Insider Guide To Avoid Making Mistakes When Owner Financing Real Estate

Designed To Save You Money and Time

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How to Get the Most Out of This Manual

Most investments today come with some sort of owner's manual, like the one you received with your new car or computer. These manuals not only describe the asset in detail, they list what you as the owner needs to do to prevent problems and optimally maintain the product. For example, in the case of a vehicle, the manufacturer suggests you change the oil regularly. However, when you sold your property via owner financing, you probably did not receive an owner's manual. You were not provided a description of the components that make up your lien, nor were you provided suggestions on how to maintain its value and integrity. This manual is designed to fill that void.

In the process of exploring how to manage and maintain your lien, we will point out mistakes that are commonly made at the time liens are structured as well as after closing. Numerous tips and suggestions that will help you avoid these potentially expensive mistakes are found throughout this book.

In addition to learning common mistakes, you will also learn what variables determine lien value. This will allow you to structure and maintain a lien so that it will command top dollar if you need to sell at any time in the future. You will, in essence know more than most real estate agents and well intentioned, but poorly educated real estate professionals. Please remember, that information in this book is not common knowledge for real estate agents, due to the fact that most agents training only lightly touches on the subject of owner financing. To encourage you to "educate" your agent, we offer wholesale discounts.

The Layout of This Publication

In the next chapter, "Answer To Basic Questions," you will learn about a dramatic change concerning owner financing which has occurred over the last year. The content of this book is based upon this profound change. This section will also answer a few technical questions in an easy-to-read format, providing you with the foundation needed to fully understand the following chapters.

The third chapter explores the key ingredients found in most mortgages, land contracts and deeds of trust. Here you will learn what these key ingredients are, how they affect you, and what to do in case of default. In addition you will find numerous hints on how to maintain your note. Property purchasers who want to learn what variables create a highly valued lien will find this chapter valuable, as you will begin to understand the viewpoint of lien holders and can anticipate their concerns.

In the fourth chapter, "Selling Property via Owner Financing," you will learn "insider tips" that can save you both money and time. Readers who have not yet structured a lien will learn how to evaluate property purchasers, decrease their risk, and create a lien which will command top market value. Readers who already own a lien will learn how to maintain their lien, what things they should look out for, as well as what they could have done differently and why. Property purchasers will find these chapters valuable as the items which create or negate lien value are discussed. By building as many "value enhancing" variables into your proposed lien as possible, you will increase the changes that your property purchase agreement is accepted by the property seller.

For best results, use the information in chapter four with the information supplied in chapter three. These two chapters are the heart of this book and have been cross referenced to complement each other. By the time you have completed reading through chapter four, you will understand the top 10 mistakes made by lien holders and how you can avoid and/or prevent these mistakes. For easy reference, a summary of the top ten mistakes is found at the end of this chapter. This convenient guide will show you where to find information pertaining to each mistake.

The fifth chapter, "Getting Started," consist of a tax and insurance maintenance form, which is key to maintaining your note. An estimated 95 percent of our clients fail to maintain their notes properly. As a result, we suggest you use this form religiously; it is an important part of a good note maintenance plan. You will also find within this section an index of security instruments by state as well as a brief question-and-answer section on how to sell all or part of your note for cash.

The last chapter, “additional Services,” provides you information on how to contact the author, additional services offered by Seaquis Capital, Inc., and how to provide this handbook to a friend at a wholesale price.

Before Beginning

Before you begin, take out the paperwork for your note so you can follow along as you read the chapter titled “Key Ingredients of Your Note.” You should get out a separate pad of paper so you may write in your own notes and “To Do” reminders. It will thus be easy for you to review your notes once you are done reading.

Also before beginning, please familiarize yourself with the glossary that starts on page 75. Real estate involves a lot of terminology, and although care was taken to leave out much of this terminology, you may not be familiar with some of the words in this manual. We thus urge you to locate that glossary before you begin reading. You may want to put a tab or marker at the beginning of these sections.

For easy reference, each section ends with a bulleted list of tips and highlights.


The “bright idea” symbol indicates a **Tips and High-lights** section.

Please store this manual with your property files and keep it as long as you own your note. We strongly suggest you purchase an annual calendar and schedule a time to review this manual next year. Frequent review of this manual is the best way to learn it and the best way to keep your options fresh in your mind.

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Answers to Basic Questions

What Is a Security Instrument?

"Security" essentially means protection or assurance. The term "instrument" refers to a formal document. A security instrument, therefore, is the same thing as a protective document. It is a document that provides evidence of indebtedness and thus protects the rights of the person to whom debt is owed.

For example, pledges, liens, mortgages, and deposits are all obligations that may require the use of a security instrument. Should the person who owes the debt fail in his or her obligation, the party who is owed debt can use the security instrument to recover his or her investment.

This manual refers only to security instruments involving owner-financed real estate. It does not refer to other security instruments such as those used by banks to secure vehicle or boat loans.

What Are the Different Types of Security Instruments?

Different terms are often used to describe a single concept. For example, the terms "car" and "vehicle" both describe the concept of an automobile. In the same manner, different terms describe the concept of owner financing. The following commonly used terms are synonymous. They all refer to your owner-financed lien:

- Contract

- Contract for Deed
- Note
- Lien
- Seller Carry-Back Financing
- Carrying Paper
- Privately Held Mortgage
- Installment Land Contract

Furthermore, just as many terms are used to describe the different "makers" of automobiles, such as Ford, Chevy, or Toyota, different terms are used to describe the different "make" of security instruments:

- Mortgage
- Deed of Trust
- Installment Land Contract
- Trust Deed
- Security Deed

How Can One Manual Apply to All These Type of Security Instruments?

In general, all security instruments are alike in terms of intent and/or function. This common denominator allows for the exploration of general topics. Therefore, the contents of this manual will apply to you and your security instrument, whatever that may be.

"Deed of Trust" will be the term most commonly used throughout this manual. If your security instrument is something else, such as a mortgage, simply substitute the term "mortgage" for "deed of trust" as you read.

Do All Security Instruments Pass Title From the Property Seller to the Property Buyer?

No, the most common security instrument in which title is not passed to the property buyer is the land contract. Installment land contracts do not pass title of the property to the new property owner until the lien has been paid in full. Should default occur, it can therefore be easy for the lien holder to take back the property.

Why Is My Security Instrument Different From My Neighbor's?

The answer to this question may involve state law. Different states allow the use of different security instruments. Regardless of what "make" of security instrument you own, you will find this manual applies to you since all security instruments function alike in terms of intent.

What Does It Mean To "Assign" My Interest To Someone?

The term "assign" simply means to transfer something from one party to another. As a note owner, you have the ability to assign interest in your note to a third party. Examples of when this might occur include selling your note to someone or using your note as a down payment to purchase a new home.

Assignment can be in full or in part. If you assign your note to a third party in full, you no longer retain interest in the note. This means you are not entitled to the right to receive any more of the payments. If you assign your note in part, you still retain some interest in the note and may receive payments along with another party.

Assignments, like many real estate documents, are very flexible and thus can be structured many different ways.

What Are Some Key Terms I Need to Know?

Following are some key terms you should familiarize yourself with before continuing:

Payer: This term refers to the property owner, the person making the payments. Also, spelled "Payor".

Payee: This term refers to the person receiving the payments, often the person who has sold property via owner financing.

Interest: This is synonymous with a right or entitlement. For example, you can assign interest in your note to a third party. This means you assign your right to receiving the payments to someone else.

Senior Lien: This is simply a lien on a given piece of property that has been recorded before another lien on the same piece of property. Another way of stating this is to say that a senior lien is "positioned" ahead of a junior lien. This means that it is superior to liens that were recorded after it was recorded. For example, a lien recorded in 2000 is senior to a lien recorded in 2002. Lien positions are important issues, particularly in reference to foreclosure.

Junior Lien: This is a lien which was recorded after a previous lien. For example, if the lien you own was recorded after two other liens on the same piece of property, you are the owner of a third position lien. Owing a junior lien is much riskier than owning a first position lien because junior liens have fewer legal rights than a lien in first position. The rules governing junior liens are complicated and can vary from state to state. For more information please refer to the section titled "Junior Liens" beginning on page 45.

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Key Ingredients of Your Note

The following section provides information on the key ingredients found within most liens, regardless of whether they are mortgages, deeds of trust, or land contracts. The order in which these ingredients appear will differ from contract to contract, so do not be alarmed if the layout of your contract varies significantly. After reading this section you should understand what these key ingredients are and how they can affect the value of your contract.

Parties to the Contract

This section defines who the "parties" in the contract are; that is, the person who are entering into the contract. The seller and purchaser of the property are called by different names in different types of security instruments, as shown in Table 1.

Table 1: Seller and Purchaser by Type of Lien

Type of Lien	Seller	Purchaser
Deed of Trust	Beneficiary	Trustor
Mortgage	Grantee	Grantor
Land Contract	Vendor	Vendee
Trust Deed	Beneficiary	Trustor

In addition to naming the parties, this section will include the date the contract takes effect as well as the date on which interest begins to accrue. Unless otherwise specified, the accrual date is the date the contract takes effect. However, like all variables, the accrual date is negotiable and some purchasers will attempt to defer it, thereby minimizing the amount of interest they will pay.

Since interest usually begins to accrue when the contract takes effect, by the time the first payment is due, one month's interest will be owned. In other words, every time a payment is made part of that payment is applied to interest accrued the preceding period. A payer who has missed payments may find it difficult to bring the account current because he or she owes a lot of back interest. You should thus take immediate action the moment a payment is late. The longer you wait, the more costly the situation will be. For more information on default, refer to the section titled "Default" on page 25.

Tips and Highlights

- In this section of your deed of trust, write in the owner's home and work telephone numbers, particularly if they are unlisted.
- Take immediate action the moment a payment is late.

Legal Description

It is within this section that the encumbered real estate is defined. The applicable city, village, or township, along with the county and state, are noted here. This formal legal description can be lengthy, particularly when a condominium or an unusual property is concerned.

Along with the actual ground, the purchaser receives everything that is permanently affixed to the property. This would include structures, easements, improvements and appurtenances. (If you haven't located the glossary, which begins on page 75, now would be a good time).

In this section of your deed of trust, write in the "Tax ID" number for the property. This will make it easier for you to check that taxes have been paid, since most tax offices reference properties by "Tax ID" numbers. In addition, turn to the Tax and Insurance Maintenance form on page 67 and record the Tax ID number here as well. Also, jot down the purchaser's mailing address if it is different from the collateral and/or it is not listed in this section.

Tips and Highlights

- In the legal description section of your contract, write in the "Tax ID" number for the property.
- Turn to the "Tax and Insurance Maintenance Form" on page 67 and record the Tax ID number in Section A.
- In the legal description section of your contract, jot down the purchaser's mailing address if it is different from the collateral and/or it is not listed in this section.

Price and Terms of Payment

Price and term information may be located differently within your contract depending on what type of security instrument you own. For example, in the case of a deed of trust, this section is found in the Deed of Trust Promissory Note. If your security instrument is a Land Contract, this section is found within the land contract itself. Regardless of what type of instrument you own, the following information is detailed within your document(s).

- The beginning balance (i.e., the purchase price minus the down payment)
- The payment, expressed as principal and interest (P&I)
- The annual interest rate (e.g. 10%)
- The date of the "balloon" payment, if any
- The date the first payment is due

Balance Remaining

The balance remaining is calculated by subtracting from the sales price the down payment and/or other consideration such as traded or bartered items. The balance remaining should decrease with each payment.

A Word on Down Payment

The larger the down payment, the better. Obtaining a substantial down payment is the number one thing you can do to protect yourself. It also increases the value of your note.

You want the purchaser to have a strong monetary investment and therefore commitment to the property. A down payment is money that is paid at closing, does not have to be collected in uncertain future payments, and represents the purchaser's commitment to the property. Properties that are purchased without down payments are thus very risky. For this same reason, down payments that are spread out over time or borrowed from a third party also present great risk.

You may receive phone calls from prospective purchasers who want to buy with no money down. Do not allow this, unless you thoroughly understand foreclosure and are willing to take such a high risk. Make sure you adequately communicate to the prospective buyer the minimum down payment you will accept.

For additional information on this subject refer to the section titled "The Down Payment" which begins on page 30.

Monthly Payment

This figure usually is about 1 percent of the beginning balance. Here is an example: if the principal balance on your note is $50,000, and the interest rate is 9 percent amortized over fifteen years, then the monthly payment will be $507.13, which is roughly 1 percent of the $50,000.

The monthly payment may or may not include funds to cover taxes and insurance. See the section titled “Taxes and Insurance” which begins on page 33, for an in-depth look at your options regarding this issue. Regardless of whether the monthly payment includes the cost of tax and insurance, the balance owed should decrease with each payment.

Do not create a note that negatively amortizes. This occurs when the amount of each payment does not cover the interest accrued and the difference is added to the principal balance. The balance therefore increases rather than decreases. Creating such a note decreases its cash value dramatically. Such notes usually will need to be restructured before an investor will purchase them.

Keeping track of monthly payments can be tiresome. For information on account servicing companies, please refer to the section titled “To Use or Not to Use a Servicing Company” which begins on page 56.

Payment Due Date

This is the date when the first payment is due. It is a negotiable variable, just like the purchase price. Also negotiable is a “grace period”. You may charge the payer a late fee if the payment is not received on time or within the grace period. However, this charge must be included in your note for it to be legally binding.

Do not allow the payer to habitually make payments late. Insist on promptness. Late payments decrease the value of your note; they are an indication of the financial weakness of the payer.

A hefty late charge is a good way to encourage promptness. For more information on what to do if a payment is late, please refer to the section titled “Default,” beginning on page 25.

Balloon Payments and Their Hidden Benefits

A balloon payment refers to a large, final payment. Balloons usually have a due date five to ten years from the date of sale but are negotiable like other variables. You don’t want to make the balloon too close to the date of sale, because most payers will not be able to refinance or come up with the required amount of money in such as short period of time.

Balloon payment clauses may read as follows: "On the ____ day of ____, (year) the entire sum of principal and interest then owing shall become due and payable in full."

There can be a couple of "hidden" benefits to balloon payments. Should the owner be unable to make the balloon payment, you have the opportunity to refinance the lien. You may want to increase the interest rate or monthly payment, or both. Doing so usually increases your return on investment. You are then able to set a new balloon payment date and avoid a messy foreclosure.

However, increasing your return on investment is not the only benefit to revising the term and/or interest rate. The market value of your note, should you ever need to sell all or part of it, has increased as well. This is a trust "win-win" situation for both you and the property owner.

Since balloon payments abbreviate the amount of time it takes investors to recoup their investments, balloons tend to increase the value of a note. An exception to this is when balloons are structured poorly. Please refer to the section titled "Balloons" which begins on page 31, for additional information on this subject.

It is a good idea to notify the payer in writing six months before the balloon payment comes due and payable. This gives him or her enough time to refinance or make other arrangements.

Annual Interest Rate

Each payment is composed of two main components: interest and principal. Payments may or may not include taxes and insurance; however, in either case interest is based on the remaining principal alone.

Interest (I) is calculated for the payment period by multiplying the annual interest rate (R) by the principal due (P) and then dividing this annual interest amount by the number of payments (N) to be made each year. This number, the total interest for the period, is then deducted from the payment. The rest of the payment, minus taxes and insurance if they are included in the payment, is known as principal. This portion is deducted from the principal balance remaining on the note. For those of you who like formulas, interest is calculated as follows.

$$I = (R \times P) / N$$

Here's an example: Suppose the beginning principal on an owner financed note is $75,000, payable with monthly payments of $723.77 at an interest rate of 10 percent. Assuming this monthly payment does not include taxes and insurance, you can calculate the amount of interest paid in the first monthly payment as follows. Multiply the principal balance by 10 percent, then divide that number by 12, the number of payments per year.

Monthly Payment = (.10 X $75,000) / 12

Thus the interest amount of the first payment will be $625, and the principal portion will be $98.77.

I = $7,500 divided by 12
P = $723.77 minus $625

The new principal balance will now be $74,901.23.
$75,000 minus $98.77

Should the buyer make an extra payment toward the principal, you would simply subtract the amount of extra principal paid from the new principal balance. For instance, suppose that in the previous example the buyer pays $1,723.77 instead of $723.77. In this case, the buyer has paid an extra $1,000; thus the remaining principal will be $73,901.23.

$74,901.23 - $1,000 = $73,901.23

Tips and Highlights

- The larger the down payment, the better. Obtaining a substantial down payment is the number one thing you can do to protect yourself. It also increases the value of your note.
- Do not create a note which negatively amortizes. Regardless of whether the monthly payment includes the cost of tax and insurance, the balance owed should decrease with each payment.
- Do not allow the payer to habitually make payments late. A hefty late charge is a good way to encourage promptness.
- There can be a couple of “hidden” benefits to balloon payments, such as increasing the value of your note and increasing your return on investment should the payer fail to make the balloon payment.
- It is a good idea to notify the payer in writing six months before the balloon payment comes due and payable. He or she can then plan accordingly.
- Using amortization computer software is the easiest way to calculate interest and amortization.

Taxes and Insurance

Before discussing two common methods of handling taxes and insurance, let’s first take a look at what is included in most tax and insurance clauses.

Insurance Clause

Most insurance clauses require that the property owner purchase fire insurance on all buildings, both new and existing. The purpose of this insurance is to protect you, the grantee, from loss as a result of fire. You will thus be named the beneficiary of the policy, even though the policy was purchased by the property owner. If a loss occurs due to fire, you will receive payment from the insurance company ahead of the property owner.

The amount of insurance coverage purchased should be no less than the total debt owed to you. If a property is insured for less than the debt owed to you and it burns down, the insurance payout will not cover the full principal amount owed to you, nor will there be anything left over for the homeowner.

If the property resides in a flood zone, tornado zone, or other risky area, you may be able to safeguard against loss from these hazards as well. Depending on the cooperation of the property buyer and state law, you may be able to add a clause to your security agreement that requires additional insurance to protect against hazards such as flooding or earthquakes. Furthermore, you can require that the purchaser buy insurance that covers the current value of the property, not just the remaining principal. Please refer to the section titled “A Word on Hazard Insurance” beginning on page 37 for information regarding insurance and how to make sure you are protected.

Tax Clause

This clause requires the payer to pay taxes and assessments before they are due and to keep the property free and clear of other liens and encumbrances that may impair the security of the deed of trust. An example of this would be unpaid property taxes.

You can opt to place an additional clause into your contract that requires the payer to provide you annual proof of tax payment. See the section titled “Special Clauses” which begins on page 61 for further information.

Methods of Handling Taxes and Insurance

There are two common methods of handling taxes and insurance:

1) The property owner is responsible for taxes and insurance.
2) The property seller pays taxes and insurance out of amounts put into an escrow account by the property owner.

