

Formal assumptions, WHAT???



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CORRESPONDENCE CLOCKHOURS

INSTRUCTIONS:

1. Print out the class
2. Read the class material
3. At the end of the material there is a quiz (all the answers are in the material that you have read).
4. Answer the questions
5. Return to me the Quiz, evaluation, and a check for the class payable to **CLOCKHOURS BY ANGIE**, or complete your credit/debit card information on the sheet provided, or call me with it at 509-216-3220
6. Upon receipt, I will email you a certificate.

Disclaimer: I try very hard to have the latest known information on a subject in these classes, but, the real estate industry is forever changing with new updates all the time. The class materials are not to be used for legal advice. In our State, some items are handled different in the different regions. If you have any concerns, please do not hesitate to contact me at 509-216-3220 or at clockhoursbyangie@gmail.com

FORMAL ASSUMPTIONS, WHAT?

Curriculum

Session/hours	Topics	Method of Instruction
30 minutes	History of assumptions	Discussion/take notes
30 minutes	Assumption package review	Discussion/take notes
		Discussion/take notes
30 minutes	Application process	Discussion/take notes
30 minutes	The closing statement	Discussion/take notes
30 minutes	Review of 5 closing statements	Discussion/take notes
30 minutes	Assumption of seller Financing	Discussion/take notes

COURSE OBJECTIVE

The students of this class will have a better understanding of “formal assumptions” and how they work. This is a “newer” type of financing now that our interest rates are climbing, those lower interest rates of 2015, 2016, 2017 are looking very attractive to “assume”.

With this additional “tool” in their toolbox, a well-informed agent will have other options to offer their purchasers.

FORMAL ASSUMPTIONS

Assuming a home seller's existing mortgage can be attractive when the rate on that mortgage is well below the current market. Such assumptions have a value that can be shared by the buyer and seller. However, with a few exceptions, conventional loans today must be repaid on sale of the property, and lenders will allow an assumption only at the current market price. FHA and VA loans remain assumable, but the buyer must be approved by the lender.

When a homebuyer assumes responsibility for a home seller's existing mortgage, it is called an "assumption". The buyer assumes all the obligations under the mortgage, just as if the loan had been given to them.

The major driving force behind assumptions is the lower interest rate on the assumed mortgage relative to current market rates. If the home seller has a 2.5% mortgage, for example, and the best the buyer can get in the current market is 5%, both parties can be better off if the buyer assumes the 2.5% loan.

When the market rates are low, we hear little about assumptions. When market rates are well above previous lows, assumptions receive increasing attention.

The benefit to buyer and seller from assuming an old loan comes at the expense of the lender. Instead of having the 2.5% loan repaid, which would allow the lender to convert it into a new 5% loan, the 2.5% stays on the books. Back in the 70's and 80's, lenders couldn't do anything about this. Mortgage notes at that time did not prohibit assumptions, and the courts ruled that lenders could not prevent them.

Following that time frame, lenders have placed due-on-sale clauses in the note. (An exception is FHA and VA mortgages, which do not contain these clauses). These clauses state that if the property is sold the loan must be repaid. Even with a due-on-sale clause, the lender may allow an assumption – keeping the loan on the books avoids the cost of making a new loan, but the interest rate will be raised to the current market rate.

ALLOWABLE ASSUMPTIONS UNDER "GARN-ST. GERMAIN"

Whether a mortgage includes a due-on-sale clause or not, assumptions are explicitly allowable on certain types of transactions under the Garn

-St. Germain Act of 1982. For example, if the title is transferred after a death or a divorce, the mortgage can be assumed by the owner.

HISTORY: THE GARN-ST GERMAIN DEPOSITORY INSTITUTIONS ACT OF 1982

(<https://www.congress.gov/bill/97th-congress/house-bill/6267>). Enacted October 15, 1982) is an Act of Congress that deregulated savings and loan associations and allowed banks to provide adjustable rate mortgage loans. It is disputed whether the act was a mitigating or contributing factor in the savings and loan crisis of the late 1980's. The bill whose full title was "An Act to revitalize the housing industry by strengthening the financial stability of home mortgage lending institutions and ensuring the availability of home mortgage loans," was a Reagan Administration initiative. The bill is named after its sponsors, Congressman Fernand St. Germain, Democrat of Rhode Island, and Senator Jake Garn, Republican of Utah. The bill had broad support in Congress, with co-sponsors including Charles Schumer and Steny Hoyer. The bill passes overwhelmingly, by a margin of 272-91 in the House.

