

Real Estate Mezzanine and A/B Loans: Structuring and Enforcing Intercreditor and Co-Lender Agreements

Reconciling the Demands and Objectives of Senior and Junior Lenders
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Whether analyzing, negotiating, or drafting an intercreditor agreement, counsel for lenders and borrowers must understand the key provisions and their potential impact. Counsel must also incorporate the lessons from past defaults, workouts, and bankruptcies.

The critical question in most intercreditor agreements relates to each lender's ability to exercise essential rights and enforce or challenge the deal when a real estate loan defaults or a dispute between lenders arises. Loan workouts and bankruptcies complicate the enforcement and remedies available.

Lenders involved with tranching loans, including mezzanine loans and A/B structured loans, must be vigilant about protecting their rights and remedies under existing, as well as future agreements. Borrowers need to understand how these agreements and tiered lending structures impact a borrower's ability to negotiate a workout, extension, or discounted payoff.

Partner Steven Coury serves on a panel of experienced practitioners outlining the critical legal issues facing parties to tiered real estate financing transactions involving mezzanine intercreditor agreements and co-lender agreements. The panel will discuss the key terms in the contracts, the implications of real estate workouts and bankruptcies, the concerns of the borrower, and lender strategies for enforcement of remedies.

The panel will review these and other priority issues:

- What are the typical provisions in an intercreditor agreement or a co-lender agreement?
- What lessons from recent years influence the drafting of these agreements?
- How does the securitization of the senior loan impact the workings of these agreements and the workout of troubled loans?
- What challenges have senior and junior lenders faced when working out loans on transactions that include a mezzanine loan or B note?
- What are the payment priorities under tiered financing structures?

KEY ATTORNEYS

Steven Coury

PRACTICE AREAS

Finance

Real Estate



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