The most common method of the two is the first one, whereby the owner is responsible for taxes and insurance. The second method is to have the monthly payment include reserves for taxes and insurance. With this option, approximately one twelfth of the estimated annual taxes and insurance is added to each monthly payment. These reserves will typically go into an escrow account, accumulating until taxes and insurance are paid. Thus, the monthly payment will adjust from time to time, either increasing or decreasing as tax and insurance cost increase or decrease. This method involves active participation from you, the note owner, since you will have to notify the property owner of changes in the monthly amount should any occur.

If you choose this option, it is a good idea to keep tax and insurance funds in a completely separate non-interest bearing account at the bank. This makes it easy to determine when adequate funds are available to pay the bills owed.

If you choose to let the payer assume responsibility for tax and insurance payment, schedule one day a year to check for yourself that the property owner has paid all the required taxes and insurance. Failure to pay taxes is not only a breach of contract, but it is also an indication that the owner may not be able to afford the property. Foreclosure on a property only to discover that the first expense you have is several thousand dollars of unpaid back taxes can be quire disheartening.

In summary, these two options are the most common methods of handling the tax and insurance issue. The first method is slightly risky for you as a note owner, since you do not directly pay taxes and insurance. However, if you are diligent about checking on the payment of these items, that risk is somewhat minimized. The second option is one in which the note owner deposits it into a separate account. This method decreases your risk because you ultimately control the final payment of these bills.

It is a good idea to buy a yearly calendar and schedule a day to call the tax office. Use the form in the back of this manual to record these phone calls. For more information regarding taxes and insurance, see the section titled “Tax and Insurance” which begins on page 34.

Tips and Highlights

- The purpose of hazard insurance is to protect you, the note owner, from loss if the property owner used to secure the lien burns down.

- The amount of insurance coverage purchased should be no less than the total debt owed to you, and could be as much as the current value of the property if you require this within your security instrument.
- If the property resides in a flood zone, tornado zone, or other area at risk of a natural disaster, you may be able to safeguard against loss from these hazards by requiring that the property owner purchase insurance protecting against such hazards.
- It is a good idea to place an additional clause into your contract which requires the payer to provide you annual proof of tax payment.
- Failure to pay taxes is not only a breach of contract; it is an indication that the owner may not be able to afford the property.
- It is a good idea to buy a yearly calendar and schedule a day to call the tax office. Use the form in the back of this book to record these phone calls.

Care of Property

Within your security instrument will be a paragraph called the Care Clause. This clause requires that the property owner(s) protect the value of the property until it is paid in full.

Protecting the value of the property is an important issue, because property value is an incentive for the payer to continue to make payments. The greater the property value, the greater the incentive.

Property value also is a key issue for you as a lien holder. Should foreclosure occur, the value of the property will determine if you are able to recoup your investment without a loss.

To make sure the goal of protecting property value is accomplished, a care clause should include the following:

- It should require the property owner to notify you, the note owner, in writing before committing waste or making any changes to the premises in a manner that may diminish the value of the property.
- It should state that it is the owner’s duty to keep the property in good condition as well as complete any building, structure or improvement being built or about the built. In other words, the owner cannot allow a building to deteriorate in value through a lack of maintenance, nor can he or she begin constructing a new structure and fail to complete it.
- It should state that the owner cannot permit waste (i.e. any structure or improvement that may be damaged or destroyed must be restored.) For example, if a property is damaged by a storm, the owner is required to fix the damage.

- It should also require that the owner comply with all laws, ordinances, regulations, covenants, conditions and restrictions affecting the property. For example, the property owner cannot sell drugs out of the property since this violates federal, state, and local laws.

The care clause is meant to protect you as lien holders, and you should therefore take advantage of the protection this clause provides. It is a good idea to drive by the property once a month, since deferred maintenance usually is one of the first signs of financial stress. We at Seaquis Capital, Inc. feel that the degree to which a property owner cares for his or her property is highly reflective of the strength of their commitment to pay it off. Being aware of neglect or damage will allow you to take prompt action.

It is not uncommon for a property owner to continue to make timely payments but neglect property maintenance. If you are not driving by the property on a regular basis, you will be unaware of such neglect.

Also be aware that the value of your note will often decline in direct correlation to the value of the property. Thus, as the value of the property declines, so will the value of the note. There are two main reasons for this:

1) As the property value decreases, the property owner's interest in the property decreases. This increase the likelihood of a foreclosure.
2) As property value decreases, the amount the note owner can recover through foreclosure also decreases.

If you suspect the property owner is not fulfilling the requirements of the care clause, you should seek the counsel of a competent real estate attorney. The definition of "waste" can be broad, depending on the state where the property is located. It is therefore a good idea to see an attorney who practices within the state in which the property is located.

Tips and Highlights

- Property value is an incentive for the payer to continue to make payments. The greater the property value, the greater the incentive.
- Should foreclosure occur, the value of the property will determine if you are able to recoup your investment without a loss.
- It is a good idea to drive by the property once a month, since deferred maintenance usually is one of the first signs of financial stress.
- If you suspect the property owner is not fulfilling the requirements of the care clause, you should seek the counsel of a competent real estate attorney.

Payment or Satisfaction

After your note has been paid in full, a document called the “Deed of Reconveyance” will be delivered to the property owner. This deed releases your lien from the property.

Specifics regarding the satisfaction of your lien will vary depending on the security instrument you own. However, the general idea is that after your lien has been paid in full, your lien is released for the property. Often a title company or the company that has been servicing your lien will handle this for you.

Assumption of the Deed of Trust

As a note owner you have the ability to assign your interest in your note to another party without notifying the property owner. Situations like this may occur when you need a lump sum of cash instead of small monthly payments. Refer to the section titled “Selling All or Part of Your Note for Cash” beginning on page 69 for more information on how you can sell a few payments or all of the payments of your trust deed for cash.

Although as a note owner you can transfer your asset to another party, property owners normally do not have these same rights without first obtaining consent from you. If your note is assumable, (i.e. the property owner can sell the property to another party who assumes payment of your lien), you should require that the property owner receive written authorization from you before the assumption is officially recorded. Make sure this clause is in the security instrument. Do this regardless of whether or not the security instrument includes a “due-on-sale” clause. The following section explains this point further.

A Word on the Due-On-Sale Clause

A due-on-sale clause gives the lender the right to demand payment of any remaining principal due on the loan when the property is sold. This clause is a powerful tool designed to stop unwanted assumptions.

However, you need to understand that a due-on-sale clause is a contractual right, not a law. This means that property owners will not go to jail for violating this clause. It also means that you, as a note owner, may not choose to call the loan due and payable, thereby allowing an assumption to occur. Using a due-on-sale clause is thus a good idea since it can be waived, per your discretion, should you have confidence in the new purchaser.

If you have not been maintaining your lien you could find that the property has been sold without your knowledge, even if you have placed a due-on-sale clause within the contract. Unfortunately, this occurs more often than you may think. This is another reason why you need to perform regular maintenance on your lien. Usually either the property tax office or the insurance company will know who the new property owners are. If you believe the property owners defaulted on any clause within your contract, always seek the counsel of a competent real estate attorney.

Regardless of whether or not you have a due-on-sale clause, make sure that your written authorization is required for an assumption to occur. Should the property owner ask for authorization to assign interest to another person, you may want to gather the following information before consenting to the assumption.

- Credit report on the prospective purchaser
- Employment information on prospect
- Down payment information
- New sale price information

Credit Report on the Prospective Purchaser

Obtain at least one credit report on the prospect. The reason you may want to review more than one credit report is that sometimes different agencies pull up different information on the same person. These differences are sometimes remarkable. Never allow the prospect to obtain the credit report(s) for you. For additional information on credit reports, see the section titled "A Word on Credit Reports," beginning on page 39.

Employment Information on Prospect

Gather employment information and verify all employment facts yourself. Obtain the most recent pay stub available from the prospect, and if he or she is a first time homeowner, you may want to obtain rental payment history.

Down Payment Information

Inquire about the exact down payment the prospect will bring to the closing table should you consent to the assumption. You want to have a minimum of 10 percent down, although we recommend a down payment of 20 percent. If you are uncomfortable with the limited amount of down payment the purchaser can afford, you should consider selling your note at the closing table, so that your risk as lien holder becomes zero. For more information on this option, see the section titled "Selling All or Part of Your Note For Cash," beginning on page 69, or call us at 480-213-5251. There are programs available for purchasers with less than 10 percent down.

New Sales Price Information

Failed to obtain a minimum of 10 percent down, as well as allowing the property used as security for your note to be sold under-value or over-value, are hidden risks that many lien holders are unaware of.

A substantial down payment is the number one thing you can do to minimize your risk. This is your protective equity. Should you need to foreclose, it is the main factor that will determine whether you can recover your investment without a loss. If the owner has little or no equity, you may be lucky to recover any money after paying foreclosure costs, real estate commissions, possible back taxes, and money spent fixing up the property after the foreclosure period.

Furthermore, a down payment of less than 10 percent can greatly increase the amount of risk associated with your note. In order to compensate for this risk, investors will offer to pay less for your note and thereby “build back in” the protective equity, which would have been accomplished by an adequate down payment. It is a general rule, therefore, that the greater the down payment given at closing, the more your note will be worth.

When you consent to an assumption, it is a good idea to have your written consent stipulated that the assumption is contingent upon whatever minimum down payment you decide is prudent. Make sure this contingency is in writing. Changes to the sale price and down payment can occur right before closing. Having your consent in writing will prove what you did or did not consent to.

Better yet, stipulate the minimum down payment you will accept, should you consent to a future assumption, within your deed of trust. This way the property purchaser understands in advance what your requirements will be for an assumption to occur.

The Sales Price

The sales price of the property in the new transaction is also important. You do not want the property to be sold under its actual value. In general, suspicions are raised when a property being sold via owner financing does not bring a medium-to-high sales price. As a result, most investors are reluctant to use the appraised value of a property when determining how much to pay for a note, within 12 to 18 months after a sale. Therefore, the value of your note may be based on the sales price, not actual worth, if sold within 12 to 18 months of the assumption. However, after 12 to 18 months the value of your note often is based on an independent appraisal rather than the sale price.

Allowing the property to be sold over value is another problem you should look out for. An overpriced property may indicate the payer agreed to pay more for the property in exchange for a smaller down payment. A payer who develops financial problems is more likely to abandon the property since he or she has little to no equity. It is never in your best interest to allow an assumption to occur where the sales price is either under or over current market value. For more information regarding this topic please refer to the section titled "The Down Payment" beginning on page 30.

Tips and Highlights

- Using a due-on-sale clause is often a good idea since it can be waived if you have confidence in the prospective buyer. If you do not, you can exercise your option, thereby calling the loan due.
- If your note is assumable, requiring that the property owner obtain written authorization form you before the assumption is officially recorded.
- Allowing the property used as security for your note to be sold under value, over value, and/or failing to obtain a minimum of 10 percent down, are hidden risks that many lien holders are unaware of.
- Gathering the following information will help you decide whether to consent to the assumption of your note:
  1) Credit report on the prospective purchaser
  2) Employment information on prospect
  3) Down payment information
  4) New sales price information
- Stipulate the minimum down payment you will accept, should you consent to a future assumption, within your deed of trust. This way the property purchaser understands in advance what your requirements will be for an assumption to occur.
- It is a general rule that the greater the down payment given at closing, the more your note will be worth.

Default

Default occurs whenever the payer fails to fulfill the obligations of the contract. Their failures may include failure to provide insurance coverage, failure to pay taxes as they become due, or failure to maintain the property. The most common and obvious default is failure to make timely payments. Should a payment be late, the following steps are recommended:

1) Check to see if a "grace" period exists. If so, honor it.
2) If no grace period exists, or if it has expired, phone the owner and inquire about the payment. Since it is late, insist on payment with a certified check or money order. Late payments increase the chance of a check bouncing. Always record the date and time of the call as well as with whom you spoke. Keep this information in your property file.

3) That same day, write a letter identifying the default, summarizing any action the owner has promised to perform. Mail this letter certified, return receipt requested. For those in a Deed of Trust state, you may request this letter be written and sent by the Trustee.
4) If the above steps do not remedy the situation, contact an attorney immediately. Attorney fees are a small expense compared to the possible consequences of taking action without consulting an attorney. Further contact with the property owner could aggravate the situation.

Declaring a deed of trust to be in default is a serious matter. A competent real attorney should be use, one who is familiar with state law where the property is located. Do not delay taking action. In some cases, failure to enforce your contract (over a period of time) can take precedent over the actual work in your security. **In other words, failure to enforce your security instrument can establish precedent that the clause in question has no effect and therefore is not binding.**

If you choose to do nothing and wait, you should investigate the condition of the property. If there is substantial damage to the property, you could be liable for injury to others by doing nothing.

If you choose to hire an attorney, do not assume that foreclosure is eminent. There may be creative and practical solutions to the problem. *Your attorney may counsel you to simply revise your security instrument and/or the terms of repayment so that you are better protected.* This is a common solution. Your options, in part, are determined by the cooperation of the payers, or the lack of it. Many payers will welcome an alternative to foreclosure, particularly if they have equity in the property. Always ask your attorney what your options are before assuming that foreclosure is the only remedy.

If you amend your agreement with the payer as a remedy to default, make sure you have an attorney document such changes. Should you be a senior lien holder, obtain the permission of the junior lien holder, if any, to protect your lien seniority.

In general, for legal remedies are available to you if a creative solution to the default is not feasible:

1) Foreclose in court
2) Foreclose out of court
3) Sue on the note only
4) Take the deed to the property – deed in lieu of foreclosure

All four options should be discussed with your attorney to determine which one is most appropriate for your situation. Not all options are available in all states. There are also federal laws that should be explored before making a decision. Only a competent real estate attorney is qualified to assess your situation.

Other options other than a foreclosure are as follows:

- Sell your delinquent note for cash to another investor. The market for such notes is limited, so be prepared to take a large discount.
- Refinance the note with a hard money lender
- Convince the property owner to list the property for sale as a short sale
- Loan Modification – discussed above

Regardless of whether the payer is failing to make timely payments, failure to insure the property, failure to pay property taxes, or defaulting in any other way, it is always a good idea to contact an attorney.

For information regarding default on a junior lien, please refer to the section titled "Special Considerations" found on page 46.

Tips and Highlights

- The most common and obvious default is failure to make timely payments. Should payment be late, the following steps are recommended:
  1) Check to see if a "grace" period exists. If so, honor it.
  2) If no grace period exists, or if it has expired, phone the owner and inquire about the payment.
  3) That same day, write a letter identifying the default, summarizing any action the owner has promised to perform. Mail this letter certified, return receipt requested.
  4) If the above steps to not remedy the situation, contact an attorney immediately.

- Declaring a deed of trust to be in default is a serious matter and should be handled by a competent real estate attorney who is familiar with the laws in the state where the property is located.
- Do not assume that foreclosure is imminent simply because you hired an attorney. Many payers will welcome an alternative to foreclosure, particularly if they have equity in the property.
- If you choose to amend your agreement with the payer as a remedy to default, make sure you have an attorney document such changes. Should you be a senior lien holder, obtain the permission of the junior lien holders, if any, to protect your lien's seniority.

Additional Provisions

These provisions are found at the very end of the security instrument. It is here that you will add any additional clauses you wish to include. You can find a list of common clauses in the section titled "Special Clauses" which begins on page 61.

Signatures and Notary

Here you will see the signatures of the parties to the contract as well as the signatures of a licensed notary. Sometimes the signatures of witnesses will be added to this section.

It is a good idea to have the names and mailing addresses of all parties typed here so they can be easily read and recorded.

4

Selling Property Via Owner Financing

In some parts of the country it is estimated that close to 50 percent of all households cannot qualify for conventional financing. Reasons are diverse, including being self-employed, being a nonresident alien, having multiple real estate loans, and being an investor whose main source of income is from rentals. Numerous property problems can also contribute to the need for owner financing. Examples of such problems are zoning issues, access problems, and properties that are difficult to finance such as cabins, condominiums, and land.

Owner financing is often that solution to these problems. Owner financing is a wonderful way to 1) sell your property fast, 2) sell to a much larger market of purchasers, and 3) obtain top market value. In general, owner financing is becoming increasingly popular as conventional financing becomes increasing restrictive, costly and time consuming.

If you plan on "carrying paper" in the future, you would be wise to structure your note so that it will demand top market value if the need to sell ever arises. *Most privately held liens will be sold sometime during their lifetime.* If the need to sell does not arise, you can rest assured that you have created a note that meets the top standards of this industry.

This chapter discusses key issues that affect the value of a lien. Please use the following information for educational purposes only. Seaquis Capital, Inc. recommends you always seek competent legal counsel whenever you create an owner financed note.

Terms

The Purchase Price

Like other terms in the note structure, the purchase price is negotiable. Since you are providing the financing, you can and should demand top dollar for the property.

Establishing market value can be accomplished in a number of ways. One option is to order a professional appraisal. A second option is to call a few real estate agents and ask them to provide a comparable market analysis. These agents will find two or three comparable properties that have sold recently and base the market value of your property on their combined average sales prices.

Obtaining a comparable market analysis from more than one agent is a good idea. Some agents will quote a high sales value simply because they want to be the listing agent on your property and they think that a high price is what you want to hear, even though it may not truly reflect current market value. Obtaining feedback from more than one agent can help eliminate this problem.

The Down Payment

Getting a substantial down payment is the number one thing you can do to minimize your risk when owner financing a property. This is your protective equity. Do not underestimate its importance. Should you need to foreclose, it is the main factor that will determine whether you can recover your investment without a loss. This is especially the case if you are holding a junior lien. See page 45 for more information on junior liens.

Most experts agree that the down payment should be at minimum 10 percent of the sales price. You want the purchaser to be monetarily committed to the property, particularly when times get tough. The greater the down payment, the more the purchaser has to lose should he or she default, and the greater chance you have of recovering your investment through foreclosure. However, it is our belief that an even greater benefit to a large down payment is the chance of finding a creative solution and avoiding foreclosure. In general, a property owner with a large amount of equity in the property is more motivated to work out a creative solution with the lien holder, and therefore avoid a costly foreclosure, than is a property owner with little or no equity.

Payers who are not financially strong enough to make a 10 to 20 percent down payment may lack the resources needed to deal with problems that may arise. Common personal problems include divorce, death, loss of job, and temporary health problems. Expensive problems with the actual property may include maintenance, roofing repairs, special municipal assessments, and natural disasters.

Foreclosures can be very expensive; therefore, many conventional lenders will not make loans for more than 80 percent of the value of the property. Sometimes even 20 percent equity is not enough for the lender to recover the amount owned should he or she foreclose. Since you are playing the role of the lender, you, too, would be wise to accept no less than a 20 percent down payment.

Due to the risk involved, down payments of less than 10 percent can severely decrease the amount an investor will pay for your note if sold soon after the lien was created. Heavily discounting the note is the only way the investor has to build back in the protective equity that would have been created through an adequate down payment. It is a general rule that the greater the down payment given at closing, the more your note will be worth.

