

How To: Filing an Assignment of Mortgage

What Is an Assignment of Mortgage?

An assignment of mortgage is the transfer of a mortgage (and its underlying promissory note) from the original Mortgagee (Assignor) to a new holder (Assignee). Assignments are common when mortgages are sold in the secondary market, transferred to a successor institution, or pledged as collateral. Recording an assignment ensures the public record reflects the correct current holder of the lien.

Importantly, an assignment transfers both the right to collect payments AND the right to foreclose upon default. An unrecorded assignment may create complications in enforcement proceedings.

Required Elements

1. Names of Assignor (current Mortgagee) and Assignee (new Mortgagee).
2. Reference to the original mortgage: Book, Page, Instrument number, date, and original parties.
3. Statement of the unpaid principal balance as of the date of assignment.
4. Description of the mortgaged property (may incorporate by reference to the original mortgage).
5. Consideration recital.
6. Assignor's warranty that the mortgage is valid, subsisting, and has not been previously assigned.
7. Signature of Assignor; notarization required.

Step-by-Step Filing Process

1. Prepare the Assignment of Mortgage on form ELD-A-01 or equivalent.
2. Assignor signs before a Notarial Magistrate.
3. Complete ROD Cover Sheet; check 'ASGN' as index type; list the original mortgage instrument number.
4. Pay recording fee: 20.00 GP flat.
5. Submit to ROD counter. The assignment will be cross-indexed to the original mortgage.
6. Future payments from the Mortgagor should be remitted to the Assignee after the recording date.
7. Notify the Mortgagor in writing of the assignment and provide the Assignee's payment address.

Mortgagor Notification Requirements

Under Eldoria Code Section 55-C, the Assignee must notify the Mortgagor of the assignment within 15 days of recording. The notice must include:

- Name and address of the new Mortgagee (Assignee).
- Effective date of the assignment.
- Instructions for remitting future payments.
- Contact information for payment inquiries.

Failure to notify the Mortgagor does not invalidate the assignment but may limit the Assignee's right to collect late fees during the notification gap.

Partial Assignments

A mortgage may be partially assigned (i.e., only a percentage interest transferred). Partial assignments are common in loan participation arrangements. The instrument must clearly state the percentage interest being assigned and the pro-rata share of the outstanding balance. Both the Assignor and Assignee become co-holders of the mortgage lien and must act jointly in any enforcement or satisfaction proceedings unless the instrument provides otherwise.