Legal Considerations

The mobile home investment business is one of the best businesses you could possibly start. This business eliminates dozens of challenges you might face building any other business. You won't need a website, software program, employees, social media accounts, office, employees, and a great deal more.

However, there are some important considerations to understand as you proceed forward in building this business. I'll outline these for you in this short guide. It is important for you to understand I AM NOT AN ATTORNEY and I'm not offering any legal advice.

My goal is for you to research and review these considerations as they apply to your own goals. You should discuss these issues with an experienced attorney.

Dealers License:

Depending on your own personal business goals, you may need to get a Dealers License to buy and sell mobile homes. Every state is different and it's best to simply Google the requirements for your state. Google – Mobile home dealers license YOUR STATE. Most states have certain thresholds on the number of transactions before a Dealer License is required.

Dodd-Frank Requirements:

In January 2014, the Dodd-Frank rules were signed into law. These rules impact how mobile homes are sold with owner financing.

When we sell a mobile home with financing, the Dodd-Frank rules consider us as "lenders" and we have certain disclosure requirements for the loan. Also, Truth-in-Lending applies in consumer credit transactions to persons who regularly extend credit. As you will be regularly extending credit with each mobile home investment, you'll need to follow these rules for your business.

The Dodd-Frank rules were initiated to protect consumers. The rules have specific underwriting criteria for you to follow. From what I understand, these are the guidelines:

1. You cannot sell a mobile home with a balloon loan. This means the loan must fully amortize until paid off so the buyer isn't forced to refinance the loan. None of my loans have balloon payments.

2. The interest rate is fixed for at least 5 years. (The rate can adjust after the first five years.) All of my interest rates are fixed for the entire term of the loan.

3. You must qualify the buyer. The buyer must have a debt-to-income ratio not higher than 43%. The buyer must have current income of sufficient level to cover the monthly

payment, their current debt obligations, and any alimony or child support payments. Also, you should review of their credit history.

4. The seller of the mobile home hasn't constructed the home or hasn't acted as the main contractor in the construction of the mobile home.

These requirements aren't too complicated. I qualify all my buyers and wouldn't sell a home to an unqualified buyer. It would end up costing me more money to evict the person and fix up the home.

Truth-in-lending requires disclosing the interest rate, annual percentage rate (APR), total interest paid, and total payment made. The forms you use to sell your mobile homes must include this information to be compliant.

The Safe Act

The Safe Act requires licensing and registration of loan originators. The definition of loan originators includes sellers doing owner financing where the buyer lives in the property as their primary residence. Each state has different variations of how this act is applied. However, in general, this Act requires us to use a licensed mortgage loan originator to handle the paperwork for the loan. The licensed mortgage loan originator must take the application from the buyer and draw up the documents (Good Faith Estimate, Truth in Lending, etc.)

Different states offer different exemptions to the Safe Act allowing a certain number of transactions each year without having to have a licensed mortgage originator to process the paperwork. As an example, one state may provide an exemption for three deals a year. This would mean that an investor (in this state) could buy and resell three owner financed mobile homes a year without needing a mortgage originator.

There doesn't seem to be any consensus as to if the Safe Act applies to different companies. Many investors use multiple entities to buy their mobile homes in order to remain compliant with the Safe Act without having to use a mortgage loan originator.

For example, if your state allows 3 transactions a year, you would use different entities to buy your homes structured so each entity only does 3 homes per year. One of the best ways to structure these deals might actually be using Trusts. Possibly consider setting up one land trust for each home. This way each deal is done in a separate entity. This may also help you with liability protection too.

If your plan is to do multiple deals a year, you might actually consider obtaining a mortgage license. This would allow you do act as the licensed mortgage loan originator on all of your deals. Another option might be to hire a mortgage loan originator to do the application and paperwork for your owner financed sales. Workout a flat fee per sale and pass this fee on to your buyer. *(If you're already in real estate, finding a loan originator should be fairly easy and might be the best way to go.)*

As an example, let’s say you pay a licensed mortgage originator $300 per deal to process the paperwork according to the Safe Act, you simply have your buyer pay this fee directly to the mortgage loan officer as part of the purchase of the home.

The easiest setup would be to refer all interested buyers to your loan officer and allow them to qualify the buyers on your behalf and process the paperwork for each sale.

The penalty for violation of the Safe Act seems to be that you might receive a “Cease & Desist” order requiring you to stop doing deals without a licensed mortgage originator. Google “Dodd Frank Safe Act Compliance _ Your State” and you might find companies already doing this service.

Interest Rates

These rules allow you to charge an interest rate 6.5% above the “Average Prime Offer Rate” (APOR) for loans above $50,000 and 9.5% above the “Average Prime Offer Rate” for loans below $50,000. These rates apply to the financing of personal property, which is how mobile homes are titled in many states.

You can find the APOR rate here:

http://www.ffiec.gov/ratespread/aportables.htm

Once you open the spreadsheet look for your loan term across the top and scroll down to the bottom to find the most current APOR rate. As of the date of this writing, the APOR rate for a 7 year loan is:

3.17%

The maximum interest rate I can charge a buyer for a mobile home with a loan under $50,000 is 12.67%. (3.17% plus 9.5%) The maximum interest rate I can charge a buyer for a mobile home with a loan over $50,000 is 9.67%. (3.17% plus 6.5%)

Prepayment Penalty

There are some different rules around prepayment penalties. However, the best course of action is NOT to charge one. I don’t charge a prepayment penalty and would actually love to have someone payoff their home early. I would use the funds to buy another mobile home to replace the lost income stream.

Remember, each area is different and you need to research these considerations as they apply to where you’ll be doing business. Please discuss these issues with an experienced attorney.