Due to the popularity of the "no money down" seminars and books available, you may find that many prospective purchasers will attempt to put together a "no money down" deal. This means they will borrow the down payment from a private person, usually a family member, or ask you to spread out the down payment over time. No-money-down transactions are highly risky and often are considered to be a "default waiting to happen." Politely but firmly inquire where the down payment funds are coming from. Remember, you want to sell to someone who is truly committed to the property and, therefore, to paying you.

Balloons

Adding a balloon payment seven to ten years down the road can be a good idea. This means that the loan becomes due and payable at that time. Should the purchaser be unable to make the balloon payment, you can negotiate a higher monthly payment, an increased interest rate, and a new balloon date in exchange for not foreclosing. This can be a true "win-win" situation since you will have increased the market value of your note by restructuring it and the purchaser will have avoided a foreclosure.

In general, the sooner a balloon is due, the more a note is worth. However, balloons due within the first five years should be used with caution, for two reasons:

First, there may not be enough property appreciation to make refinancing possible, or the buyer may not improve financially and thus may not qualify for refinancing.

Some buyers will be so eager to purchase a property that they will agree to terms that may ultimately be a "lose-lose" situation for both parties. This can occur if you structure the balloon payments to come due right before you need the balloon payment money to pay a planned expense such as your child's college tuition. You could find yourself in a difficult situation if the balloon is not paid as agreed.

Second, the value of your note may decrease since some investors shy away from notes with balloons that are due within five years. The reason is that many balloons end being rewritten when the payer is unable to refinance or come up with the funds for the final payment. Most investors who purchase notes will aggressively avoid foreclosure and will rewrite the loan rather than foreclose on a payer who defaulted on the final balloon payment. *However, investors always prefer being paid off over restructuring the note.* Should the payer of your note fail to make the balloon payment, immediately seek competent legal counsel.

Amortization

Amortization is a method of equalizing monthly mortgage payments over the life of a loan. Payments usually are paid monthly but can be paid annually, quarterly, or on any other schedule. In the early part of a loan, repayment of interest is higher than that of principal. This relationship is reversed at the end of the loan. How quickly a loan amount is reduced depends on the interest rate and the size of the mortgage payment. A small monthly payment and/or a high interest rate can lengthen the time it takes to pay off a loan.

As a note owner, your goal is to keep the length of the lien as short as possible, so that you receive money faster. To shorten a note, you will need to increase the monthly payment, decrease the amount financed by increasing the down payment, or decrease the interest rate. Loans that run ten and twenty years are preferable to loans that run thirty years. In other words, you will get more money for a 15-year lien than you would for a 30-year lien.

The Interest Rate

The interest rate you charge should be higher than interest rate found on a conventional loan. Most states have usury laws, so you want to make sure you do not violate the legal maximum. Alternately, you do not want to charge too little interest. From a legal standpoint, charging no interest is acceptable. However, from an income tax standpoint, it is not. In fact, the IRS will impute or "put in place" interest if a minimum interest rate is not charged. Such imputed interest rules fall under IRS Code Section 483 and 1271 through 1274.

The Monthly Payment

Both the interest rate and length of the loan will influence the monthly payment. A general rule to follow is to make the monthly payment no less than 1 percent of the principal balance owed at the beginning of the loan. Thus, a loan with a starting balance of $60,000 should have a monthly payment of $600 (principal and interest) plus any taxes and insurance.

For first time home buyers or those with low income, you may want to start out by asking them what they could comfortably pay each month. That way you can structure the interest rate and length of the lien around this figure.

You do not want the owner to have to struggle each month to make the payment. This is not a true win-win situation, and it could set both of you up for failure. If you would like assistance in determining the length of a loan, call Seaquis Capital, Inc. at 480-213-5251. We will be happy to fax or e-mail you a complimentary amortization schedule.

Late Charges

Imposing a late charge to encourage prompt payment is often a good idea. Some states require a grace period for certain types of property. Check your state laws by calling a real estate attorney.

Tips and Highlights

- Obtaining a comparable market analysis from more than one agent is a good idea.
- Getting a substantial down payment is the number one thing you can do to minimize your risk. Seaquis Capital, Inc. recommends a down payment of 20 percent.
- The greater the down payment given at closing, the more your note will be worth.
- Adding a balloon payment seven to ten years down the road can be a good idea. It may also increase the value of your note.
- In general, the sooner a balloon is due, the more a note is worth. However, balloons due within the first five years should be used with caution, for two reasons:
    1) Some buyers will be so eager to purchase a property that they will agree to terms that may ultimately be a "lose-lose" situation for both parties.
    2) The value of your note may decrease since some investors shy away from notes with balloons that are due within five years.
- Should the payer of your note fail to make the balloon payment, seek competent legal counsel immediately.
- Short-term loans are more valuable than long-term loans. You will get more money from a 15-year lien than you would for a 30-year lien.
- The interest rate you charge should be higher than interest rates found on a conventional loan.

- When structuring the terms of your note, a general rule to follow is to make the monthly payment no less than 1 percent of the principal balance owned at the beginning of the loan.
- For first-time home buyers or those with low income, you may want to start out by asking them what they could comfortable pay each month.
- Imposing a late charge to encourage prompt payment is often a good idea.

Taxes and Insurance

Most notes that we at Seaquis Capital, Inc. review require the property owner to pay taxes and insurance. Unfortunately, we also find that property owners are delinquent in making these payments and that the lien holders are unaware of this because they have not taken the time to call the tax office once a year.

A popular solution to this problem is to pay the taxes and insurance yourself. Lending institutions require buyer to pay one-twelfth of the annual property taxes and insurance with each monthly payment, and we suggest that you do the same. At the end of the year, money will be available for you to pay these bills. If you choose this route, remember to include a clause in your note that provides for increasing or decreasing the payment at the cost of taxes and insurance increases or decreases. For a thorough review of the two most common methods of handling taxes and insurance, please refer to the section titled “Tax and Insurance,” beginning on page 34.

A Word on Tax Lien

When property owners don’t voluntarily pay their real property taxes, the governmental entity collecting the taxes have the authority to force their collection usually through what is universally called a “tax sale”. At these tax sales investors are given an opportunity to pay those delinquent taxes (plus any associated penalties, accrued interest and costs) on behalf of the owner at an annual or sometimes semi-annually sale. To induce investors to purchase these delinquent taxes, many states offer very high interest rates. In addition, under the laws of all states, the property tax lien is a special priority lien – generally prior or senior, to all other liens, including mortgages and deeds of trust. The tax lien investment is well secured because it’s secured by an assignment of the county real property tax lien – which is always in first lien position. Therefore, if the property owner does not pay the amount of property taxes plus interest, penalties and costs by a stated time frame allowable by law, then the person or company that paid the delinquent taxes can foreclose on the property to gain possession.

There are three different types of government tax sale and these types of sale are tax certificate sales, deed with the right of redemption and deed foreclosure tax sales. A tax certificate sale is where an investor purchases the delinquent taxes in exchange for a very high interest rate paid by the property owner. A deed with the right of redemption sale is where the investor gets a deed to the real estate against which the delinquent taxes were due, but that deed is encumbered (or "clouded") by a "right of redemption" where the property owner is given time to pay back the delinquent taxes. A deed foreclosure tax sale is where the real property is sold and the tax sale investor gets a deed to the property without the property owner's right of redemption.

With few exceptions, recorded liens are "technically" wiped off a property when both the following have occurred: 1) the property tax foreclosure period has expired without taxes being brought current, and 2) the municipal or county treasury has exercised the right to place a clerk's deed on the property.

Most treasuries take the position that they then own the property and can sell it at a tax auction or can sell the tax lien to an investor. Note: This issue remains vague and has been debated in state courts. The question being debated is whether a clerk's deed is a complete deed, since it is essentially the forced sale of a property.

This means that your owner-financed lien is wiped out and you have no legal interest in the collateral unless the property owner "purchases back" the property from the municipality. Lien holders faced with this situation should hire a competent attorney immediately to argue that they still have an interest in the property. They can hopefully then bring the tax account current and reinstate their lien and/or foreclose on the payer. *This is assuming the property has not yet been sold at auction and/or the tax certificate has not been sold to the third party investor.*

Each municipality will handle tax foreclosures differently. Understanding how the tax office that services the property used as collateral on your note operates could be important. The table below is a guild to the tax sale process in different states for your reference:

Table 2: State Tax Sale Process

State	Lien Type	Redemption Period
Alabama	Tax Certificate	3 Years
Arizona	Tax Certificate	3 Years
Arkansas	Foreclosure	3 Years
California	Foreclosure	2 Years
Colorado	Tax Certificate	3 Years
Connecticut	Deed with Redemption	2 Years
Delaware	Deed with Redemption	1 Year

Florida	Foreclosure	2 Years
Georgia	Deed with Redemption	1 Year
Hawaii	Deed with Redemption	1 Year
Illinois	Tax Certificate	3 Years
Indiana	Tax Certificate	1 Year
Iowa	Tax Certificate	1 Year 9 Month
Kansas	Foreclosure	3 Years
Kentucky	Tax Certificate	3 Years
Louisiana	Deed with Redemption	3 Years
Maryland	Tax Certificate	6 Months
Massachusetts	Deed with Redemption	2 Years
Michigan	Tax Certificate	1 Year
Minnesota	Foreclosure	1 Year
Mississippi	Tax Certificate	2 Years
Missouri	Tax Certificate	2 Years
Montana	Tax Certificate	3 Years
Nebraska	Tax Certificate	3 Years
Nevada	Foreclosure	2 Years
New Jersey	Tax Certificate	2 Years
New York	Foreclosure	1 Year
North Dakota	Tax Certificate	3 Years
Ohio	Foreclosure	1 Year
Oklahoma	Tax Certificate	2 Years
Oregon	Foreclosure	2 Years
Rhode Island	Deed with Redemption	1 Year
South Carolina	Tax Certificate	1 Year
South Dakota	Tax Certificate	3 Years
Texas	Deed with Redemption	6 Months
Vermont	Tax Certificate	1 Year
Wisconsin	Foreclosure	2 Years
Wyoming	Tax Certificate	4 Years

Table is meant to be used as a guild only and may not be accurate due to changes in State laws. Users of this guild are advised to verify all information with the county treasures offices.

Even more important, keep the tax office informed of any change to your address. This is because the tax office usually will attempt to inform you through the mail, of any pending clerk's deed or other similar action. However, you should never assume the tax office will contact you when a problem arises. Once a year you should call the tax office and determine whether taxes are current. Not making that one phone call a year could cost you your investment, not to mention the emotional expense of dealing with a messy situation. Some tax offices are now "on-line" and you can check tax payment status by dialing into the tax office via computer. The "Tax ID" of the property in question is used to access the tax payment records of that property.

Since tax offices may or may not notify lenders of tax problems, traditional lenders combine tax and insurance cost into each monthly payment. Additionally, they hire a company to check the taxes are actually paid. As a private lien holder, you too should take extra precautions to ensure property taxes are paid.

A Word on Hazard Insurance

You should verify that the property's hazard policy in place is issued for an amount no less than the amount owed to you. The property owner should want the property insured for its full value, and you can require this within the security agreement (usually within the insurance section thought possibly as a separate clause).

Confirm that you are listed as the "mortgagee/grantee," "beneficiary" or "first contract holder" on the insurance policy. You are thus entitled to the proceeds from any insurance claim ahead of the property owner.

If you are not listed as the beneficiary to the insurance policy, you have no security. If the house or structure burns down, you get exactly nothing.

If you are a junior lien holder, make sure that adequate insurance covers the entire debt owed is of great importance. The entire debt owed is the amount owed to you plus the principal owed on any other lien. Since you are not in senior position, insurance benefit monies will be paid first to the senior lien holders, then to junior lien holders. In other words, someone else will be paid off first, and you need to make sure there is adequate coverage to pay the amount owed to you.

You should also make sure you receive annual renewal notices from the insurance company and then file them for record keeping purposes. If you do not have a recent renewal notice, call the insurance company and obtain one. In addition, if your mailing address ever changes, call the insurance company and have them update their records, just as you would with the tax office. Be aware that most companies who service loans will not hold proof of insurance in their file. If one is sent to them instead of to you, they probably will send it back to the insurance policy provider. Refer to the section titled "To Use or Not to Use a Servicing Company" beginning on page 56 for information regarding servicing companies.

The insurance company should issue you a *Notice of Cancellation* if the owner fails to keep the policy current. Should you receive such a cancellation notice, immediately call the owner regarding this possible breach of contract. To be safe, add the property to your own insurance policy (forced place insurance) until you have confirmation that insurance has been reinstated at the correct amount and you are again listed as the beneficiary.

Tips and Highlights

- Each municipality will handle tax foreclosures differently. Understand how your tax office operates (i.e. the tax office which services the property used as collateral on your note).
- Once a year you should call the tax office and determine whether taxes are current.
- The following checklist will help you keep track of tax and insurance:
    1) Annually check the property taxes are paid
    2) Check that the municipal tax department has your correct mailing address, that they have you listed as a lien holder on the property, and that the property owners are who you think they should be. *This is a way to double check that the property has not been resold without your knowledge.*
    3) Annually check that the hazard insurance policy on the subject property is in effect, and that the property owner is who you think they should be. Again, this is a way of double checking that the property has not been resold without your knowledge.
    4) Make sure you have a copy of the insurance binder (proof of insurance) showing that you are listed as beneficiary of the insurance policy. File this insurance binder for future reference.
    5) Check that the hazard insurance policy is written for an amount no less than the amount owed to you, or for the value of the property if you require this within your contract.
    6) If you are a junior lien holder, make sure adequate insurance covers the entire debt owned; not just what is owed to you.
    7) Have you moved? Call both the tax office and the insurance company and supply them with your new mailing address.
    8) Have you received a Notice of Cancellation? Insure the subject property yourself with forced place insurance until you receive confirmation that insurance has been reinstated.

Purchaser's Credit Worthiness

The value of your note also depends on the credit of the buyer. Selling to someone with poor credit will decrease the value of your note substantially. Try to avoid this situation up front by obtaining written authorization to pull credit on the prospective buyer and review two individual credit reports from different reporting agencies. The reason you may want to review two credit reports is that sometimes different agencies pull up different information on the same prospect. Consider that banks and conventional lenders utilize what is called a "tri-merge" credit report. Tri-merge reports contain credit information taken from three individual credit reporting agencies. This data is merged into one, often lengthy, master report which is then reviewed by the lender. Utilizing tri-merge reports is standard practice in the lending industry. Since you are also a lender, you should not hesitate to shadow the business practice of these firms.

Also, check employment information, annual income, debts owing, and personal references. Should the buyer have damaged credit, you may want to insist on a larger down payment, additional collateral, and/or a cosigner. Like all of us, buyers tend to be creatures of habit. Even though they may have the best intentions, they will most likely do to you what they have done to their previous lien holders.

Note: Co-signatures are somewhat worthless unless the cosigner pledges specific assets to you. This can best be accomplished by using a separate deed of trust signed by the cosigner.

A Word on Credit Reports

When dealing with credit reports, look for patterns of nonpayment rather than a single report of nonpayment. The reason behind this suggestion is that people are generally creatures of habit. You should determine, therefore, if the blemishes on the credit report (if any) indicate a tendency to not pay financial obligations in general, or if they represent an isolated, specific instance with a feasible excuse behind it. You will also need to determine what type of blemishes you are willing to overlook, as well as how many. For example, some lenders will overlook all unpaid medical bills.

However, some blemishes should never be overlooked. Some obligations can turn into liens and be placed against the payer as well as the property. If this occurs, the position of your lien may be compromised. Common examples of such blemishes would include child support obligations and IRS obligations. Please refer to the section titled "Preliminary Title Report" beginning on page 43 for more information on how to protect yourself.

One significant blemish that may appear on a credit report is a past bankruptcy. Should this appear in a prospective purchaser's credit history, you should ask yourself the following questions:

- Has the bankruptcy been discharged?
- Has credit been reestablished?
- Do new accounts show a positive payment history?

You are trying to determine if the prospect is currently paying his or her bills and if he or she will continue to do so in the future. The more questions answered negatively, the greater the risk that the prospect will fall back into a previous pattern of poor credit. Be aware that if it is not uncommon for a person with a bankruptcy to reestablish credit for a number of years, then slowly slide back into a pattern of making late or no payments.

If the prospect has been a homeowner in the past, look closely at the payment history on that lien. If the payment history is good on that lien but other obligations remained unpaid, you know that the prospect makes the home mortgage a priority over other debts. Take this into consideration. If the prospect made late payments on a past mortgage, the chances is good that he or she will make late payments on your lien. Remember, the later the payment, the more difficult it may be for the payer to bring the account current.

Ultimately, you are playing the role of a bank and the degree to which you investigate the prospect is a personal business decision. Should the prospect be motivated, he or she most likely will provide whatever documents you request. As a general rule of thumb, the poorer the credit and lower the income, the more down payment you should demand as compensation for your increased risk.

Tips and Highlights

- Selling to someone with poor credit will decrease the value of your note substantially.
- When reviewing a credit report, determine if the blemishes (if any) indicate a tendency to not pay financial obligations in general, or if they represent an isolated, specific instance with a feasible excuse behind it.
- Some credit blemishes should not be overlooked since they could turn into liens against the payer and the property.
- Should a bankruptcy appear in a prospective purchaser's credit history, you should ask yourself the following questions:
  1) Has the bankruptcy been discharged?
  2) Has the prospect reestablished credit?
  3) Do new accounts show a positive payment history?
- It is not uncommon for a person with a bankruptcy to reestablish credit for a number of years, then slowly slide back into a pattern of making late or no payments.
- As a general rule of thumb, the poorer the credit and lower the income, the more down payment you should demand as compensation for your increased risk.

Regulation Z – Truth In Lending

Regulation Z implements the federal Truth-in-Lending Act. The Truth-in-Lending Act and Regulation Z deal specifically with “consumer-purpose loans,” which are loans made to natural persons and used primarily for personal, family, or household purposes. Specifically, the Truth-in-Lending Act is designed to:

- Provide borrowers with a uniform system of disclosures for stating terms, rates, and charges
- Set rate caps on variable-rate loans secured by a dwelling
- Establishes the requirement for a lifetime cap in variable-rate loans secured by a dwelling
- Protect borrowers against inaccurate and unfair billing and credit card practices

What Loans Are Covered?

A loan is covered by the law if it meets the following tests:

- For a first-lien loan, that is, the original mortgage on the property, the annual percentage rate (APR) exceeds by more than eight percentage points the rates on Treasury securities of comparable maturity;

- For a second-lien loan, that is, a second mortgage, the APR exceeds by more than 10 percentage points the rates in Treasury securities of comparable maturity; or

- The total fees and points payable by the consumer at or before closing exceed the larger of $583 or eight percent of the total loan amount. (The $583 figure is for 2009. This amount is adjusted annually by the Federal Reserve Board, based on changes in the Consumer Price Index.) Credit insurance premiums for insurance written in connection with the credit transaction are counted as fees.

What Disclosures Are Required?

