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5 Keys to a Successful Seller-Finance Transaction

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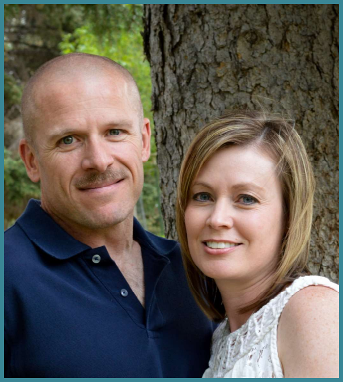

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5 Keys to Staying Dodd Frank Compliant

In a Seller Finance Transaction

Staying Compliant, as a lender, in today's litigious society can be like walking through a minefield. One wrong move and you can say goodbye to your assets. These 5 keys will not only help ensure compliance with Dodd-Frank, but help provide the best overall customer experience for your new buyer.

1. Becoming, or hiring, an RMLO (residential mortgage loan officer) – it is highly recommended that you contact an attorney to determine your specific needs as an investor in this area. In general, the SAFE ACT requires a person originating more than 5 loans in a 12-calendar month period to be a licensed RMLO or hire such a person/entity. 5 loans or less, no license required. However, you are still responsible to follow all disclosure (RESPA), and both state and federal lending laws. Once the loan terms have been agreed upon between you and the buyer, you can proceed.

2. Complete Loan Application – Success in life is foundational. The 1003 mortgage loan application is the foundation to your seller-finance transaction. It will help you determine, quickly, whether you or not you have a potential buyer, or someone you're about to waste a lot of time with. The key is to have the buyer fill it out. All of it. 2 years residence history, and 2 years employment history. No gaps. No blank spaces. Make sure it's legible. All pages.

3. Key Questions – asking a few very basic questions is essential in vetting a potential buyer.
    a. "Have you been current on all housing payments over the most recent 12 months?"
        i. If the buyer says no, and doesn't have an acceptable explanation, you need to move onto the next applicant. Prior rental history is very important.
        ii. If the buyer says yes, ask them if it can be verified by their landlord. If the buyer says no, you need to move onto the next applicant.
        iii. If the buyer says they live with their family and don't pay rent (unless they just sold a home or

recently relocated) you may need to move onto the next applicant.

b. "What's preventing you from obtaining an FHA or Conventional loan?"

   i. If the buyer says it's due to credit, ask them what's wrong. You're trying to find out if it's a recent life event, such as job loss, divorce, etc., or if they just don't like paying people back. If it's the latter, you need to move onto the next applicant.

c. "How do you earn income, and can it be verified in writing?"

   i. If the answer is clear, and they are willing to provide recent paystubs and W2s (or tax returns if self-employed) that's good (see our CTU Submission Checklist on exactly what documents to collect depending on how they earn income).

   ii. If they indicate they get paid in cash, you need to move onto the next applicant.

4. Collecting Income Documents – following the CTU Submission Checklist will make gathering buyer income documents very simple. This will also ensure you've collected exactly what is required by Dodd Frank and the

CFPB to accurately determine the buyer’s Ability to Repay to proposed loan.

5. Credit Report – we strongly recommend that seller financiers pull a credit report and review it with the buyer. Dig in and ask questions. While some issues are expected (after all, they are coming to you because they don’t qualify for traditional financing), serious delinquency must not be ignored. For example, if the buyer is 2 months delinquent on an open car loan, how can they possibly be in a position to buy a home? This is how you get the whole story, which is needed before you go into a long-term agreement with a potential buyer.

Assuming the buyer makes it through step 5, you’re now ready to *underwrite* the potential loan. What? You’re not an underwriter? You thought hiring an RMLO is all you needed to do to be compliant? Listen, RMLO’s are not underwriters. They’re salespeople... just like you. An RMLO is required (unless you’re licensed) to help you *originate* the loan. You still need to have it underwritten to ensure the buyer can actually afford the new payment. This is call ‘Ability to Repay’, or ATR as the CFPB likes to call it. And, if you don’t certify the buyer has it, then, in the event of default, you risk having your lien invalidated should you try to foreclose and the buyer hires a smart attorney.

Questions?

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