



Oweltiy of Partition Refinance – A Win-Win for Divorce Property Division

What is an Oweltiy of Partition?

An oweltiy lien allows one spouse to keep the marital home while paying the other spouse their share of the equity—without forcing a sale. It's authorized by the Texas Constitution and protected under the Texas Family Code.

Why Use It Before Final Divorce?

- Ensures smooth title transfer
- Allows refinance into one spouse's name only
- Eliminates the need for post-decree modification
- Keeps emotions (and disputes) lower by resolving property issues early

Key Attorney Benefits:

- Avoids forced sales that hurt both parties financially
- Provides a clean, lender-approved structure for property division
- Prevents last-minute closing delays due to incorrect deed language

How It Works:

1. Attorney drafts agreement with oweltiy lien language
2. Lien is filed and tied to property
3. Client refinances to pay equity to spouse
4. Divorce finalizes with property already settled

Pro Tip:

Loop in your lender **before** finalizing the agreement to confirm the spouse can qualify and that lien language meets lender/title requirements.

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