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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.

IMPORTANT UPDATE FOR REAL ESTATE AGENTS*****

When advising seller/finance clients about the new SAFE Act, especially those that engage in 5 transactions or less per year, Realtors should be aware of an important clarification issued by The Texas Department of Savings and Mortgage Lending:

IN CONNECTION WITH THE ABOVE NOTICE CONCERNING THE DE MINIMIS EXEMPTION FOR SELLER FINANCED TRANSACTIONS ISSUED ON AUGUST 12, 2010, THIS NOTICE IS ISSUED TO CLARIFY QUESTIONS WHICH HAVE RISEN CONCERNING COMPLIANCE WITH FEDERAL REGULATIONS.

THE POSITION EXPRESSED IN THE NOTICE IS THAT AN INDIVIDUAL WHO ENGAGES IN NO MORE THAN FIVE MORTGAGE LOANS IN A ROLLING TWELVE MONTH PERIOD IS EXEMPT FROM THE DEPARTMENT'S LICENSING REQUIREMENTS. **THE DEPARTMENT HOLDS THE POSITION THAT EXEMPTION FROM LICENSING DOES NOT RELIEVE THAT INDIVIDUAL FROM COMPLYING WITH ALL APPLICABLE LAWS AND RULES PERTAINING TO DISCLOSURES REQUIRED BY RESPA, NEW GFE, TILA, APR, NEW HOEPA, HIGH PRICED LOANS, ETC AND THE TIMING OF EACH DISCLOSURE AND RULES.**

AUGUST 17, 2010
DOUGLAS B. FOSTER
COMMISSIONER

A Real Estate Agent should properly advise a seller finance client of the responsibility to properly disclose the buyer of all required state and national mandated disclosures in a timely manner - **even though a license is not required.**

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 affordable 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 financiers. Please call us for more information.

"LET US KEEP YOU IN COMPLIANCE"

866-493-5300

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