You must provide the borrower with several disclosures at least three business days before the loan is finalized. Please find in the Addendum to the book an example of a Truth In Lending Disclosure Statement. The following are needed to stay incompliance with Regulation Z:

- The lender must give the borrower a written notice stating that the loan need not be completed, even though they signed the loan application and received the required disclosures. The borrower has three business days to decide whether to sign the loan agreement after they receive the special Section 32 disclosures.

- The notice must warn the borrower that, because the lender will have a mortgage on the home, they could lose the residence and any money put into it, if they fail to make payments.

- The lender must disclose the APR, the regular payment amount (including any balloon payment where the law permits balloon payments, discussed below), and the loan amount (plus where the amount borrowed includes credit insurance premiums, that fact must be stated). For variable rate loans, the lender must disclose that the rate and monthly payment may increase and state the amount of the maximum monthly payment. These disclosures are in addition to the other TILA disclosures that the borrower must receive no later than the closing of the loan.

What Practices Are Prohibited

The following features are banned from high-rate, high-fee loans:

- All balloon payments — where the regular payments do not fully pay off the principal balance and a lump sum payment of more than twice the amount of the regular payment.

- Payments are required — for loans with less than five-year terms. There is an exception for bridge loans of less than one year used by consumers to buy or build a home: In that situation, balloon payments are not prohibited.

- Negative amortization, which involves smaller monthly payments that do not fully pay off the loan and that cause an increase in your total principal debt.

- Default interest rates higher than pre-default rates.

- Rebates of interest upon default calculated by any method less favorable than the actuarial method.

- A repayment schedule that consolidates more than two periodic payments that are to be paid in advance from the proceeds of the loan.

- Most prepayment penalties, including refunds of unearned interest calculated by any method less favorable than the actuarial method. The exception is if:

  1) The lender verifies that the borrowers total monthly debt (including the mortgage) is 50 percent or less of their monthly gross income;

2) The borrowers get the money to prepay the loan from a source other than the lender or an affiliate lender; and

3) The lender exercises the penalty clause during the first five years following execution of the mortgage.

- A due-on-demand clause. The exceptions are if:

1) There is fraud or material misrepresentation by the consumer in connection with the loan;
2) the consumer fails to meet the repayment terms of the agreement; or

3) There is any action by the consumer that adversely affects the creditor's security.

- Creditors also may not:

1) Make loans based on the collateral value of the property without regard to the borrower's ability to repay the loan. In addition, proceeds for home improvement loans must be disbursed either directly to the borrower, jointly to the borrower and the home improvement contractor or, in some instances, to the escrow agent.

2) Refinance a HOEPA loan into another HOEPA loan within the first 12 months of origination, unless the new loan is in the borrower's best interest. The prohibition also applies to assignees holding or servicing the loan.

3) Wrongfully document a closed-end, high-cost loan as an open-end loan. For example, a high cost mortgage may not be structured as a home equity line of credit if there is no reasonable expectation that repeat transactions will occur.

A note that is formed without the proper federal disclosures provided to the borrower will not be worth as much as a note with the proper federal disclosures. Although the seller is financing the purchase of the property, the transaction still involves a mortgage and a promissory note which is a marketable commodity. It is important to provide the borrower with all federal disclosures if you want to receive the highest purchase price for your note.

Preliminary Title Report

A Preliminary Title Report, also called Commitment to Insure, is a document that identifies liens, liabilities, and conveyances that affect title to a specific piece of land. You should obtain a Preliminary Title Report or Commitment to Insure on any property that will be used to secure your note. *Use only a reputable title company.*

Should the Preliminary Title Report reveal no clouds or flaws to the title, you should then purchase a title insurance policy. Two types of policies are available: an owner's and lender's policy. Owner's policies are the most common policies requested, usually being issued to the purchaser of the property. *However, the type of policy you should purchase is a lender's policy.*

Owner's policies only insure clear title from the seller to the purchaser. In other words, they *check the background of the seller* to make sure no liens cloud the title. However, when issuing a lender's policy, the title company *will check into the background of the purchaser.* Any encumbrances against the purchaser, such as mechanics' liens, government liens, and child support liens will show up in the report. A lien against the purchaser, such as a child support lien, can be levied against the property itself. If this occurs, your owner-financed lien could become subordinate to the child support lien. In other words, you may find yourself to be in second position, not first position.

Assume for a moment that you sold a property to someone who had a child support lien against him or her for failing to pay child support, but you did not know about this lien because you did not purchase a Preliminary Title Report that researched the purchaser. That child support lien could be attached to the property, making your lien subordinate to it. If this occurred and the payer went into default, you would not be able to foreclose and regain title to the property until that lien was paid in full. You would have to pay that child support lien yourself in order to regain title to the property, adding considerable cost to the foreclosure. In addition, you would not be able to sell your note for cash until the child support lien was paid and all clouds on the title cleared. This could cause great distress if you needed immediate cash. For these reasons, Seaquis Capital, Inc. highly recommends purchasing a lender's title insurance policy.

Please note the following:

1) Some insurers will put an escape clause into their policies. Make sure you read and understand the policy carefully, paying close attention to the exceptions.
2) The title policy to buyer of the property orders for his or her own use may be different from your policy, depending on your state law. Some states combine policies into a joint protective policy; other issue separate policies. If you are unsure about your state law, call a local title company and inquire. Do not assume your lien position is insured just because you know the purchaser purchased a policy for his or her use.
3) All liens are subordinated to government liens. Examples would include property tax liens, IRS liens, and child support liens. Even mechanics liens (property improvement liens) are superior if the work was started before the deed of trust was recorded.
4) Institutional lenders require the issuance of a lender's title insurance policy when they make a loan. They do not settle for an owner's policy. Since you are also playing the role of a lender, it would be wise for you to also purchase this type of insurance.

In summary, since governmental liens have precedence over other lien(s) that may be issued against a property, always order a lender's title insurance policy. If the policy reveals flaws to title or the purchaser, delays closing until the flaws are cleared.

Closing Agencies

Problems can occur if you do not close your transaction through a reputable closing agency, such as the title company that issued the Preliminary Title Report. One such problem is if the purchaser obtains another lien and records it before your lien. It is not uncommon for purchasers to take out a second mortgage to pay closing costs and any required down payment. In this scenario, you would be a junior lien holder, not a senior lien holder, and this would increase your risk considerable. Reputable closing companies will often check and double check title before they close a transaction to make sure no new liens were quietly recorded against the property. Some agencies also will recheck after closing to make sure the loan(s) was recorded in the appropriate order.

Tips and Highlights

- Lender title policies insure that title to the property is good, as well as insure the purchaser is free from governmental liens at the time the policy is issued.
- Some states combine policies into a junior protection policy; others issue separate policies. Do not assume your lien position is insured just because you know the buyer purchased a policy for his or her use. Call the title insurance company that issued the policy to find out.
- If the Preliminary Title Report reveals flaws to the title or purchaser, it would be appropriate to delay closing until these flaws are cleared.
- Institutional lenders require the issuance of a lender's title insurance policy when they make a loan. They do not settle for an owner's policy. Since you are also playing the role of a lender, it would be wise for you to purchase this type of insurance also.

If the Payer Is Not an Individual Person

Should the payer be a trust, partnership, or corporation, seek legal advice before closing. Additional safeguards may be needed to protect yourself. In general, selling to an entity other than someone who will have personal liability for the repayment of the debt can decrease the value of your note. This is because no individual person can be used for debt repayment, nor can wages be garnished.

Junior Liens

If you are thinking about creating a junior lien, you need to review some important considerations. Most important, know that junior liens carry more risk than senior liens and hence are generally worth less than senior liens. This is because the lien in first position has legal rights that are greater than junior liens. Should the first position lien go into default and foreclosure occurs, all junior liens are eliminated and those lien holders are left with unsecured debt. This is similar to the scenario you are faced with if the property used as collateral for your lien goes into tax foreclosure. (Even though you may be in first position, your lien may be wiped out by the tax lien that is placed on the property). For more information regarding taxes, please refer to the section titled "A Word on Tax Liens" found on page 34.

Junior lien holders have a couple of options to prevent their liens from being eliminated if senior lien holders foreclose:

1) Pay the obligations of all senior liens, bringing the loan(s) current. Continue to pay these obligations while initiating foreclosure on the junior lien. This is the most commonly used option, but is only an option if the senior position lien does not prohibit assumption.
2) Eliminate all senior liens by paying the loans off.
3) Purchase the lien being foreclosed upon.

Foreclosure

Foreclosure can be very expensive. Most lien holders, particularly junior lien holders, underestimate the true costs of foreclosure. Try not to view foreclosure as an advantage of owning a deed of trust, but rather a last resort in recovering your investment.

Assume for a moment that you are a junior lien holder and that the senior lien holder foreclosed on the payer. At the foreclosure sale you end up purchasing the property. As a junior lien holder, you will have to continue to make the monthly payments on any senior liens until you resell the property. That is, unless you have the funds available to pay off the senior lien holder. In addition to these costs, you will incur many of the following: real estate commissions, attorney fees, repair and cleanup costs, possible tax lien payoffs, title and escrow fees, as well as other miscellaneous costs involved with the resale of a property. In general, foreclosure is costly, and it can be difficult to recover one's investment unless the payer had a lot of protective equity in the property before the foreclosure took place.

Special Considerations

You should understand all the terms and considerations of any lien that is senior to your note. Following are a few special considerations you should review before creating a junior lien. Use the following list as a starting point only. Your attorney should be able to identity additional considerations unique to your situation.

- Balloon payments
- Prohibition against junior liens
- Prohibition against assumptions
- Loan status report on the senior lien
- Notice to the grantor
- Negative amortization
- Due-on-sale clause
- Future advances
- Release clause
- Prepayment penalty
- Senior lien payment terms

Balloon payments. If you own a junior lien that has a final balloon payment, and a senior lien also has a balloon payment, the due date on any senior lien should be at least 18 to 24 months beyond the due date on your junior lien. In other words, you want your junior lien to be paid off before the balloon payment of any senior lien is due.

Prohibition against junior liens. Some senior liens prohibit junior liens from existing. It is never advisable to create a junior lien behind a senior lien that prohibits junior liens. If you decide to create a junior lien behind a senior lien that prohibits junior liens, make sure you get written authorization from the senior lien holder or risk dealing with possible negative consequences.

Prohibition against assumption. The senior lien may also prohibit assumption. This means that you are prohibited from making the monthly payments on the first position lien while you initiate foreclosure. Such a prohibition may surface in the form of a due-on-sale clause. Since you are not allowed to take over payments, you will need to pay off the entire senior lien or purchase the lien from the lien holder.

Loan status report on the senior lien. You should always obtain a loan status report for any senior lien to be sure it is current. Keeping track of payments made on senior liens can be difficult. One way of protecting yourself is to require the purchaser send you cancelled receipts of monthly payments made on all senior liens, or receipts of payments made. Place this requirement into your contract with the purchaser. Failure to supply you with such proof of payment may then be considered evidence of default.

Notice to the grantor. Should default occur, you may need to serve notice to the grantor. Serving this notice may be difficult if the grantor's address is unknown. It is thus a good idea to require the grantor designate a local agent for such service. Identify this local agent within your note and deed of trust, clarifying that this agent has the authority and power to act as the legal agent for you, the grantee. Remember to seek legal counsel when drafting real estate documents.

Negative amortization. If the senior lien has an adjustable payment amount, the loan could negatively amortize. This means that the interest payment is greater than the total payment, thus the interest not covered by the total payment is added to the loan balance, causing the principal balance to increase. Remember, this senior lien is the obligation you will be paying if you foreclose on your junior lien. Negative amortization can quickly decrease the protective equity you have as a junior lien holder.

Due-on-sale clause. You also want to look at the due-on-sale clauses. If the senior lien has a due-on-sale clause and you are forced to foreclose, the senior lien holder can call the loan due and payable in full. This is because after foreclosure the former property owner has alienated, or gone out of title. You should therefore try to get the senior lien holder to sign a non-acceleration letter to prevent this from happening. It is your best protection because it protects you in obtaining the property through foreclosure if you keep the senior position lien(s) current. If you resell, the senior lien holder still has the right to accelerate his or her loan unless he or she approves the new buyer. This non-acceleration letter buys you time to resell the property and allows the senior lien holder to avoid foreclosure. It therefore creates a win-win situation for you both. If you cannot obtain a non-acceleration letter make sure you have the capability of paying the senior lien in full.

Failure advances. Senior liens that contain a “future advances” clause should be approached with great caution. This clause allows the lender to advance more money to the purchaser. If this occurs, your junior lien could be positioned behind a much larger amount of debt than previously thought, thus increasing your risk.

Release clause. Release clauses present another risk to junior lien holders. A release clause allows the property owner to release or unencumbered part of his or her property. This is common with land developers who need such release so they can build and sell from portions of the property. Senior lien holders normally do not need the authorization of junior lien holders to release part of the property used as collateral on their lien. This means that your note may not be adequately secured. Even worse, because your consent usually is not needed for the release, you may not know that your note is under collateralized until you need to sell your note or foreclose on the payee.

Prepayment penalty. A prepayment penalty clause in the senior lien will hinder the chances that the senior lien will be paid off early, thus also decreasing the chance that your junior lien is prepaid. This clause can decrease the value of your junior lien considerable.

Senior lien payment terms. If the senior lien has unusual payment terms, such as a high interest rate or sporadic lump sum payments, the value of the subordinated liens can suffer. If the property owner wanted to sell, it would be difficult to find a buyer who was willing to assume a lien with such unusual terms. Since the value of real estate is tied to its available financing, a property with unusual terms will be more difficult to sell. Consequently, all liens junior to the unusual lien will suffer in value.

Market Value of a Junior Lien

If you own a junior lien, you should understand some basic principals regarding its market value. Determining the value of a junior lien involves comparing the size of the junior lien to that of any and all senior liens.

The larger the junior lien is in comparison to any senior liens, the less risk there is to the note owner and hence the more that note is worth. Small junior liens behind larger senior liens are heavily discounted, and investors who purchase them will often walk away if the payer defaults. In other words, investors will not even bother trying to foreclose, the cost is too great. Therefore, if you are going to create a junior lien, try to make it as large as you can and/or secure additional collateral for the lien.

One way of accomplishing this would be to ask the property purchaser to obtain a small mortgage from a traditional lender. Offer to owner finance the larger, remaining balance so that your junior lien is larger than the traditional lender's senior lien. Your junior lien will then be marketable due to its large size in comparison to the senior lien and can be sold for a decent price if the need ever arises. Should you ever need to foreclose, there are other benefits. The cost to foreclose will be less since the senior lien is smaller than your junior lien. A smaller senior lien means a smaller obligation (usually monthly), which you will be paying during the time it takes to foreclose and resell the property. In effect, it means the chances of your recovering your investment are greater.

Remember that the owner's equity in the property is your greatest protection. If the owner has little or no equity, and you hold a junior lien and have to foreclose, you may be lucky to recover any money after paying foreclosure costs, real estate commissions, possible back taxes, money spent fixing up the property, and the obligation of the senior lien(s) during the foreclosure period.

If you owner finance a small junior lien, try to make it no less than 50 percent of all senior liens combined. A junior lien that is less than 50 percent of the senior lien will be discounted greatly. Let's look at an example.

For the purpose of this example, assume the following:

- You are selling a multifamily, 12-unit apartment complex.
- You have owned it for many years and own it free and clear with the exception of a small $75,000 lien.
- This $75,000 loan is assumable by a qualified purchaser.
- You are selling the building for $300,000
- Your equity in the property is thus $225,000.
- The buyer is going to pay 10 percent or $30,000 as a down payment.
- The buyer can qualify at a local bank for a loan in the amount of $220,000.
- You have been asked to owner finance the remaining debt of $50,000.

Here's what the buyer proposes:

Sales Price	$300,000
Down Payment	$30,000
1st Lien from Bank	$220,000
2nd Owner Financed Lien	$50,000

In this scenario, your owner financed junior lien of $50,000 would equal 23 percent of the senior lien ($50,000 divided by $220,000). This is less than the recommended 50 percent. If you ever wanted to sell your junior lien, it would be discounted heavily because the senior lien is so large. If you ever chose to foreclose, you would have to pay the monthly payments of the senior lien. In some states the foreclosure process can be very slow and hence very expensive. Overall, this scenario is risky for you because you are being asked to create a junior lien that is positioned behind a large second lien. Due to this risk, the junior lien you are being asked to create is virtually worthless if you ever needed to sell it for cash.

A better way to structure the deal would be to ask the buyer to assume the $75,000 first-position loan that is currently on the property. Ask the buyer to obtain a second position mortgage in the amount of $95,000 and offer to owner finance the remaining $100,000. This scenario is summarized as follows:

Sales Price	$300,000
Down Payment	$30,000
Assume Existing 1st Lien	$75,000
Obtain 2nd Lien From Bank	$95,000
Owner Finance 3rd Lien	$100,000

Even though this scenario places you in third position, behind the existing first and the new second, you have created a note that is much more valuable. Remember, the value of a junior lien involves comparing the size of the junior lien to the senior lien. In this example, your third-position note in the amount of $100,000, is positioned behind a combined total debt of $170,000 ($75,000 first-position lien and the new $95,000 lien). It is thus 59 percent of the first and second liens combined ($100,000 divided by $170,000). As mentioned previously, if you hold a junior lien you should try to make it no less than 50 percent of all senior liens combined. Therefore, this third-position lien has much more value than the second-position lien the property purchaser originally proposed. Thus, if you needed to sell all or part of your third-position lien for cash today, you could do so without a heavy discount. Additionally, it means that if you needed to foreclose, you could do so less expensively and therefore have a greater chance of recovering your investment.

If you need any assistance with structuring your transaction, then please feel free to contact us regarding our consulting services at 480-213-5251.

Tips and Highlights

- Junior liens are more risky than senior liens and hence are generally worth less than senior liens.
- Foreclosures can be very expensive. You will need to pay the obligation of all senior liens in order to protect your interest while you initiate foreclosure, unless you have the funds to pay off the senior liens.
- Remember that the owner’s equity in the property is your greatest protection.
- The larger the junior lien is in comparison to any senior lien, the less risk there is to the note owner and hence the more the note is worth.
- Try to make your junior lien no less than 50 percent of all senior liens combined. A junior lien that is less than 50 percent of all senior liens will be discounted greatly.
- It is never advisable to create a junior lien behind a senior lien that prohibits junior liens.
- You want your junior lien to be paid off before the balloon payment of any senior lien is due.
- You should obtain a loan status report for any senior lien to be sure it is current. Keeping track of payments made on senior liens can be difficult. One way of protecting yourself is to require the purchaser to send you cancelled receipts of monthly payments make on all senior liens, or receipts of payments made. Place this requirement into your contract with the purchaser. Failure to supply you with such proof of payment may be considered evidence of default.
- Servicing notice of default to the grantor may be difficult if the grantor’s address is unknown. You may require the grantor designated a local agent for such service.
- Negative amortization can quickly decrease the protective equity you have as a junior lien holder.

