## TEXAS ANNOTATED SUBORDINATION, NON-DISTURBANCE AND ATTORNMENT AGREEMENT

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## I. INTRODUCTION

A. Overview of SNDAs
B. Importance of SNDAs
C. Before the SNDA: Leverage, Leases and Loans
D. The Role of the Landlord

## A. OVERVIEW OF SNDAs

- SNDAs are typically three-party agreements.*

*Don't forget the landlord/borrower
- SNDAs are most commonly needed in the context of commercial transfers, acquisitions and refinancing.
- Delivering SNDAs can become a very expensive task depending upon the transaction.

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## B. IMPORTANCE OF SNDAs

- SNDAs are a mechanism by which parties are able to plan for the worst case scenario-FORECLOSURE.
- SNDAs contractually modify lien positions, lease rights and party obligations.
- SNDAs allow parties to avoid state law default rules.
- Little case law guidance
- State laws vary greatly
- Recording statutes
- Lien theory v. title theory
- Notice (actual v. constructive)
- Risks are difficult to calculate
- As the likelihood of foreclosure increases, so does the importance of an SNDA.
- In one word, SNDAs mean: CERTAINTY

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