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## *Are Seller Financed Transactions A Thing Of The Past?*

*"HOW A REALTOR SHOULD ADVISE A CLIENT IN A SELLER FINANCED TRANSACTION"*

Seller financed transactions are not dead by any means. However, the new SAFE Act has placed restrictions on how these transactions should be undertaken to ensure compliance with the law. This law covers residential properties only, including land transactions and mobile homes (with or without land). Seller financed residential properties are now considered regulated mortgages under the new law and therefore, must be originated under rules similar to conventional and government backed loans.

### ***HOW DOES THE NEW LAW AFFECT A SELLER/FINANCER?***

The seller/financer may need to be licensed as a Residential Mortgage Loan Originator (RMLO) to do the transaction. There are exceptions to the licensure requirement and a real estate agent should be familiar with the exceptions to properly advise the client. Some of the exceptions are:

- If the seller is financing his own home that he most recently or is now living in
- If the seller financer is an investor and finances less than 5 transaction per year \*\*\*\*
- If the seller is financing for another investor (who will not occupy the house)
- If the seller is financing to a direct family member

\*\*\*\* 5 transactions per year are allowed under current Texas law as an exception to the National SAFE Act law. The National Law allows for 3 transactions per year provided the mortgage does not contain a provision for a ballon payment or an interest rate that adjusts before the expiration for 5 years. At any time, Texas may be forced to follow National Law. Caution should be excercised.

### ***HOW DOES THE NEW LAW AFFECT A REAL ESTATE AGENT LISTING A PROPERTY?***

A real estate agent may advertise that the seller is offering financing for a prospective buyer, however, an agent is restricted from performing tasks that require licensure as an RMLO. These tasks include but are not limited to:

- Advertising terms and interest rate or discussing terms and interest rate with a buyer
- Taking an application from a buyer on behalf of a seller
- Receiving compensation (other than normal listing fees) for arranging a transaction

### ***WHAT IS THE SOLUTION FOR A SELLER FINANCED TRANSACTION?***

The new law allows a third party licensed RMLO to originate seller financed transactions. **Texas Mortgage Capital** offers an affordale low flat fee for providing all necessary documentation for the origination process thereby allowing both the seller and the real estate agent to be in compliance. We also can produce a compliant financing flyer advertising rates and terms that can be placed within an agent's listing for distribution to prospective buyers. We offer quick turn around times and **STATEWIDE SERVICES** and can offer referrals to partner attorneys that are experienced in transfer documentation for these types of transactions. We also offer referrals to servicing companies that cater to seller financers. Please call us for more information.

***"LET US KEEP YOU IN COMPLIANCE"***

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