- If the senior lien has a due-on-sale clause and you are forced into foreclose, the senior lien holder can call the loan due and payable in full. You should therefore try to get any senior lien holder to sign a non-acceleration letter to prevent this from happening.
- Be wary of senior liens that contain a "future advances" clause.
- Release clauses present another risk to junior lien holders. A release clause allows the property owner to release or unencumbered part of his or her property. This means that your note may not be adequately secured.
- Senior liens with prepayment penalties and senior liens with unusual terms are variable that will negatively affect junior liens.

Right to Sue

Clarify the right to sue by adding an addendum or extra paragraph to your contract stating that you reserve the right to personally sue the purchaser(s) should default occur. For more information on special clauses refer to the section titled "Special Clauses" beginning on page 61.

Understand Foreclosure Law

Ideally, you should fully understand foreclosure laws in your state and be prepared to consult with a competent attorney if the need arises. States differ in the average amount of time it takes for a foreclosure to conclude; thus the potential costs of foreclosure can differ dramatically from state to state. Understanding the foreclosure laws in your state will help you budget adequate cash reserves. This is particularly important if you are a junior lien holder.

Underlying Debt

You may choose not to pay off the amount you owe on your property at the time you sell. This is called underlying debt, often referred to as a "wrap". In this scenario, the money you pay on your underlying financing is superior to the money owed to you by the new sale. This is because the underlying financing was put into place before the financing from the new sale. Please refer to pages 10 for further information regarding how junior and senior liens are defined.

Check the documents on your underlying financing to make sure there is no due-on-sale clause requiring you to pay off the debt when you sell the property. If you choose to keep the underlying financing in place, make sure the new, inferior financing's monthly payment is at least 25 percent greater than the payment you will continue to make. This gives you a little breathing space.

For example, let's assume you are selling your home for $100,000. You currently owe a balance of $50,000 to a local lender, with a monthly payment of $700. You decide to sell the property, but the buyer cannot easily qualify for a loan because he or she is self-employed. You determine that owner financing will provide a reasonable solution so you structure the transaction as follows:

Sales Price	$100,000
Down Payment	$20,000
Owner-Financing Lien	$80,000

Because you kept your existing financing in place, part of the monthly payment you receive from the self-employed payer goes to pay the monthly obligation you owe on the $50,000 underlying loan. Since you owe $700 a month, you know that you need to receive at least 25 percent or $175 more per month from the self employed payer. You thus structure your owner financed note over a 14-year term, which at a 10 percent interest rate makes the monthly payment exactly $886.56 per month. You will thus receive $886.56 per month from the property buyer, and, out of that, you will pay $700 to the lender you owe. In this example, the $50,000 lien you are paying is the senior lien since it was recorded before the new $80,000 lien you owner financed.

Another tip when structuring a wrap is to pay close attention to the payment or amortization schedule of the overlying financing in comparison to that of the underlying financing. If the underlying financing is paid off at a slower rate than the overlying lien is paid off, the "cushion" or difference between the two liens will shrink over time. In other words, the balance of the overlying lien will decrease faster than the balance on the underlying, causing your protective cushion to decrease. This cushion is part of your protective equity. As your protective equity decreases, the risk to you increases. (The other part of your protective equity comes from the down payment of the new sale. For more information, please refer to the section titled "Down Payment" on page 14 and 30.)

To avoid this situation from occurring, you will need to review some amortization schedules. Most personal financing software such as Quicken allows you to generate and print amortization schedules. Compare the underlying financing schedule to sample schedules of your proposed overlying lien. Determine what your protective equity would be at the beginning of each payment schedule, then compare that to a future date in time. Determine if your protective equity would shrink, remain the same, or increase over time. You can then finalize the structure of the overlying lien based on your findings.

Your goal when structuring a "wrap" should be to have your protective equity increase over the term or length of the lien. To accomplish this you need to make sure that the balance of the underlying lien will be paid off more quickly than that of the overlying lien.

There are two common methods used to accomplishing this goal. The first method involves make the interest rate on the overlying lien higher than that of the underlying lien. A higher interest rate on the overlying lien means that the balance will decrease more slowly than if it had a lower interest rate. (Assuming other lien variables is identical.) Thus the underlying lien, having a lower interest rate, will be paid down more rapidly. This concept can be difficult to understand. It may be helpful to review the section titled “Annual Interest Rate” beginning on page 16 as well as the section titled “Amortization” found on page 32.

A second and highly recommended method is to instruct the servicing company to apply the *entire monthly payment received* from the overlying lien directly to the underlying lien. This means that you will not receive the spread between the payment on the overlying and the payment on the underlying. (As mentioned previously, this spread should be at least 25 percent.) Obviously, this option should not be considered if you need this monthly cash flow for personal living expenses or other allocations.

Use of this technique will rapidly decrease the balance of the underlying lien, thereby increasing your protective equity. *Caution: make sure the servicing company understands that this additional amount is to be applied directly to the principal balance of your underlying lien.* Some servicing companies will apply extra payment amounts to an unlimited number of future payments. In other words they will not apply it to the principal balance. If you are unsure how extra payment amounts are applied, call your lender or servicing company to inquire.

Other Tips to Protect Yourself

As a property seller, there are a couple things you should do to protect yourself when selling via a wrap. First, do not attempt to service the wrap on your own. Always use an independent third party servicing company. This not only protects you, it protects the property purchaser and is thus worthwhile to both parties.

Second, make sure the servicing company is given detailed instructions and that they will send you prompt notice if the purchaser makes a late payment. You can thus step in and make payments on the underlying lien yourself while you attempt to resolve the situation. Likewise, it is common for the property purchaser to ask for a similar provision, in case you fail to make the payment on the underlying. If you will be prepaying the underlying, make sure the lender understand how prepayments are to be applied. You should review the section titled “Junior Liens,” beginning on page 45 as well as “To Use or Not to Use a Servicing Company” on page 56. It is important that you understand the risks involved with junior liens and that you do not assume the servicing company will automatically perform certain duties.

Third, seek the counsel of an experienced real estate attorney, who can put special language into your security instrument. You may want to review the list of special clauses beginning on page 61 and if appropriate, ask that these be included within your security instrument.

Selling a Wrap

Given the previous example, if you ever sold your $80,000 lien you may be required to pay off the senior $50,000 lien out of the proceeds of the sale. This would consequently move your $80,000 junior lien up one position into a senior position. If you sell your note and choose to keep the underlying financing in place, your note will be purchased as a second position lien. This means that you will most likely receive less money for your lien than you would if you paid off the underlying at closing. In most cases, but not all, it is to your advantage to have the underlying paid off at closing.

It is not uncommon for lien holders to become disillusioned with the way they structured their wrap once they realize that their equity, or the difference between what they owe on the underlying and what is owed to them on the underlying and what is owed to them on the overlying, has decreased over time. You can avoid this potential problem by using the previous suggestions. However, an even greater benefit to structuring a wrap so that the underlying lien is paid off rapidly becomes apparent if you need to sell your note for cash. With a smaller underlying, you will walk away from closing with more money. In addition, since you have increased your protective equity, any discount incurred from selling your note will be softened. Your equity increase can minimize, often dramatically, any discount. Remember, even if you never intend to sell your lien, it is wise to structure your lien so that it will bring top market value should an emergency occur. For further information regarding the sale of owner financed liens, please refer to the section titled "Selling All or Part of your Note for Cash" beginning on page 69.

Tips and Highlights

- If you choose to keep the underlying financing in place, make sure the new, inferior financing payment is at least 25 percent greater than the payment you will continue to make.
- Pay close attention to the payment or amortization schedule of the overlying financing in comparison to that of the underlying financing. You may find this difference to be decreasing. This can be prevented by carefully structuring the overlying financing as well as making prepayments to the underlying financing.
- If making prepayments, make sure the servicing company understands that this additional amount is to be applied directly to the principal balance of your underlying lien.
- Do not attempt to service the wrap on your own.

- Make sure the servicing company is given detailed instructions and that they will send you prompt notice if the purchase makes a late payment.
- Always seek the counsel of a competent real estate attorney.
- Your equity increase can minimize, often dramatically, any discount resulting from the sale of a wrapped lien.

Know Whether to File 1098 & 1099 Forms

You may be required to file Internal Revenue Code Forms 1098 and 1099 if the IRS thinks you are in the lending business. Always consult with an accountant if you have any questions regarding your tax responsibilities.

You are required to report annually on Form 1099 interest you pay in the course of your investment or trades or business activities, which includes property rentals. If payments are made to an individual, partnership, or unincorporated business, and these payments exceed a certain amount annually, you are required to report.

You are required to file Form 1098 if you or your company, corporation, partnership, or trust are in a trade or business and you receive mortgage interest from an individual during the course of your trade or business, and that interest exceeds $600 in a calendar year. You must provide Form 1098 to each individual who paid you at least $600 of mortgage interest in the last year. You also must send the IRS a copy of this form. If you or your entity are not in a trade or business or your receipt of mortgage interest is not related to your trade or business, you do not have to send in Form 1098 to the IRS or your borrowers.

You may be penalized if you file required forms in an untimely fashion. If you cannot determine whether you are or are not receiving mortgage interest related to a trade or business, it may be best to go ahead and file the report to avoid any penalties. Then seek the counsel of a competent accountant.

Since tax laws are constantly changing, it is always wise to consult a tax advisor.

Tips and Highlights

- You may be required to file Internal Revenue Code Form 1098 & 1099. Since tax laws are constantly changing, always consult with a tax advisor if you have any questions about reporting interest received.

To Use or Not to Use a Servicing Company

When you provide the financing for a property buyer, you need to choose whether or not to use a servicing company. Many note owners choose to use a servicing company (i.e. collection department of a financial institution or a private note servicing company) so that they 1) do not have to fill out 1098 and 1099 Forms themselves and 2) can avoid having to track note payments and balances. Such firms will receive the payment, track the interest and principal, calculate the new balance, and issue the proper year-end reporting forms. Should you ever need to sell your note, using a servicing company can be a great asset. A servicing company will keep a record of the pay history, keep track of the current balance and any late charges, and may hold the original documents. All these are benefits that help you maintain your note. However, before you hire a servicing company you should carefully consider the following.

First, clarify what the servicer will and will not do. Some servicers will issue late payment reminders, charge appropriate late charges, and hold the original documents. Others will only provide such services for an extra fee. Most are not willing to handle a foreclosure in the event it becomes necessary.

A common mistake note owners make is assuming the servicing company will notify them if a payment is late or missing. Never assume the service provider will notify you. Some companies charge extra for this service.

Second, be aware that some of the servicing companies which hold your original documents *will not release your documents without both your signature and the signature of the paper.* The following paragraph explains how this requirement could cause problems.

Quite often the best way to get top dollar for your note is to place it into a pool that will be resold. Release of servicing can be a requirement of such a program, and if this is the case, coercing the property owner to release servicing so that you can sell your note for top dollar may be difficult. If you do not succeed, then your note will not qualify for the pool and you may have to settle for less than top dollar.

Proceed with caution before you hire a servicing company whose standard policy is to require the payer’s written consent before releasing servicing. One way to circumvent this requirement is to place a clause in your security instrument that states the payer must consent to the release of servicing upon request or risk being considered in default.

Another creative way of handling this issue is to have the payer sign the required servicing release form in advance. It can then be used by the note owner at a later date if needed. Have the servicing company hold this original consent form and make sure they understand you intend to use it in the future. You want to make sure they will honor the form, even if it will be used twenty years later.

The Payment History

If you choose to service your lien on your own, carefully document every payment made. This can be accomplished by keeping bank statements, deposit slips, or copies of each check. This requires a commitment of time on your behalf. Do not assume that, if needed, you could obtain proof of every payment from the property owner.

Why should you keep track of ever payment? Your note is a valuable asset. Its value depends on many variables, one of which is the payment history. Do not minimize the importance of keeping accurate and up-to-date records. If you sell your note you will need to provide proof of all payments made, including the current balance, late charges, and the date through which interest is paid. Sound like a nightmare? It can be. This is one reason why loan servicing is popular.

Tips and Highlights

- Choosing to have your note serviced by the collection department of a financial institution or with a private note servicing company is a good idea, not only due to the IRS reporting requirements, but because you do not have to track note payments and balances.
- Should you ever need to sell your note, using a servicing company can be a great asset.
- Clarify what the servicer will and will not do. Never assume the service provider will notify you if a payment is late or missing.
- Proceed with caution before you hire a servicing company whose standard policy is to require the payer's written consent before releasing servicing. This could cost you money. You can, however, avoid this situation in two creative ways:

1) Place a clause in your security instrument that states the payer must consent to the release of servicing upon request or risk being considered in default.
2) Have the payer sign the required servicing release form in advance. It can be used by the note owner at a later date if needed.

- If you choose to service your lien on your own, carefully document every payment.

Avoid Adjustable Rate Notes

Adjustable rate notes have an interest rate that varies according to an index. This means that as the interest rate adjusts from time to time, so will the monthly payment.

We at Seaquis Capital, Inc. suggest you avoid creating adjustable rate notes. If you do attempt to structure an adjustable rate note, do so only with the help of a competent real estate attorney, since these loans may be regulated under Civil Code depending on state law. Federal regulations and usury laws may also come into play.

Unwanted Assumptions

For comments on how a due-on-sale clause can help protect you from unwanted assumptions, refer to page 22, “A Word on the Due-On-Sale Clause” section.

Use of the Property

In some cases, how and by whom a property is used will factor into how much a lien is worth. For example, properties that are occupied by someone other than the owner bring greater risk to the investor. In order to compensate for this risk, the investor will pay less for the lien than he or she would if the property were occupied by the owners.

Properties used for commercial purposes provide another example. In general, investors will pay less for a commercial lien than they will for a lien secured by a single family home. Once again, risk is the determining factor. However, other factors associated with commercial liens can also influence a note’s value. Underground fuel storage tanks provide a wonderful example. The environmental risks and regulations associated with underground fuel tanks are enormous, as are the financial costs of cleaning up a spill site. Therefore most investors will not purchase a lien secured by a property that has underground fuel tanks.

Many other property use variables can affect the value of a lien. A good rule of thumb is that anything which increases the note owner’s risk will decrease the market value of a note.

Tips and Highlights

- In some cases, how and by whom a property is used will factor into how much a note is worth. A good rule of thumb is that anything which increases the note owner’s risk will decrease the market value of a note.

Purchase and Sale Agreement

Items contained in, or omitted from, purchase and sale agreements are very important if you plan on providing financing for the purchaser. For this reason, it can be a good idea to have a competent real estate attorney draft your purchase and sale agreement. Details involving the terms of the loan and any special clauses you will include should be disclosed in this agreement.

Acceptance of a purchase and sale agreement means that your property is held off the market until closing occurs or the agreement is voided. You should therefore obtain preliminary data from the purchaser concerning his or her ability to repay the lien before you accept a purchase agreement. Once you accept the agreement, you can then gather additional in-depth data on the purchaser. Please refer to the section titled “Purchaser’s Credit Worthiness” beginning on page 38 for tips on how to investigate a purchaser.

Placing multiple escape clauses into your purchase agreement is highly recommended. An escape clause allows you to avoid liabilities or performance of contractual obligations under certain conditions. In other words, these clauses can provide you a way out of the purchase agreement, thereby stopping the sale of your property to the prospective purchaser.

Examples of escape clauses that you, the property seller may want to consider would include being able to obtain acceptable credit report(s) on the purchaser(s), acceptable job history and proof of income, acceptable title policies (lender’s policy), and all other variables which you deem to be important. You cannot put too many escape clauses into your contract. Even if the purchaser has terrible credit, no job, and/or no income, you choose to go through with the sale of your property. However, if you choose to not go through with the sale, escape clauses allow you to void the purchase agreement and place the property back on the market, due to the purchaser failing to meet one of your requirements.

It is not uncommon for escape clauses to border on the ridiculous. Remember, the intent is to allow you to escape out of the purchase agreement. Ask for something you doubt the purchaser will go for. You can always choose to go ahead with the sale if (when) they fail to meet on of your conditions. Real estate attorneys are a wonderful resource for escape clauses.

Additionally, the time period allowed for investigations and property inspections should be specified within the purchase agreement. Should either party find something unsatisfactory, the terms of the purchase agreement can then be re-negotiated. It is not unusual for buyers and sellers to counter the offer multiple times until a final agreement is reached or the offer dies.

The agreement should also detail which parties’ pays for closing costs, as well as the time owed for closing and what happens if either party defaults. Purchase agreements are extremely flexible. Take advantage of this flexibility and create a well-written purchase and sale agreement so that you can prevent problems that may arise later on.

Note: Clarify that your agent is acting only on your behalf. Try to avoid hiring a “dual agent.” Such agents work on behalf of both the buyer and seller. Your want your agent to have a fiduciary responsibility to you alone.

Tips and Highlights

- Protect yourself by adding protective language and escape clause to the earnest money agreement.
- Try to avoid hiring a "dual agent." You want your agent to have fiduciary responsibility to you along.

Special Clauses

Special clauses, often called protective clauses, are additions you can place into your security instrument. The type of additions you can place into your security instrument will vary according to state law. Speak with your attorney about the following clauses and any others he or she might suggest.

- **Assignment Clause.** This clause states that the holder of the obligation (you) can assign interest in the obligation to a third party without permission from the borrower. It essentially clarifies your rights to sell or assign your interest to someone else without contacting the property owner.
- **Credit Inquiry Clause.** This clause states that the holder of the obligation has the right to make credit and employment inquiries of the payer at any time in the future. This clause clarifies your right to such information as well as the payer's duty to supply it.
- **Servicing Clause.** If you choose to use a servicing company, this clause states that the payer must consent to the release of servicing upon request or risk being considered in default. See the section titled "To Use or Not to Use a Servicing Company" on page 56 for additional information.
- **Appraisal Clause.** Since full appraisals are sometimes necessary to establish the value of a lien, this clause could be a lifesaver. Its purpose is to allow an appraiser access to the inside of the subject property upon your request.
- **Due-On-Sale Clause.** See the section titled "A Word on the Due-On-Sale Clause" on page 23 for additional information.
- **Right-To-Sue Clause.** This clause clarifies your right to personally sue the purchaser(s) should default occur.
- **Assumption Clause.** An assumption clause makes the note due and payable in full should the property be sold, assigned, or transferred without the written consent of the note owner. It provides you with additional protection from unwanted assumptions.
- **Tax and Insurance Clause.** This clause requires the property owner to send you proof that property taxes are paid. It can also be used for homeowner association dues as well.
- **Notice of Default Clause.** This clause requires the property owner to send you proof of payment on any senior liens, or risk being considered in default. This clause is used by junior lien holders who want assurance that senior liens are current.

- **Local Agent Clause.** This clause requires the property owner designate a local agent to whom notice is served in case of default. This is a good clause to use when the purchaser resides outside the United States or if his or her address is unknown.

State laws vary, sometime tremendously. Language that is binding and appropriate in one state may not be in another. *As ridiculous as it sounds, a clause that is appropriate in one state may only be enforceable in a different state if it is typeset in a certain way (such as in bold or capital letters).* Likewise, some clauses must be in the note and the deed of trust to be enforceable. Always seek competent legal counsel when structuring and drafting a note.

