

2-24-2010

The Best Method of Doing Deals With No Money, No Credit and No Risk

I get the question from newbies and especially realtors® all the time, “Is it really possible to legally do deals with no money, no credit and no risk?” Realtors® tend to believe that it is frankly impossible to do real estate transactions without borrowing money or having cash to close a deal. Actually, there are many ways to do deals with no money, no credit and no risk including the more common ones: options, “subject to” (special situations and changing laws may apply), owner financing (new regulations may apply), combo of owner financing and subject to, partnership agreements with sellers, and an assignment of contract.

For the “execto-mos” out there – yes, we do a \$100 deposit but you could use a \$1.00 deposit if you wanted. Just remember if you are in competition with a professional investor, he will be putting up \$100 so how will that look against your measly \$1.00 deposit? The answer is ten thousand times better! So for the picky readers, yes, there is a cost to doing a deal (deposit) but I consider a \$100 no serious money when the return will be tens of thousands of dollars, or millions of dollars over the years.

The purest form of doing these deals is using an Assignment of Contract. This is an agreement (contract) between two or more parties that simply states that the end-buyer will step into the investor’s position as buyer of a particular property and complete the terms of the original Purchase and Sales Agreement. There could be five investors each behind one another (daisy chained) in a transaction, but ultimately there is only one end-buyer who pays the original seller for the property and any investors involved.

In most states, any contract is assignable unless it specifically states otherwise. If or when you write the contract you add to the buyer’s name “and/or Assigns” and the contract stipulates it is not assignable elsewhere in the contract, you have just created a “contract ambiguity”. If the contract is challenged in court, often but not always, the judge will side with the seller, so read anything you send to a buyer or seller so you know what you are getting into contractually or it could be a really big surprise later.

Let’s examine the life cycle of a “sample” deal where the seller is a homeowner and he agrees to sell his home to an investor for a specific price, let’s assume \$100,000 for this example. Let’s further assume that the contract will also stipulate a closing date of 30 days away from the date of the signing of the contract and the buyer must close with cash and no contingency for funding (financing) the deal. The investor may have agreed to who pays what closing costs such as title insurance and possibly even all the closing costs to get the deal. Immediately upon the seller signing the contract, the investor uses his or other investors’ buyers lists to find an end-buyer for the property at a markup of say \$10,000 for a purchase price of \$110,000.

The end-buyer “steps into the shoes” of the investor because he has to comply with the terms of the investor’s contract, including the purchase price, closing date, funding, and closing costs that were previously agreed upon. The contract price for the property remains at \$100,000 but on the closing statement (HUD-1) there is an entry on the end-buyer’s side that is for \$10,000 as an Assignment Fee.

The closing agent is given written instructions prior to the closing and the actual Assignment of Contract so he knows how to make the check out – just as a realtor® would be cut a check for his commission at the closing. However, this profit spread is for the sale of an “equitable interest” in the property and is not a commission. The end-buyer should have given the investor a deposit for the Assignment of Contract and let’s assume further that it was for \$3,000. The HUD-1 Statement would reflect the Assignment Fee of \$10,000 and another entry would give the end-buyer a credit on the HUD-1 for the \$3,000 deposit. This amount would have the letters “POC” in the description meaning it was Paid Outside of Closing and to whom – in this case it should have been paid directly to the investor who got the original contract from the seller.

The non-refundable deposit for the Assignment of Contract is very important if the end-buyer doesn’t close because the investor can still make money on the deal. In the above example, if the investor gave the homeowner a \$100 deposit and the end-buyer didn’t close the investor would still make $\$3,000 - \$100 = \$2,900$ on the deal that required no money (\$100), no credit and no risk outside of the \$100. If you read most standard real estate purchase and sale contracts, they generally stipulate that the buyer is only liable if he doesn’t close to the extent of his deposit – in this case \$100. However, if the seller doesn’t close he can be liable for extended damages under a Breach of Contract lawsuit.

What if the investor can’t find an end-buyer in time and his closing date is fast approaching? If the investor isn’t familiar with how to automatically extend the contract by contractual language he may be at risk of losing his deposit. One very simple way of getting the date extended is put language in the original contract that allows for an extension in the event of something happening; i.e. buyer’s inability to have his hard money in place timely – denote specifically how much additional time (extension) the seller must allow the buyer.

This is your choice, but I tell the seller that I am not buying the property for myself and am re-selling it for a profit. I go on to explain that the end-buyer may come to the closing late because of inspections or getting his funding in place and I may need a few extra days to close. Be truthful with the seller and never tell him the people that will be coming to see the property are “inspectors” because one of these investor/investors will talk to the seller about dealing with him directly and you likely lose the deal. Remember, we don’t want to have to close using

our money, most likely because you don't have any, don't want to risk yours, or can't find a hard money lender who will finance the purchase.

When the transaction is completed the investor will make a net profit of \$10,000 plus he will get back his deposit of \$100. This "return of deposit" is often overlooked by newbie investors especially if the amount is \$100 or less, but you are entitled to it if you made it to the closing and/or the escrow agent.

What happens if the end-buyer decides not to close? You have choices, if the property is a deal; you can immediately start reselling it and go through the closing process again – assuming the seller is with you. In a really problematic situation if there is a lot of equity, you could offer to partner with the seller if he extends your closing date or just offer him an additional \$500 - \$1,000 extra for another 30 days – payable at closing since we don't want money in the deal.

So anyone who wants to be an investor and thinks he has a deal can simply have the homeowner sign a Purchase and Sale Contract and start looking for a buyer. It is best to get a buyer's list in place to find them first, but you can always go to a local REIA or online to Craigslist.com to find your buyer. Have them sign an Assignment of Contract with a deposit of 2% - 5% of the purchase price, and go to closing to get a check. No money (\$100), no credit checks and lender requirements, and no risk (\$100). So, what are you waiting for to get started?

To Your limitless success,
Dave Dinkel