownership@calhfa.ca.gov](mailto:homeownership@calhfa.ca.gov). Plus, you can always visit CalHFA's web site at: [www.calhfa.ca.gov](http://www.calhfa.ca.gov) or Homeownership Programs Division directly at [www.calhfa.ca.gov/homeownership](http://www.calhfa.ca.gov/homeownership).

CalHFA thanks you for your business and we look forward to continuing to support your affordable housing loan needs.

#### Attachments

Application for CHDAP Subordination  
CHDAP Subordination Submission Checklist



**SUBMIT ENTIRE SUBORDINATION FILE TO:**  
CalHFA Homeownership Division  
Loan Administration-Special Programs  
1121 "L" Street • 7<sup>th</sup> Floor • Sacramento • CA • 95814  
Phone (916)323-8232 • Fax (916) 327-8452

**APPLICATION FOR CHDAP SUBORDINATION**  
Please complete all sections of this form

<b>CalHFA CHDAP LOAN #</b> _____	
<b>BORROWER NAME(S):</b> _____ _____	<b>PROPERTY ADDRESS:</b> _____ _____ City _____ State _____ ZIP _____
<b>LENDER NAME</b> _____	<b>TITLE COMPANY</b> _____
<b>LENDER ADDRESS</b> _____ _____ City _____ State _____ ZIP _____	<b>ADDRESS</b> _____ _____ City _____ State _____ ZIP _____
<b>CONTACT NAME</b> _____	<b>ESCROW OFFICER</b> _____ <b>ESCROW #</b> _____
<b>PHONE NUMBER</b> ( ) _____	<b>PHONE NUMBER</b> ( ) _____
<b>FAX NUMBER</b> ( ) _____	<b>FAX NUMBER</b> ( ) _____
<b>EMAIL ADDRESS</b> _____	<b>EMAIL ADDRESS</b> _____

**LEGAL STATEMENT**

Lender acknowledges that this application and documents submitted to CalHFA Homeownership Loan Administration Special Programs represents and/or warrants the correctness and completeness of all statements and information contained in such documents.

Signature of lender's authorized representative:

\_\_\_\_\_  
Signature Date

( ) \_\_\_\_\_  
Telephone Number

\_\_\_\_\_  
Print name

( ) \_\_\_\_\_  
Fax Number



# CHDAP Subordination Submission Checklist

SUBMIT COPIES ONLY – PLEASE SUBMIT IN THIS STACKING ORDER

## FILE ORDER

Left Side	Right Side
<input type="checkbox"/> Application for CHDAP Subordination	<input type="checkbox"/> Uniform Underwriting and Transmittal Summary (1008) or FHA MCAW (HUD 92900-WS) as applicable for the new loan
<input type="checkbox"/> Self Addressed/Prepaid overnight courier service label/envelope  If application is approved, Subordination Agreement and Escrow Instructions will be sent by regular mail to the Title Company if overnight courier service label/envelope is not provided in package.	<input type="checkbox"/> Lender's Final Underwriting approval (DU/LP Findings, Manual Underwriting)
	<input type="checkbox"/> Final Uniform Residential Loan Application (1003) complete with borrower financial information
	<input type="checkbox"/> Borrower's written signed and dated hardship letter and foreclosure avoidance explanation with supporting documentation to verify hardship. Documentation supporting hardship <b>must not</b> be more than 90 days old as of the date of program eligibility.*
	<input type="checkbox"/> Credit Report
	<input type="checkbox"/> Two months of current Bank Statements (all pages)
	<input type="checkbox"/> Copy of the existing promissory note
	<input type="checkbox"/> Copy of recorded Deed of Trust
	<input type="checkbox"/> Borrower's most recent mortgage account statement for existing loan
	<input type="checkbox"/> Preliminary Title Report

\* Examples of acceptable documentation include but are not limited to: Current pay stubs, two years of W-2's, two years of Federal tax returns, unemployment notices, EDD Benefits Letter, letter from employer, legal divorce or separation papers, etc.

Subordination requests will be reviewed for final approval upon receipt of a completed package, which contains all the required documents. Delivery of incomplete and/or fraudulent information may result in processing delays.

**Note:** This check list represents the minimum documents required for CalHFA approval. Other documents may be required by underwriter/reviewer.