Tips and Highlights

- Protect yourself by adding protective clauses to your note.
- A clause that is appropriate in one state may only be enforceable in a different state if it is typeset in a certain way. Likewise, some clauses must be in the note and the deed of trust to be enforceable.
- Always seek competent legal counsel with drafting a note.

Have Your Document Professionally Drafted

Have an *experienced* real estate attorney draft the note. Be careful whom you choose to draft your note. Some real estate professionals and attorneys draft document that are virtually worthless. They may not have considered or they may simply be unfamiliar with the how notes are treated on the secondary market. *The secondary market is so new that the information in this manual is not common knowledge.* Remember, the note you create will be in effect long after closing. The best way to protect yourself is through education, investigation, and, most important, competent legal counsel.

If you choose to use a standard deed of trust such as those which you can obtain from the local Board of Realtors, take it to your attorney and have additional safeguards added to it. While standard contracts are perfectly recordable, they are not tailored to protect your interests. More important, by using generic forms you miss the opportunity to obtain competent legal counsel. The changes your attorney makes to the standard contract may be minimal since the contract is approved by the local Board of Realtors. As such, your attorney costs should also be minimal. Remember, legal counsel can save you a lot of money in the long run.

Tips and Highlights

- The secondary market is so new that the information in this manual is not common knowledge.
- The best way to protect yourself is through education, investigation, and, most important, competent legal counsel.

Treat Your Original Documents as if They Were Cash

Your note is money in your hand. Notes are negotiable, transferable documents. Always know where your original documents are. You cannot sell what you cannot find. Should you lose your original documents, they will need to be recreated in order for you to sell all or part of the note. This costs you money and more important, time.

If you keep your original documents at your home, store them in a fireproof box. Better yet, store them away from your home in a safe deposit box at a bank or with your servicing company. If you store them away from your home, always keep copies for your own files.

Tips and Highlights

- Your note is money in your hand. Always know where your original documents are.
- If you keep your original documents at your home, store them in a fireproof box.

Summary: Top Ten Mistakes

1) **Mistake:** Failing to build adequate protective equity into the sale transaction.
   Solution: For information on how to build adequate protective equity into the sale transaction, see page 14, 24, and 55

2) **Mistake:** Failing to examine credit reports on the purchaser(s) and to adjust the terms of the transaction appropriately.
   Solution: For information on reviewing credit reports and other information on the purchaser, please see page 38.

3) **Mistake:** Failing to obtain a Preliminary Title Report in which the *purchaser* as well as the title researched.
   Solution: For information on Preliminary Title Reports and title insurance policies, please refer to page 43.

4) **Mistake:** Failing to annually check that the property owner has provided the appropriate amount of hazard insurance on the property and that the policy names you as beneficiary.
   Solution: For information on insurance please refer to page 18, 37, the checklist on page 38, as well as the Tax and Insurance Maintenance Log found on page 67 - 68.

5) **Mistake:** Failing to annually check that property taxes have been paid.

Solution: For information on taxes please refer to pages 18, 34, the checklist on page 38, as well as the Tax and Insurance Maintenance log found on page 67-68.

6) **Mistake:** Failing to place special language into your security instrument which provides you additional protection.
Solution: For information on special clauses please refer to page 61.

7) **Mistake:** Not knowing how to prevent and/or stop unwanted assumptions.
Solution: For information on this topic please refer to page 22.

8) **Mistake:** Not knowing how to handle default.
Solution: Immediately seek the counsel of a competent real estate attorney. For step-by-step information on this topic see page 25.

9) **Mistake:** Failing to structure a lien so that if needed it can be sold for top resale value.
Solution: Read this handbook frequently. You may also find it helpful to speak with a real estate attorney who may have knowledge of this recent change regarding owner financing and secondary markets.

10) **Mistake:** Failing to seek competent legal counsel when structuring and drafting your lien.
Solution: Always obtain competent legal counsel.

Afterword

Most of the information in this handbook is not common knowledge. Chances are good that anyone who has ever been a lien holder has made a few mistakes. The use of this handbook will hopefully be a benefit to you and any future mistakes you make will be small ones. If any of the information in this handbook was of help to you, please let me know. I am interested in hearing your successes.

Rewards for Suggestions

If you have a good idea or topic you think would be valuable in this handbook, I would like to evaluate it for the next edition. To reward you for your efforts you will be given credit for your contributions if it is used in the next edition. Please write or e-mail your ideas to the address or e-mail address found on page 74.

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Getting Started

The following sections are designed to help you get started maintaining your note. The first section is an index of security instruments by state. Although there may be exceptions to this index, it is a quick reference of the most commonly used security instruments state by state.

The second section is our Tax and Insurance Maintenance Log. This two-page log will help you organize tasks key to the maintenance of your note. Although this handbook is fully copyrighted, you are allowed to make copies of this form for your own use.

The second section titled "Selling All or Part of Your Note for Cash" is included to that you may better understand what options are available to you. This section covers a few of the more common questions asked by prospective clients.

Table 3: Security Instruments Used

State	Instruments	State	Instruments
Alabama	M, D, L	Nevada	D, L
Alaska	D, L	New Hampshire	M, L
Arizona	D, M, L	New Jersey	M, D, L
Arkansas	M, D, L	New Mexico	M, D, L
California	D, L	New York	M, L

Colorado	D, M, L	North Carolina	D, L
Connecticut	M, L	North Dakota	M, L
Delaware	M, L	Ohio	M, L
Florida	M, L	Oklahoma	M, D, L
Georgia	S, L	Oregon	M, D, L
Hawaii	M, L	Pennsylvania	M, L
Idaho	M, D, L	Rhode Island	M, L
Illinois	M, T, L	South Carolina	M, L
Indiana	M, D, L	South Dakota	M, L
Iowa	M, D, L	Tennessee	D, M, L
Kansas	M, L	Texas	M, D, L
Kentucky	M, D, L	Utah	M, D, L
Louisiana	M, L	Vermont	M, L
Maine	M, L	Virginia	D, L
Maryland	D, M, L	Washington	M, D, L
Massachusetts	M, D, L	West Virginia	D, M, L
Michigan	M, L	Wisconsin	M, L
Minnesota	M, L	Wyoming	M, D, L
Missouri	D, L	Montana	M, D, L
Nebraska	M, D, L		

Key: **L:** Land Contract
M: Mortgage
D: Deed of Trust
T: Trust Deed
S: Security Deed

Annual Tax and Insurance Maintenance Log

Fill out Section A of this form completely. The information you list is needed by either the tax office or the insurance provider when you make the annual phone calls described in the “Taxes and Insurance” section beginning on page 34. You may want to make a couple copies of this and the following page, since this information could change from property owner to property owner. If your note is secured by land only, simply leave the insurance section blank.

Section B on the following page is designed for recording your phone calls. It is here that you will record the name of the person with whom you spoke, the date and time you called, and the results of your inquiry. After completing this section, schedule a time to make the calls again next year, then file this form. *Schedule your call a week after the date property taxes become due; then you will know immediately if the property owner missed the payment date and you can take immediate action.*

Section A: Tax and Insurance Information

Tax Office Information:

Phone number of tax office: ____
Tax ID number of property: ____
Legal description of property: ____
Full name of property owners: ____
Date annual taxes are due: ____

Insurance Office Information:

Issuing insurance company: ____
Policy number: ____
Office phone number: ____
Office address: ____
Insurance representative: ____
Policy period: ____

Need assistance? Call us at 480-213-5251

Section B:
Annual Tax and Insurance Maintenance Log

Complete each column in full, following the example below. Before you file this form, remember to schedule your calls for next year.

Date & Time:	Tax Office		Insurance Office	
	Taxes Paid?	Spoke With Whom?	Coverage In Effect?	Spoke With Whom?
Example: 1/1/2010: 2PM	No	Mr. Johnson	Yes	Jim Smith

Selling All or Part of Your Note For Cash

Seaquis Capital, Inc. specializes in purchasing and facilitating all types of owner-financed liens throughout the United States. A few of the more common questions we encounter from prospective clients are listed below. This information is provided for your review so that you will be more familiar with your options and can therefore make informed decisions regarding your note.

I'm Not Quite Sure I Need to Sell My Note Can You Tell Me What It Is Worth?

Yes, we can take a look at your note and tell you what it is worth. However, selling a note for no important reason is never in anyone's best interest. Furthermore, how we would structure the purchase of your note depends completely on your needs and goals. If you are just curious, and have not defined your needs and goals, you will need to do some planning before you call. Try to determine how much money you really need. A need for $5,000 is quite different than a need for $50,000. The structure of the sale between these two scenarios would vary tremendously.

How Much Will Seaquis Capital, Inc. Discount My Note?

Notes are purchased at a discount over the remaining balance due. However, by paying you some cash now and the remainder at a later date, we can give you the maximum amount possible. More often than not, the sum of cash at closing and the sum at a later date is often equal to or greater than the full face value of your note.

The value of a note is determined by many factors. For example, a note secured by raw recreational land will be worth less than a note secured by a single-family home. Following are some of the variables that determine value:

- The type and location of the property serving as collateral.
- The terms of the note such as interest rate, number of years remaining, current balance, owner's equity in the property.
- The market interest rate.
- The credit and pay history of the payer.
- The number of notes being purchased. Pools or portfolios are less risky and thus more valuable than individual notes.

For What Reason Would I Want to Sell My Note?

Our clients sell their notes for many reasons. Here are some of the ones we at Seaquis Capital, Inc. encounter most often:

- The client needs a lump sum of cash to accomplish a major goal.
- The client has found a safer compounding investment with a higher yield, which increases in value rather than decreases as note does.

- The client has concerns over the financial health of the owner and wants to eliminate the risk involved.
- The client has moved out of the area and can no longer easily check on the property, taxes, or insurance.

What Kind of Notes Will You Purchase?

We will purchase and facilitate the purchase of:

- Junior and senior position liens
- Commercial liens
- Residential liens
- Land liens
- Multifamily liens
- New or unseasoned liens
- “Equity” notes created as a result of divorce
- Balloon payments
- Portfolios

Do You Purchase Notes as Time of Creation?

No, but a few of the investors we work with will. This is called a simultaneous closing. It is a great way to sell your property fast and receive all cash at closing. Regardless of whether you are a home seller or home buyer considering this option, you should contact us prior to entering into a sale agreement with the other party. We can give you an idea of what the market value of the proposed lien would be. Please call Seaquis Capital, Inc. at 480-213-5251 for more information.

What Are My Purchase Options?

We purchase or facilitate all or part of your lien. Partial purchases can be very flexible, with many variations on how the sale is structured. A common example of one type of partial purchase is when we buy a stream of payments. After we receive those payments, the note reverts back to you and you begin collecting the monthly payments again.

A second example of a partial sale involves keeping a certain portion of each payment. This way you get a lump sum of cash now, plus an ongoing cash stream. Partial purchase options are flexible and often vary greatly from client to client depending on his or her needs.

What Are My Funding Options?

Funding normally occurs with one lump sum being paid to you. However, there are exceptions to this. For example, if your note was purchased in full, and we know in advance that you have special funding needs, we can fund the amount owed to you any way you request. Rather than receiving one lump sum, you may choose to receive monthly payments, a lump sum now and the rest at a specific later date, or any other payment schedule you desire.

You may find the flexible funding option attractive for several reasons.

1) This option often is used to spread out the tax consequences of selling a note. Since funding does not occur in one lump sum, many accountants take the position that capital gains tax, if any is owed, does not need to be paid in full the year you sell your note. It is instead paid over time, as you receive cash from the sale of your note. *You will need to speak with your accountant to determine if this program would be beneficial to you.*

2) Flexible funding options may also be desired because the note seller is living on a fixed monthly income and needs to continue receiving monthly payments. This is often the case with elderly or disabled persons.

3) Another attractive aspect of the flexible funding program is that the amount owed to you is *100% guaranteed.* This means that if the payer defaults after you sell your note, that default has no effect on you. You will continue to receive the amount owed to you without change. Furthermore, because you are choosing to receive your funds spread out over time, *you will receive a return of 8 percent on the unpaid amount we owe you. The combination of guaranteed funding plus a return of 8 percent make the flexible funding option attractive.*

Will Selling My Note Cost Me Anything?

Generally, you will not incur any costs if we purchase your loan but if we broker your note there will be a few fees. You will receive your funds at closing in the form of a cashier's check, or if you desire, we will deposit the funds directly into the account of your choice. Should you choose this option, normally the only cost you will incur is the cost of the electronic transfer.

How Do I Sell My Note?

After you provide answers to a few initial questions, we will begin our research. This involves reviewing your security instrument and the closing statement form when you sold your property. This research takes approximately 24 hours from the time we receive your documents. (We prefer to receive documents via e-mail but you may send copies of your documents via fax or to our mailing address. Do not send use your original documents. We will only need these at the time of closing.) Upon completion of our research, we will call you to discuss your option and to determine whether we have a program that will effectively meet your needs.

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Additional Services

The section in this chapter are designed to give you further information on Seaquis Capital, Inc. and some of the ways in which we may be of further service.

The next section contains a list of additional services offered by Seaquis Capital, Inc. Following is an explanation of how to contact the author, Sean Heideman. Since further editions of this handbook are anticipated, the author would like to hear your ideas and comments, whether they are negative or positive.

The last section in this chapter, titled "Discounts for Friends," supplies information on how to obtain this manual for friends at a wholesale price.

Our Website: At our website, http://www.seaquiscapital.com, you will find an on-line real estate bookstore, commonly asking questions and answers, additional information regarding note purchasing, information about our consulting services and much more. Stop by and continue learning…

Contacting The Author

This handbook was written by Sean Heideman, principal of Seaquis Capital, Inc. Seaquis Capital, Inc. is a *nationwide note purchasing and brokerage firm* specializing in helping property owners and realtors close more transaction by utilizing techniques such as simultaneous closing. We place special importance on tailoring the purchase of owner financed liens to meet the specific funding and tax liability needs of our clients. Great care is taken to ensure that all possible funding options are fully understood, enabling our clients to make informed, educated decisions.

Our ultimate goal is to heighten the standard by which the note purchasing industry conducts business. Providing quality ongoing information to lien holders as well as real estate professionals is one of the ways we are attempting to make a difference.

We invite you to call and inquire about our services.

Contact Information:

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Fax: (480) 596-3991
E-Mail: info@seaquiscapital.com
Internet Address: http://www.seaquiscapital.com

Discounts For Friends

Do someone a favor. Give a friend or associate one of the vouchers found in the Addendum of this book. The bearer is entitled to receive a *Insider Guide To Avoid Making Mistakes When Owner Financing Real Estate* handbook at a 20 percent discount off the retail price.

Provide the voucher to a friend would not only be a nice thing to do, it would also help distribute this much needed information to wider audience. We at Seaquis Capital, Inc. believe that if just one person avoids a foreclosure or financial loss due to the information in this book, our goal in writing this publication will be accomplished. We therefore ask for your support in spreading the word about this handbook.

Voucher Instructions

Wholesale vouchers entitle the bearer to an *Insider Guide To Avoid Making Mistakes When Owner Financing Real Estate* handbook at a 20 percent discount off the normal retail price of $150. Simply give one to a friend or associate for completion. Have them fax or e-mail to the contact information listed at the bottom of the voucher and a copy of *Insider Guide To Avoid Making Mistakes When Owner Financing Real Estate* will be promptly e-mailed to them. From time to time, we run special offers from our web site, such as an electronic e-book version for instant download. You may want to check out these offers. http://www.seaquiscapital.com

Glossary

A

Accrue. To increase, to grow

Accrual Date. The date the lien holder begins to charge interest.

Accrual Interest. Interest that has been charged but not yet paid.

Addendum. An addition to a written document (e.g., a contract)

Alienation. Alienation occurs when title to a property passes to another party, such as when a property is sold.

Allonge. If there is no room on an original note for an endorsement, the endorsement is written on a separate piece of paper. It is then permanently attached to the original note and is called an allonge.

Amendment. An alteration or change to a written document (e.g., a contract).

Amortization. A method of equalizing monthly mortgage payments over the life of a loan. Payments usually are paid monthly but can be paid annually, quarterly, or on any other schedule. In the early part of a loan, repayment of interest is higher than that of principal. This relationship is reversed at the end of the loan.

Appurtenance. Something that belongs to someone else. An example would be the right to cross through someone else's property.

Assessment. Taxes or special payment owned to a municipality or association.

Assignee. The person to whom an agreement or contract is assigned. If you are assigning interest in your note to an investor, that investor would be the assignee.

Assignment. To transfer something from one party to another. For instance, a lien holder might transfer his or her interest to another party in exchange for a lump sum of cash.

Assignor. A party who assigns or transfers something to another. If you are assigning interest in your note to an investor, you are the assignor.

Assumption. An assumption occurs when a property owner sells his or her property, allowing the new owner to "assume" or take over payment of the mortgage. Most assumptions require the prospective buyer to meet certain financial criteria required by the lien holder. Some liens can be assumed without meeting any financial criteria. These are called non-qualifying assumable liens.

B

Balloon Payment. A final payment of principal

Barter. The exchange of goods and services for other goods and services without the use of money.

Beginning Balance. The sales price of a property minus the down payment and/or other considerations such as bartered items.

Beneficiary. One who benefits from the act of another, such as the beneficiary of a fire insurance policy, or the beneficiary of a deed of trust.

Breach of Contract. A default or failure to abide by the terms of the contract.

C

Cancellation Notice. A notice sent by the insurance carrier to the beneficiary of an insurance policy, stating that the policy has been cancelled and is no longer active.

Certificate of Title. A written statement, usually provided by a title company, which states that the title to a piece of property is legally owned by the present owner.

Certified Note Appraisal. The appraisal of individual and multiple notes. Appraisers are certified by the American Appraisal Institute of Privately Held Notes and Mortgages.

Clear Title. Title that is not encumbered or burdened with clouds such as mortgages or unpaid taxes.

Cloud on Title. Any encumbrance or burden that adversely affects title to a property. Examples would include liens or unpaid taxes.

Convey. To pass or transfer title to another party.

Conveyance. The document used to transfer property from one party to another.

Credit Bureau. Firms that collect information on individuals and businesses for the purpose of providing the information to subscribers.

Credit Report. A report from a credit bureau that provides a credit rating and other financial data on a person or a company.

D

Debt Instrument. A written promise to repay debt(s).

Deed of Trust. Similar to a mortgage, it is an instrument used by some states to secure the repayment of money.

Default. A failure to abide by the terms of the contract.

Down Payment. Money paid at the execution of a deed of trust (lien).

Due-On-Sale Clause. A clause in a note that allows the note owner the option of calling a loan due and payable when the property is sold. This clause is designed to protect the lien holder form unwanted assumptions.

E

Earnest Money. Money paid by a buyer at the time of entering a contract. It indicates the buyer's intent to carry out the contract.

Easements. A right to use over the property of another. A utility easement, for example, allows the utility company to lay its lines across another's property.

