

ADVISORY REGARDING SELLER-CARRIED TRANSACTIONS

1 **1. DEFINITION OF SELLER-CARRIED TRANSACTION:** A Seller-Carried Transaction is a transaction for the sale of property where the seller, at
2 closing:

- 3 (a) takes back a land sale contract or promissory note and trust deed securing repayment of some or all of the purchase price; or
4 (b) enters into an arrangement, however designated, in which the buyer will pay the seller some, or all, of the purchase price over time.

5 **2. UNDERSTANDING THE RISKS ASSOCIATED WITH A SELLER-CARRIED TRANSACTION:** When the lender is a bank or other financial
6 institution, the lender performs a number of tasks that may be unfamiliar to sellers who become lenders. For example, financial institutions:

- 7 (a) investigate the creditworthiness of a borrower;
8 (b) require the buyer to purchase a lender's policy of title insurance;
9 (c) send notices when payments are not received on time;
10 (d) revise loan amortization schedules to reflect late payments and prepayments;
11 (e) enforce loan covenants such as the requirement to maintain property and liability insurance and pay property taxes; and
12 (f) remove their liens from the county's real estate title records when the loan is paid off.

13 Sellers may be unwilling or unable to perform one or more of these tasks. If a seller does not remove a lien from title, a buyer may be unable to sell
14 their property without filing a lawsuit to remove the lien.

15 **3. ENSURING BUYER CREDITWORTHINESS:** Sellers can contact employers, credit references, and credit reporting agencies (such as Equifax,
16 Experian, and TransUnion), and review the buyer's balance sheet, income statement, and tax and other financial information to determine whether a
17 buyer is creditworthy.

18 **4. INVESTIGATING TITLE ISSUES AND TRACKING PAYMENTS:** The title company can provide a lender's title insurance policy as instructed by
19 the parties. A "collection escrow" or "payment escrow" can receive and disburse loan payments, keep track of loan balances, and hold signed
20 documents that will release a lien when the final payment is received. Sellers can require borrowers to provide proof of insurance, insurance renewals,
21 and property tax payments. Although most of these tasks protect sellers, a collection escrow is vital to both parties.

22 **5. USING A MORTGAGE LOAN ORIGINATOR:** A Mortgage Loan Originator ("MLO") is not required for loans on commercial properties. Offering or
23 negotiating financing terms of a residential mortgage loan including one-to-four-family dwellings must, under certain circumstances, be performed by
24 an MLO. If the Property is a one-to-four-family dwelling, reference OREF 032 – Advisory Regarding Seller-Carried Transactions.

25 Client _____ Print _____ Date _____ a.m. p.m. ←

26 Client _____ Print _____ Date _____ a.m. p.m. ←