



The New Dawn of Seller Financing...or Not!

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Unless you've been hiding your head under a pillow the last few months trying to forget the names Dodd and Frank, you probably know by now that there are changes in the wind when it comes to seller-financed loans. The word on the street has a lot of people shook up but that's mainly because most of

what's being said is just plain WRONG. I had a customer call in a panic last week over something that happened recently to an investor client of his. Apparently, the investor sold property on a carryback over a year ago and the buyer suddenly stopped making her payments this past November. When the seller contacted the buyer last week about catching up the back payments, she told him that she doesn't intend to pay on the loan any more *"because seller carryback loans are now illegal and if you try to foreclose on me, I'll get a lawyer and sue you."* Now, they're a prime example of a little information being a dangerous thing!

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Another example recently over heard at a local MLS meeting was the statement that as long as the buyer is **not** going to reside in the home, there is no limit on the number of carry backs one seller can do. This is also completely wrong and now there are upwards of 50 real estate agents walking around with such misinformation in their heads. Also, because of the uncertainties concerning the entire subject of seller financing, the notion that escrow officers are somehow no longer qualified to draw documents for seller and private financing is also being bandied about. A real estate customer of mine purported that at one



renewal hour class he recently attended, it was categorically stated that as of January 2014, only attorneys are qualified to draw loan documents and that Realtors should not even consider using the services of an escrow officer for carryback transactions. Since I've just spent the last two days correcting Warranty Deeds that two different attorneys prepared *[to transfer real property into family trusts]*, the thought of turning all seller financing transactions over to the attorneys



makes me shudder.

In an effort to aid their members in complying with the new regulations, the Arizona Association of Realtors has developed **four new contract addendums** ([links below](#)) to cover all of the changes that are anticipated under the new rulings from Washington, DC. However, since the rulings coming from the CFPB (*Consumer Financial Protection Bureau*) are still rather fluid and subject to change, it is my understanding that these brand new addendums may also be changed again in the very near future. So, if you are getting the feeling that the whole subject of seller financing is in a state of flux, you are entirely correct!



Arizona State Escrow Association's
Tip Of The Month
 MAY 2013



**Seller Carrybacks:
 Going Away, or Here to Stay?**

The past January 20th, the CFPB amended Regulation Z of the Truth in Lending Act to implement recent amendments made by the Dodd-Frank Act. For the purpose of our discussion today, a portion of the amendment exempts most sellers wishing to carry back a loan upon the sale of their property from being considered "loan originators". Those exemptions are as follows:



For a quick review of the most pressing changes affecting seller financing loans, I am going to refer you to the [May 2013, Tip of the Month](#) entitled:

**[Seller Carrybacks:
 Going Away, or Here to Stay?](#)**



As further evidence of of the ASEA's on-going mission of equipping our membership with the tools needed to handle today's real estate transactions, the Association has put together a class entitled **Alternative Financing** which will debut on February 22nd. Because of your overwhelming interest in this subject, the class sold out within hours of being offered, and a second session was subsequently offered which I understand is now also sold out! This constitutes a first in the history of the ASEA and has a lot of the board members really excited for several reasons. First of all, the fact that an ASEA class sold out the first day it was offered is outstanding testimony to the fact that more and more of you are aware of the value offered by membership in this, your only trade association. Beyond that, the fact that so many of you are interested in learning about carry back loans is very gratifying as it shows that you are vested in your personal career; that you are interested in growing your professional skills, and you are concerned about the future of our industry.



In the upcoming class we will take a look at those new **AAR Addendums** in their current form and we will discuss the reasons behind some of the changes. We will also cover the traditional formats and phrases of documents used in carryback loans so that you won't need to feel intimidated the next time a Realtor customer or a FSBO client calls on the phone and wants to know if you can handle such a transaction. We will also discuss note sales, loan servicing and other related topics as time allows.



I hope to see you on the 22nd of February, either in the morning or the afternoon class. We are also exploring the possibility of repeating the class in Prescott and Tucson in the near future so if you were too slow to get a seat this time, be assured there will be more opportunities coming. The most important thing for you to remember as we enter the uncertain waters of 2014 is that YOU are still important to the real estate industry. While it may seem that everything is changing with the added government oversight and the emphasis being placed on the institutional lenders by the CFPB, the

fact of the matter remains...the settlement industry has been down this road before and we are still here. I wasn't around when the HUD-1 Settlement Statement first appeared back in the 70's but I hear that some people thought it was the end of the world as it was then known; but Escrow survived! We also weathered the 2010 HUD changes and we are going to get through this transition as well. Why? Because we are Settlement **Professionals**, and as such, we are able to adapt and grow with the changing times.

See you on the 22nd!



Shannon Ade
CEI | ASEA Member

ADDENDA

[SAMPLE Seller Financing Addendum - Only One](#)
[SAMPLE Seller Financing Addendum - 3 or Fewer](#)
[SAMPLE Seller Financing Addendum - Not Secured by Dwelling](#)
[SAMPLE Loan Assumption Addendum](#)

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