Encumbrances. Any right or interest in land that affects its value. Examples would include liens, easements, and unpaid taxes.

Endorsement. Assigning or transferring a lien to another person is accomplished through the use of an endorsement. The work "PAY TO THE ORDER OF" and then the name of the person to whom the lien is being assigned to, is written. If there is not enough space on the original note to write an endorsement, it is written on a separate piece of paper that is permanently affixed to the original not. This is called an allonge.

Escape Clause. A way out. This is a clause in legal documents that allows a party to avoid liabilities and/or the performance of contractual obligations under certain conditions.

Escrow Account. A bank account into which funds are paid, usually for the fulfillment of a mortgage or other contract.

F

Fiduciary. Having a duty to act primarily for another's benefit. If you hire an attorney, for example, that attorney has a duty to act primarily for your benefit.

Fixture. Something that is attached to land, becoming part of the real estate. Examples are wells or fencing.

Foreclosure. The sale of mortgaged property. Proceeds from the sale go to the lien holder as repayment.

G

Grace Period. A period of time granted by a loan agreement during which default will not occur even though payment is overdue. Your contract may or may not have a grace period.

Grantee. Also called the mortgagee. If you own a note, you are the grantee or mortgagee. The grantee is the person to whom a grant or promise is made.

Grantor. Also called the mortgagor and debtor. If you own a note, the grantor is the person who makes payment to you. In technical terms, it is the person who makes a grant.

H

Hazard Insurance. An insurance policy purchased by a property owner to insure against fire, theft, vandalism, etc. Mot security instruments require the owner to carry hazard insurance to protect the seller from loss.

Inheritance. Things capable of being inherited.

I

Improvements. A valuable addition made to property.

Impute. To put in place. Example, to impute interest means to being charging interest.

Insurance Binder. Proof of insurance. It is usually a one page summary of the insurance coverage.

Insurance Premium. The price of an insurance policy. Insurance premiums can be paid monthly, just like a mortgage.

Interest. A right or entitlement. For example, you can assign your interest in your note to a third party. This means you assign your rights to collect monthly payments to someone else.

Interest Rate. A percentage of money, charged for the use of such money, usually described in annual terms (e.g. 10 percent).

J

Junior Lien. A lien which is subordinate to a prior lien; a lien that was recorded after another lien. Junior liens have fewer legal rights that a lien in first position.

L

Land Contract. Contract for the purchase and sale of land. Title to the land is transferred upon execution of the contract. This means the property seller retains title to the land until the loan is paid off. The terms commonly referred to an installment contract for the sale of land whereby a purchaser (vendee) upon payment of a final installment. The vendor/seller finances the sale for the buyer and retains legal title to the property as security. Equivalent terms are "contract for deed" and "installment land contract."

Lessee. The person who makes lease payments. One who has right of possession and use of a property under the terms of a lease.

Lessor. The person who receives lease payments. One who leases property.

Legal Description. A technical description of real estate by government survey, metes and bounds, or lot numbers of a recorded plat. It also includes description of any easements or reservations.

Lien. A type of security instrument (i.e., a tax lien), placed against property, making it security for the payment of a debt, judgment, mortgage, or taxes. If the lien is not paid, the lien holder has the right to confiscate the property in order to recover the money that was loaned.

M

Market Value. The price a note commands in the open market.

Metes and Bounds. Boundary lines of land. A method of accurately measuring and describing land.

Mortgagee. A person who takes, holds, or receives a mortgage; the mortgage owner; the payee.

Mortgagor. The person who creates a mortgage. The person who pays the mortgage owner; the payer; usually the property owner.

Mortgage. A lien that provides security for the repayment of the loan.

N

Negative Amortization. This is a situation that occurs when monthly payments are not large enough to cover the interest owed. The interest that is not covered is added to the principal, which can increase to more than the amount borrowed.

Non-Acceleration Letter. A letter from a junior lien holder to a senior lien holder requesting the senior lien holder not accelerate the loan should you keep it current during a foreclosure.

Note. A written promise to pay a sum of money at a specified time to a specified person or party.

Notice of Default. A letter sent to a party in default reminding them that they are in default.

O

Owner Financing. Also called "Carrying Paper," "Purchase Money Mortgage," or "Seller Carry-Back Financing," owner financing occurs when the seller of a property finances the property for a buyer. A security instrument is thus created to secure the performance of that financing.

P

Party. A person taking part in a transaction or proceeding.

Payee. The person to whom a payment is make.

Payer, or Payor. The person who makes a payment. The payer pays the payee.

Payment. A previously agree-upon dollar amount paid in regular installments.

Plat. A map of a specific area showing details such as streets, alleys, subdivided lots, easements, etc.

Promissory Note. See note.

Protective Equity. The difference between fair market value and total debt owed on a property. It is protective because without it, if you had to foreclose, you would have little chance of recovering the amount owed to you after paying attorney fees, real estate commissions, fix-up costs, and other costs.

Purchaser. Someone who acquires property; the buyer. Technically, it is someone who acquires property in any manner other than by descent.

R

Real Estate. A parcel of land and everything attached to it.

Reserve. Funds set aside to cover future expenses such as taxes and insurance.

Return on Investment. The amount earned per year on an investment, usually expressed as a percentage of the investment.

S

Seasoning. The term refers to the pay history on a loan. A loan that is "seasoned" will have at least six months of pay history. Notes that are brand new, having only a few payments received, are non-seasoned. Non-seasoned loans are more risky than seasoned loans because they lack a pay history.

Secondary Market. The primary market is where securities are originally created. A secondary market is where securities are bought and sold after their original issue.

Securitization. The pooling and selling of huge portfolios of privately-held mortgages to public investors (in a secondary market).

Security. Something given as a pledge of payment.

Seller. One who contracts to sell property.

Senior Lien. A lien that has been recorded before another. A lien that was recorded after a previous lien is called a junior lien. Liens that are in first position have more legal rights than junior liens.

T

Tax Auction. A public sale of property to the highest bidder as repayment for delinquent taxes.

Tax ID Number. An identification number usually given by a borough, municipality, or county to a property parcel for tax purposes. This is the number a tax office will ask you for when you call to find out if taxes have been paid.

Tenements. Possessions that are permanent and fixed to land.

Term. The length of a loan, usually stated in month or years.

Title. Written evidence that the owner of the land has lawful possession.

Trustee. One designed to hold property for another, pending the performance of an obligation. In a deed of trust state, the trustee is often the title company that handled the property sale closing.

Trustor. The payer of the lien. In a deed-of-trust state, this is the purchaser of the property.

Trust Deed. The legal document used to create a trust.

U

Usury. Charging an illegal rate of interest. Violating usury law means that interest charged is above what is permitted. Different states have different usury laws.

W

Warranty Deed. A deed that conveys or transfers title from one party to another. It also includes covenants to assure that the title transferred is free from all encumbrances.

Waste. See commit waste.

Addendum

Borrower Signature Authorization

Privacy Act Notice: This information is to be used by the agency collecting it or its assignees in determining whether you qualify as a prospective mortgagor under its program. It will not be disclosed outside the agency except as required and permitted by law. You do not have to provide this information, but if you do not your application for approval as a prospective mortgagor or borrower may be delayed or rejected. The information requested in this form is authorized by Title 38, USC, Chapter 37 (if VA); by 12 USC, Section 1701 et. seq. (if HUD/FHA); by 42 USC, Section 1452b (if HUD/CPD); and Title 42 USC, 1471 et. seq., or 7 USC, 1921 et. seq. (if USDA/FmHA).

Part I - General Information

1. Borrower	2. Name and address of Lender/Broker

3. Date	4. Loan Number	

Part II - Borrower Authorization

I hereby authorize the Lender/Broker to verify my past and present employment earnings records, bank accounts, stock holdings, and any other asset balances that are needed to process my mortgage loan application. I further authorize the Lender/Broker to order a consumer credit report and verify other credit information, including past and present mortgage and landlord references. It is understood that a copy of this form will also serve as authorization.

The information the Lender/Broker obtains is only to be used in the processing of my application for a mortgage loan.

Borrower _______________ Date _______________

EQUAL CREDIT OPPORTUNITY ACT

APPLICATION NO:

PROPERTY ADDRESS:

The Federal Equal Credit Opportunity Act prohibits creditors from discriminating against credit applicants on the basis of race, color, religion, national origin, sex, marital status, age (provided the applicant has the capacity to enter into a binding contract); because all or part of the applicant's income derives from any public assistance program; or because the applicant has in good faith exercised any right under the Consumer Credit Protection Act. The Federal Agency that

We are required to disclose to you that you need not disclose income from alimony, child support or separate maintenance payment if you choose not to do so.

Having made this disclosure to you, we are permitted to inquire if any of the income shown on your application is derived from such a source and to consider the likelihood of consistent payment as we do with any income on which you are relying to qualify for the loan for which you are applying.

(Applicant) (Date)

(Applicant) (Date)

(Applicant) (Date)

(Applicant) (Date)

Uniform Residential Loan Application

INITIAL

This application is designed to be completed by the applicant(s) with the Lender's assistance. Applicants should complete this form as "Borrower" or "Co-Borrower," as applicable. Co-Borrower information must also be provided (and the appropriate box checked) when ☐ the income or assets of a person other than the Borrower (including the Borrower's spouse) will be used as a basis for loan qualification or ☐ the income or assets of the Borrower's spouse or other person who has community property rights pursuant to state law will not be used as a basis for loan qualification, but his or her liabilities must be considered because the spouse or other person has community property rights pursuant to applicable law and Borrower resides in a community property state, the security property is located in a community property state, or the Borrower is relying on other property located in a community property state as a basis for repayment of the loan.

If this is an application for joint credit, Borrower and Co-Borrower each agree that we intend to apply for joint credit (sign below):

Borrower ____________________ Co-Borrower ____________________

I. TYPE OF MORTGAGE AND TERMS OF LOAN

Mortgage Applied for: ☐ VA ☐ FHA ☐ Conventional ☐ USDA/Rural Housing Service ☐ Other (explain):		Agency Case Number	Lender Case Number
Amount $	Interest Rate %	No. of Months	**Amortization Type:** ☐ Fixed Rate ☐ GPM ☐ Other (explain): ☐ ARM (type):

II. PROPERTY INFORMATION AND PURPOSE OF LOAN

Subject Property Address (street, city, state, & ZIP)	No. of Units
Legal Description of Subject Property (attach description if necessary)	Year Built
Purpose of Loan ☐ Purchase ☐ Refinance ☐ Construction ☐ Construction-Permanent ☐ Other (explain):	Property will be: ☐ Primary Residence ☐ Secondary Residence ☐ Investment

Complete this line if construction or construction-permanent loan.

Year Lot Acquired	Original Cost	Amount Existing Liens	(a) Present Value of Lot	(b) Cost of Improvements	Total (a + b)
	$	$	$	$	$

Complete this line if this is a refinance loan.

Year Acquired	Original Cost	Amount Existing Liens	Purpose of Refinance	Describe Improvements ☐ made ☐ to be made
	$	$		Cost: $

Title will be held in what Name(s)	Manner in which Title will be held	Estate will be held in: ☐ Fee Simple ☐ Leasehold (show expiration date)
Source of Down Payment, Settlement Charges and/or Subordinate Financing (explain)		

Borrower III. BORROWER INFORMATION Co-Borrower

Borrower				Co-Borrower			
Borrower's Name (include Jr. or Sr. if applicable)				Co-Borrower's Name (include Jr. or Sr. if applicable)			
Social Security Number	Home Phone (incl. area code)	DOB (MM/DD/YYYY)	Yrs. School	Social Security Number	Home Phone (incl. area code)	DOB (MM/DD/YYYY)	Yrs. School
☐Married ☐Separated ☐Unmarried (include single, divorced, widowed)		Dependents (not listed by Co-Borrower) no. ages		☐Married ☐Separated ☐Unmarried (include single, divorced, widowed)		Dependents (not listed by Borrower) no. ages	
Present Address (street, city, state, ZIP) ☐ Own ☐ Rent ______ No. Yrs.				Present Address (street, city, state, ZIP) ☐ Own ☐ Rent ______ No. Yrs.			
Mailing Address, if different from Present Address				Mailing Address, if different from Present Address			

If residing at present address for less than two years, complete the following:

Borrower	Co-Borrower
Former Address (street, city, state, ZIP) ☐ Own ☐ Rent ______ No. Yrs.	Former Address (street, city, state, ZIP) ☐ Own ☐ Rent ______ No. Yrs.

Borrower IV. EMPLOYMENT INFORMATION Co-Borrower

Borrower		Co-Borrower	
Name & Address of Employer ☐ Self Employed	Yrs. on this job	Name & Address of Employer ☐ Self Employed	Yrs. on this job
	Yrs. employed in this line of work/profession		Yrs. employed in this line of work/profession
Position/Title/Type of Business	Business Phone (incl. area code)	Position/Title/Type of Business	Business Phone (incl. area code)

If employed in current position for less than two years or if currently employed in more than one position, complete the following:

Borrower		Co-Borrower	
Name & Address of Employer ☐ Self Employed	Dates (from-to)	Name & Address of Employer ☐ Self Employed	Dates (from-to)
	Monthly Income $		Monthly Income $
Position/Title/Type of Business	Business Phone (incl. area code)	Position/Title/Type of Business	Business Phone (incl. area code)
Name & Address of Employer ☐ Self Employed	Dates (from-to)	Name & Address of Employer ☐ Self Employed	Dates (from-to)
	Monthly Income $		Monthly Income $
Position/Title/Type of Business	Business Phone (incl. area code)	Position/Title/Type of Business	Business Phone (incl. area code)

V. MONTHLY INCOME AND COMBINED HOUSING EXPENSE INFORMATION

Gross Monthly Income	Borrower	Co-Borrower	Total	Combined Monthly Housing Expense	Present	Proposed
Base Empl. Income*	$	$	$	Rent	$	
Overtime				First Mortgage (P&I)		$
Bonuses				Other Financing (P&I)		
Commissions				Hazard Insurance		
Dividends/Interest				Real Estate Taxes		
Net Rental Income				Mortgage Insurance		
Other (before completing, see the notice in "described other income," below)				Homeowner Assn. Dues		
				Other:		
Total	$	$	$			
				Total	$	$

*** Self Employed Borrower(s) may be required to provide additional documentation such as tax returns and financial statements.**

Describe Other Income *Notice:* Alimony, child support, or separate maintenance income need not be revealed if the Borrower (B) or Co-Borrower (C) does not choose to have it considered for repaying this loan.

B/C		Monthly Amount
		$

VI. ASSETS AND LIABILITIES

This Statement and any applicable supporting schedules may be completed jointly by both married and unmarried Co-Borrowers if their assets and liabilities are sufficiently joined so that the Statement can be meaningfully and fairly presented on a combined basis; otherwise, separate Statements and Schedules are required. If the Co-Borrower section was completed about a non-applicant spouse or other person, this Statement and supporting schedules must be completed about that spouse or other person also.

Completed ☐ Jointly ☒ Not Jointly

ASSETS Description	Cash or Market Value
Cash deposit toward purchase held by: **Application Deposit Earnest Money**	$

Liabilities and Pledged Assets. List the creditor's name, address, and account number for all outstanding debts, including automobile loans, revolving charge accounts, real estate loans, alimony, child support, stock pledges, etc. Use continuation sheet, if necessary. Indicate by (*) those liabilities which will be satisfied upon sale of real estate owned or upon refinancing of the subject property.

Assets	Cash or Market Value	LIABILITIES	Monthly Payment & Months Left to Pay	Unpaid Balance
List checking and savings accounts below Name and address of Bank, S&L, or Credit Union		Name and address of Company	$ Payment/Months	$
Acct. no.	$	Acct. no.	/	
Name and address of Bank, S&L, or Credit Union		Name and address of Company	$ Payment/Months	$
Acct. no.	$	Acct. no.	/	
Name and address of Bank, S&L, or Credit Union		Name and address of Company	$ Payment/Months	$
Acct. no.	$	Acct. no.	/	
Name and address of Bank, S&L, or Credit Union		Name and address of Company	$ Payment/Months	$
Acct. no.	$	Acct. no.	/	
Stocks & Bonds (Company name/number & description)	$	Name and address of Company	$ Payment/Months	$
		Acct. no.	/	
		Name and address of Company	$ Payment/Months	$
Life insurance net cash value Face amount: $	$	Acct. no.	/	
		Name and address of Company	$ Payment/Months	$
Subtotal Liquid Assets	**$**			
Real estate owned (enter market value from schedule of real estate owned)	$			
Vested interest in retirement fund	$	Acct. no.	/	
Net worth of business(es) owned (attach financial statement)	$	Alimony/Child Support/Separate Maintenance Payments Owed to:	$	
Automobiles owned (make and year)	$			
Other Assets (itemize) **Furniture/Personal Property**	$	Job-Related Expense (child care, union dues, etc.)	$	
		Total Monthly Payments	$	
Total Assets a.	$	**Net Worth (a minus b)** ➔ $	**Total Liabilities b.**	$

VI. ASSETS AND LIABILITIES (cont.)

Schedule of Real Estate Owned (If additional properties are owned, use continuation sheet.)

Property Address (enter S if sold, PS if pending sale or R if rental being held for income)	Type of Property	Present Market Value	Amount of Mortgages & Liens	Gross Rental Income	Mortgage Payments	Insurance Maintenance, Taxes & Misc.	Net Rental Income
		$	$	$	$	$	$
	Totals	$	$	$	$	$	$

List any additional names under which credit has previously been received and indicate appropriate creditor name(s) and account number(s):

Alternate Name	Creditor Name	Account Number

VII. DETAILS OF TRANSACTION

a. Purchase price	$
b. Alterations, improvements, repairs	
c. Land (if acquired separately)	
d. Refinance (incl. debts to be paid off)	
e. Estimated prepaid items	
f. Estimated closing costs	
g. PMI, MIP, Funding Fee	
h. Discount (if Borrower will pay)	
i. Total costs (add items a through h)	
j. Subordinate financing	
k. Borrower's closing costs paid by Seller	
l. Other Credits (explain) **Application Deposit** **Earnest Money**	
m. Loan amount (exclude PMI, MIP, Funding Fee financed)	
n. PMI, MIP, Funding Fee financed	
o. Loan amount (add m & n)	
p. Cash from/to Borrower (subtract j, k, l & o from i)	

VIII. DECLARATIONS

If you answer "Yes" to any questions a through i, please use continuation sheet for explanation.	Borrower Yes	Borrower No	Co-Borrower Yes	Co-Borrower No
a. Are there any outstanding judgments against you?	☐	☐	☐	☐
b. Have you been declared bankrupt within the past 7 years?	☐	☐	☐	☐
c. Have you had property foreclosed upon or given title or deed in lieu thereof in the last 7 years?	☐	☐	☐	☐
d. Are you a party to a lawsuit?	☐	☐	☐	☐
e. Have you directly or indirectly been obligated on any loan which resulted in foreclosure, transfer of title in lieu of foreclosure, or judgment? (This would include such loans as home mortgage loans, SBA loans, home improvement loans, educational loans, manufactured (mobile) home loans, any mortgage, financial obligation, bond, or loan guarantee. If "Yes," provide details, including date, name and address of Lender, FHA or VA case number, if any, and reasons for the action.)	☐	☐	☐	☐
f. Are you presently delinquent or in default on any Federal debt or any other loan, mortgage, financial obligation, bond, or loan guarantee? If "Yes," give details as described in the preceding question.	☐	☐	☐	☐
g. Are you obligated to pay alimony, child support, or separate maintenance?	☐	☐	☐	☐
h. Is any part of the down payment borrowed?	☐	☐	☐	☐
i. Are you a co-maker or endorser on a note?	☐	☐	☐	☐
j. Are you a U.S. citizen?	☐	☐	☐	☐
k. Are you a permanent resident alien?	☐	☐	☐	☐
l. **Do you intend to occupy the property as your primary residence?** If "Yes," complete question m below.	☐	☐	☐	☐
m. Have you had an ownership interest in a property in the last three years?	☐	☐	☐	☐
(1) What type of property did you own - principal residence (PR), second home (SH), or investment property (IP)?				
(2) How did you hold title to the home—solely by yourself (S), jointly with your spouse (SP), or jointly with another person (O)?				

