

## **Seller Financing**

With the recent increase in interest rates, buyers and sellers have been seeking increasingly creative ways to finance real estate transactions. This presentation will discuss some of the most common seller financing arrangements that a title company can expect to encounter. We will also introduce several non-traditional seller financing schemes that have appeared in the marketplace in recent years so that title companies will be prepared to determine how, or even if, they can provide title insurance coverage.

### **I. Free and Clear Properties**

#### **A. Mortgage**

1. Insuring the Lender
  
2. Pros and Cons for Buyer and Seller
  - a. Loan Servicing
  
  - b. Foreclosure
  
  - c. Judgment Liens
  
  - d. Release

#### **B. Trust Indenture/Deed of Trust**

1. Insuring the Lender
  - a. 40 acres or less
  
2. Pros and Cons for Buyer and Seller
  - a. Loan Servicing
  
  - b. Foreclosure
  
  - c. Judgment Liens
  
  - d. Release

#### **C. Contract for Deed**

1. Insuring the Buyer
  
2. Pros and Cons for Buyer and Seller
  - a. Long-Term Escrow
  
  - b. Default
  
  - c. Judgment Liens

## **II. Properties with Existing Encumbrances**

### **A. Assumptions**

1. Lender Involved
  - a. Assumption Agreement or Status Letter
  - b. New or continuing Lender coverage
  - c. Pros and Cons for Buyer and Seller
2. Silent
  - a. Due on Sale Clause
  - b. Disclaimer/Indemnity
  - c. Exceptions
  - d. Pros and Cons for Buyer and Seller

### **B. All-Inclusive aka "Wrap"**

1. Due on Sale Clause
2. Disclaimer/Indemnity
3. Exceptions
4. Pros and Cons for Buyer and Seller
5. Recent Claim Scenario

### **C. "Subject to" sales**

1. Due on Sale Clause
2. Disclaimer/Indemnity
3. Exceptions
4. Possible Equity Skimming and other scenarios to avoid

## **III. Advanced Scenarios**

### **A. Assignment aka "Wholesale" Transactions**

### **B. Double Sale**