IX. ACKNOWLEDGMENT AND AGREEMENT

Each of the undersigned specifically represents to Lender and to Lender's actual or potential agents, brokers, processors, attorneys, insurers, servicers, successors and assigns and agrees and acknowledges that (1) the information provided in this application is true and correct as of the date set forth opposite my signature and that any intentional or negligent misrepresentation of this information contained in this application may result in civil liability, including monetary damages, to any person who may suffer any loss due to reliance upon any misrepresentation that I have made on this application, and/or in criminal penalties including, but not limited to, fine or imprisonment or both under the provisions of Title 18, United States Code, Sec. 1001, et seq.; (2) the loan requested pursuant to this application (the "Loan") will be secured by a mortgage or deed of trust on the property described in this application; (3) the property will not be used for any illegal or prohibited purpose or use; (4) all statements made in this application are made for the purpose of obtaining a residential mortgage loan; (5) the property will be occupied as indicated in this application; (6) the Lender, its servicers, successors or assigns may retain the original and/or an electronic record of this application, whether or not the Loan is approved; (7) the Lender and its agents, brokers, insurers, servicers, successors, and assigns may continuously rely on the information contained in the application, and I am obligated to amend and/or supplement the information provided in this application if any of the material facts that I have represented herein should change prior to closing of the Loan; (8) in the event that my payments on the Loan become delinquent, the Lender, its servicers, successors or assigns may, in addition to any other rights and remedies that it may have relating to such delinquency, report my name and account information to one or more consumer reporting agencies; (9) ownership of the Loan and/or administration of the Loan account may be transferred with such notice as may be required by law; (10) neither Lender nor its agents, brokers, insurers, servicers, successors or assigns has made any representation or warranty, express or implied, to me regarding the property or the condition or value of the property; and (11) my transmission of this application as an "electronic record" containing my "electronic signature," as those terms are defined in applicable federal and/or state laws (excluding audio and video recordings), or my facsimile transmission of this application containing a facsimile of my signature, shall be as effective, enforceable and valid as if a paper version of this application were delivered containing my original written signature.

Acknowledgement. Each of the undersigned hereby acknowledges that any owner of the Loan, its servicers, successors and assigns, may verify or reverify any information contained in this application or obtain any information or data relating to the Loan, for any legitimate business purpose through any source, including a source named in this application or a consumer reporting agency.

Borrower's Signature	Date	Co-Borrower's Signature	Date
X		X	

X. INFORMATION FOR GOVERNMENT MONITORING PURPOSES

The following information is requested by the Federal Government for certain types of loans related to a dwelling in order to monitor the lender's compliance with equal credit opportunity, fair housing and home mortgage disclosure laws. You are not required to furnish this information, but are encouraged to do so. The law provides that a lender may not discriminate either on the basis of this information, or on whether you choose to furnish it. If you furnish the information, please provide both ethnicity and race. For race, you may check more than one designation. If you do not furnish ethnicity, race, or sex, under Federal regulations, this lender is required to note the information on the basis of visual observation and surname if you have made this application in person. If you do not wish to furnish the information, please check the box below. (Lender must review the above material to assure that the disclosures satisfy all requirements to which the lender is subject under applicable state law for the particular type of loan applied for.)

	BORROWER	CO-BORROWER
	☐ I do not wish to furnish this information.	☐ I do not wish to furnish this information.
Ethnicity:	☐ Hispanic or Latino ☐ Not Hispanic or Latino	☐ Hispanic or Latino ☐ Not Hispanic or Latino
Race:	☐ American Indian or Alaska Native ☐ Asian ☐ Black or African American ☐ Native Hawaiian or Other Pacific Islander ☐ White	☐ American Indian or Alaska Native ☐ Asian ☐ Black or African American ☐ Native Hawaiian or Other Pacific Islander ☐ White
Sex:	☐ Female ☐ Male	☐ Female ☐ Male

To be Completed by Interviewer	Interviewer's Name (print or type)	Name and Address of Interviewer's Employer
This application was taken by: ☐ Face-to-face interview ☐ Mail ☐ Telephone ☐ Internet	Interviewer's Signature — Date Interviewer's Phone Number (incl. area code)	**CommunityWorks North Dakota** **200 First Ave NW** **Mandan, ND 58554**

Continuation Sheet/Residential Application

Use this continuation sheet if you need more space to complete the Residential Loan Application. Mark **B** for Borrower or **C** for Co-Borrower.	Borrower:	Agency Case Number:
	Co-Borrower:	Lender Case Number:

Borrower	Co-Borrower
Former Address (street, city, state, ZIP) ☐ Own ☐ Rent _______ No. Yrs.	Former Address (street, city, state, ZIP) ☐ Own ☐ Rent _______ No. Yrs.
Former Address (street, city, state, ZIP) ☐ Own ☐ Rent _______ No. Yrs.	Former Address (street, city, state, ZIP) ☐ Own ☐ Rent _______ No. Yrs.
Former Address (street, city, state, ZIP) ☐ Own ☐ Rent _______ No. Yrs.	Former Address (street, city, state, ZIP) ☐ Own ☐ Rent _______ No. Yrs.

Name & Address of Employer ☐ Self Employed	Dates (from-to) / Monthly Income $	Name & Address of Employer ☐ Self Employed	Dates (from-to) / Monthly Income $
Position/Title/Type of Business	Business Phone (incl. area code)	Position/Title/Type of Business	Business Phone (incl. area code)
Name & Address of Employer ☐ Self Employed	Dates (from-to) / Monthly Income $	Name & Address of Employer ☐ Self Employed	Dates (from-to) / Monthly Income $
Position/Title/Type of Business	Business Phone (incl. area code)	Position/Title/Type of Business	Business Phone (incl. area code)
Name & Address of Employer ☐ Self Employed	Dates (from-to) / Monthly Income $	Name & Address of Employer ☐ Self Employed	Dates (from-to) / Monthly Income $
Position/Title/Type of Business	Business Phone (incl. area code)	Position/Title/Type of Business	Business Phone (incl. area code)

I/We fully understand that it is a Federal crime punishable by fine or imprisonment, or both, to knowingly make any false statements concerning any of the above facts as applicable under the provisions of Title 18, United States Code, Section 1001, et seq.

Borrower's Signature	Date	Co-Borrower's Signature	Date
X		X	

Seaquis Capital, Inc.

Creative Real Estate Soluations

Real Estate Note
Quote Request Form

Instructions: Fill out both pages as completely as possible. Your real estate documents will contain most of the information you need to fill this form out. Please do not forget to fill out your name and telephone number! After completetion, fax or e-mail it to us along with copies of your documents. Call if you get stuck: 480-213-5251.

From: ______________________________

Phone: ________________ **Fax:** ________________

Property Address & Description (Sq. Ft., 3 of BR, BA): ________________

____

____

Legal Description: ______________________________

____

____

Property Type:

- ☐ Owner Occupied House
- ☐ Rental House
- ☐ Multi-Family Dwelling
- ☐ Commercial Property
- ☐ Land? If so, if it:
- ☐ Recreational Land?
- ☐ Raw Land?
- ☐ Improved; Ready-To-Build-Upon Land?
- ☐ Other? Explain: ______________________________

Selling Price: $ ________ **Current Value of Property:** $ ________

Down Payment $ ________ **Payer Name(s):** ________________

____

1st Lien Amount $ ________ **Payer(s) SS#:** ________________

____

2nd Lien Amount $ ________ **Payer(s) Employer:** ________________

____

	1st Position Note:	2nd Position Note
Date Mortgage Was Created:		
Original Balance:	$	$
Interest Rate:	%	%
Length of Loan:		
Exact Payment Amount (P&I):	$	$
Date of First Payment:		
Date of Next Payment:		
Balloon Date, if Applicable:		
Balloon Amount, if Applicable:	$	$
Number of Payments Made:		
Number of Payments Left:		
Current Balance:	$	$
Any late payments? If so, how many?		

How much of your note are you thinking about selling (there are many options)?

If this note will be purchased as a Junion position, what is the outstanding balance of the senior position?

Seaquis Capital, Inc.

Creative Real Estate Soluations

7360 East Camino Santo

Scottsdale, Arizona 85260

Office: 480-213-5251; Fax: 480-596-3991

www.seaquiscapital.com; info@seaquiscapital.com

RESIDENTIAL PROPERTY INFORMATION WORKSHEET

1. WHAT WAS THE PREVIOUS SALE DATE AND PRICE? ______

2. WHAT ITEMS, IF ANY, NEED REPAIR? ______ ESTIMATED COST? ______

3. DESCRIBE THE NEIGHBORHOOD ______

   A. Predominately owner-occupied, rental, commercial, etc. ______

   B. Describe any adverse conditions (i.e., crime, drugs, street gangs, transients, etc.) ______

   ______

   C. Are buildings in the area fully occupied? ______

   D. If not, are they abandoned or boarded up? ______

4. WHAT IS HAPPENING IN THE COMMUNITY? ______

   A. Is it improving, and why? ______

   B. Are values going down, and why? ______

5. FULLY DESCRIBE THE PROPERTY. ______

   A. Lot and building size? ______

   B. Outbuildings? ______

   C. Landscaping? ______

   D. Age of building(s)? ______

   E. Heating/cooling system(s)? ______

   F. Water system(s)? ______

   G. Sewage system? ______

   H. Conforming or non-conforming? ______

   I. Describe parking (i.e., off-street, garage, carport, etc.) ______

   J. How recently painted or re-roofed? ______

   K. Describe floor covering and age ______

   L. Electrical service (i.e., 200 amps, etc.)? ______

   M. Basement (i.e., finished, etc.)? ______

   N. Describe interior (i.e., number of rooms, bedrooms, baths, etc.)? ______
   When possible, include pictures (i.e., buildings, street scenes, houses on each side)

   O. Type of foundation? ______

   P. Owner occupied? ______

   Q. Rent amounts, if applicable? ______

The Truth-in-Lending Act is aimed at promoting the informed use of consumer credit by requiring disclosures about terms and costs.

SAMPLE TRUTH-IN-LENDING DISCLOSURE STATEMENT

(THIS IS NEITHER A CONTRACT NOR A COMMITMENT TO LEND)

Applicants:
Property Address:
Application No:

Because you may be paying points and other fees, the APR disclosed is often higher than the interest rate on your loan. The APR can be compared to other loans to give you a fair method of comparing prices.

Prepared By:

Date Prepared:

The mortgage amount minus prepaid finance charges (loan origination fees, points, adjusted interest and initial mortgage insurance premium) and any required balance. It represents a net figure to allow you to accurately assess the amount of credit actually provided.

ANNUAL PERCENTAGE RATE	**FINANCE CHARGE**	**AMOUNT FINANCED**	**TOTAL OF PAYMENTS**
The cost of your credit as a yearly rate	The dollar amount the credit will cost you	The amount of credit provided to you or on your behalf	The amount you will have paid after making all payments as scheduled
%	$	$	$

The estimated total amount you will have paid, including principal, interest, prepaid finance charges and mortgage insurance, if you make minimum payments for the entire loan term.

REQUIRED DEPOSIT: The annual percentage rate does not take into account your required deposit

PAYMENTS: Your payment schedule will be:

Number of Payments	Amount of Payments**	When Payments Are Due	Number of Payments	Amount of Payments**	When Payments Are Due	Number of Payments	Amount of Payments**	When Payments Are Due
		Monthly Beginning:			Monthly Beginning:			Monthly Beginning:

Principal, interest and mortgage insurance if applicable.

The estimated total amount of interest payments for the term of the loan, the amount of interest paid at closing, origination fee and any other charges paid to the lender.

Defines circumstances under which the remaining principal and interest amount of the loan is due and payable on demand.

DEMAND FEATURE: This obligation has a demand feature.

VARIABLE RATE FEATURE: This loan has a variable rate feature. A variable rate disclosure has been provided earlier.

CREDIT LIFE/CREDIT DISABILITY: Credit life insurance and credit disability insurance are not required to obtain credit, and will not be provided unless you sign and agree to pay the additional cost.

Type	Premium	Signature	
Credit Life		I want credit life insurance.	Signature:
Credit Disability		I want credit disability insurance.	Signature:
Credit Life and Disability		I want credit life and disability insurance.	Signature:

INSURANCE: The following insurance is required to obtain credit:

Credit life insurance Credit disability Property insurance Flood insurance

You may obtain the insurance from anyone you want that is acceptable to creditor

If you purchase property flood insurance from creditor you will pay $ for a one year term.

SECURITY: You are giving a security interest in:

The goods or property being purchased Real property you already own

FILING FEES: $ ***An estimate of the cost of recording the legal documents (mortgage or deed of trust) connected with the transaction, which will be charged at closing.***

LATE CHARGE: If a payment is more than days late, you will be charged % of the payment

Defines whether a fee will be charged and if you would be eligible for a refund if you wish to repay part or all of the loan in advance of the regular schedule. If you are not entitled to a refund, you will be charged interest for the period of time you used the money loaned to you. Your prepaid finance charges and any interest already paid are generally not refundable. If you pay the loan off early, you should not have to pay the full amount of the finance charges shown on the disclosure.

PREPAYMENT: If you pay off early, you

may will not have to pay a penalty.

may will not be entitled to a refund of part of the finance charge.

Defines whether or not the loan can be passed on from a seller of a home to another buyer, where the buyer "assumes" all outstanding payments.

ASSUMPTION: Someone buying your property

may may, subject to condition may not assume the remainder of your loan on the original terms.

See your contract documents for any additional information about nonpayment, default, any required repayment in full before the scheduled date and prepayment refunds and penalties.

** NOTE: The Payments shown above include reserve deposits for mortgage insurance (if applicable), but exclude property taxes and insurance.

THE UNDERSIGNED ACKNOWLEDGES RECEIVING A COMPLETED COPY OF THIS DISCLOURE.

Lenders are required by law to provide the information on this statement in a timely manner. Your signature merely indicates that you received this information and does not obligate you or the lender in any way.

(Applicant) (Date)

(Lender) (Date)

The Real Estate Settlement Procedures Act (RESPA) is designed to inform consumers when shopping for a mortgage loan by disclosing the estimated costs associated with obtaining the loan.

SAMPLE GOOD FAITH ESTIMATE

Applicants: | Application No:
Property Address: | Date Prepared:
Prepared By: | Loan Program:

The information provided below reflects estimates of the charges that you are likely to incur at the settlement of your loan. The fees listed are estimates - actual charges may be more or less. Your transaction may not involve a fee for every item listed. The numbers listed beside the estimates generally correspond to the numbered lines contained in the HUD-1 settlement statement, which you will be receiving at settlement. The HUD-1 settlement statement will show you the actual cost for items paid at settlement.

Total Loan Amount $ | Interest Rate: % | Term: mths

800	ITEMS PAYABLE IN CONNECTION WITH LOAN:			PFC S F POC
801	Loan Origination Fee	$		
802	Loan Discount			
803	Appraisal Fee			
804	Credit Report			
805	Lender's Inspection Fee			
808	Mortgage Broker Fee			
809	Tax Related Service Fee			
810	Processing Fee			
811	Underwriting Fee			
812	Wire Transfer Fee			
1100	TITLE CHARGES:			PFC S F POC
1101	Closing or Escrow Fee:	$		
1105	Document Preparation Fee			
1106	Notary Fees			
1107	Attorney Fees			
1108	Title Insurance:			
1200	GOVERNMENT RECORDING & TRANSFER CHARGES:			PFC S F POC
1201	Recording Fees:	$		
1202	City/County Tax/Stamps:			
1203	State Tax/Stamps:			
1300	ADDITIONAL SETTLEMENT CHARGES:			PFC S F POC
1302	Pest Inspection	$		
	Estimated Closing Costs			
900	ITEMS REQUIRED BY LENDER TO BE PAID IN ADVANCE:			PFC S F POC
901	Interest for days @ $ per day	$		
902	Mortgage Insurance Premium			
903	Hazard Insurance Premium			
904				
905	VA Funding Fee			
1000	RESERVES DEPOSITED WITH LENDER:			PFC S F POC
1001	Hazard Insurance Premium months @ $ per month	$		
1002	Mortgage Ins. Premium Reserves months @ $ per month			
1003	School Tax months @ $ per month			
1004	Taxes and Assessment Reserves months @ $ per month			
1005	Flood Insurance Reserves months @ $ per month			
	Estimated Prepaid Items/Reserves			
TOTAL ESTIMATED SETTLEMENT CHARGES				
		$		

PFC= Prepaid Finance Charge (fees that affect the APR)

S= Seller Paid

F= FHA Allowable Fees

POC= Paid Outside of Closing

Elements of your projected loan payments (interest, taxes and insurance) that must be prepaid to establish the escrow account and the loan schedule.

TOTAL ESTIMATED FUNDS NEEDED TO CLOSE:		TOTAL ESTIMATED MONTLY PAYMENT:		
Purchase Price/Payoff (+)		New First Mortgage (-)	Principal & Interest	
Loan Amount (-)		Sub Financing (-)	Other Financing (P & I)	
Est. Closing Costs (+)		New 2nd Mtg Closing Costs (+)	Hazard Insurance	
Est. Prepaid Items/Reserves (+)			Real Estate Taxes	
Amount Paid by Seller (-)			Mortgage Insurance	
			Homeowner Assn. Dues	
			Other	
Total Est. Funds needed to close			**Total Monthly Payment**	

These estimates are provided pursuant to the Real Estate Settlement Procedures Act of 1974, as amended (RESPA). Additional information can be found in the HUD Special Information Booklet, which is to be provided to you by your mortgage broker or lender, if your application is to purchase residential real estate property and the lender will take a first lien on the property. The undersigned acknowledges receipt of the booklet "Settlement Costs," and if applicable the Consumer Handbook on ARM Mortgages.

Applicant ____________ Date ____________ Applicant ____________ Date ____________