An important consumer change was to allow anyone to place real estate in their own trust without triggering the due-on-sale clause that allows lenders to foreclose on a current loan upon transfer to another. This greatly facilitates the use of trusts to pass property to heirs and minors. It may also protect the property of wealthy or risky owners against the possibility of future lawsuits or creditors, because the trust owns the property, not the individuals at risk. The bill states "... a lender may not exercise its option pursuant to a due-on-sale clause upon.... a transfer into an Inter vivos trust which the borrower is and remains the beneficiary and which does not relate to a transfer of rights of occupancy in the property.*

**Inter vivos*

From Wikipedia, the free encyclopedia

The term is often used to describe a trust established during one's lifetime, i.e., an **Inter vivos trust** as opposed to a **Testamentary trust** which is established on one's death, usually as part of a **will**. An Inter vivos trust is often used synonymously with the more common term **Living trust**, but an Inter vivos trust, by definition, includes both revocable and irrevocable trust.

ASSUMPTIONS USING A "WRAP-AROUND" MORTGAGE

There are cases where the seller and buyer agree to a sale using a wrap-around (also called an "overall contract") without the knowledge of the lender. The seller takes a mortgage from the buyer, which may be for a larger amount than the balance of the old loan, or not, and continues to pay the old mortgage out of the monthly payment proceeds of the new one. The new mortgage "wraps" the old one. This is dangerous business, particularly to the seller, who has given up ownership of the house but retained liability for the mortgage. The seller is in trouble if the buyer fails to pay, or if the lender discovers the sale and demands immediate repayment of the original loan.

NOTE FROM ANGIE:

LIMITATIONS OF LIMITED PRACTICE OFFICERS

If your seller elects to allow his "due on sale" underlying lien be "wrapped" remember that LPO's are not allowed to do this type of transaction. It would need to be done by an attorney as LPO's cannot add the language to the Note/trust deed or Real Estate Contract to accomplish this "wrap" transaction.

ASSUMING FHA and VA MORTGAGES

Loans insured by FHA or guaranteed by VA have always been assumable. During periods when borrowers are concerned about future rate increases, this gives them an edge.

FHA loans closed before December 14, 1989, and VA loans closed before March 1, 1988 were assumable by anyone. It was as simple as if you had a pulse and \$45.00 assumption fee, you could assume the loan! Buyers who assume these mortgages don't have to meet any requirements at all, but the seller remains responsible for the mortgage if the buyer doesn't pay.

Any seller who allows assumption by a buyer without a release of liability from the lender is looking for trouble. Even if the buyer makes timely payments the seller's ability to obtain another mortgage will be prejudiced by his continued liability on the old one. The release of liability from the lender must be in writing.

If an older FHA or VA is attractive to a buyer, the seller can request that the agency underwrite the buyer. If the buyer is approved, the seller will be released from liability.

Assumption of FHA or VA loans closed after the dates shown above require the approval of the buyer by the lender. The process is much the same as it would be for a new borrower. Upon approval of the buyer and the sale of the property, the seller is relieved of the liability. FHA allows lenders to charge a \$500.00 assumption fee and a fee for the credit report. VA allows a \$255.00 processing fee and the VA itself receives a funding fee of ½ of 1% of the loan balance.

NOTE FROM ANGIE:

The lender DOES NOT require a new appraisal. Only the purchaser goes thru the application process, NOT the home.

CERTIFICATE OF ELIGIBILITY ON VA ASSUMPTION:

Letter from lender to seller:

You have requested an assumption of a VA loan which is guaranteed by the seller's entitlement. If you are doing a substitution of entitlement, we must have the original Certificate of Eligibility for both the buyer and seller. Without these, the Veterans Administration will not process the substitution. Your DD-214 does not represent the Certificate of Eligibility. If you have not obtained your Certificate of Eligibility, you may request it at the below VA website.

<https://www.ebenefits.va.gov/ebenefits-portal/ebenefits.portal>

You may obtain this form from your local VA office listed below or by checking your telephone book for the local listing in your area:

Department of Veterans Affairs

VA Regional Loan Center

If Entitlement is not substituted, the veteran's eligibility remains with the property until the loan is paid in full or a qualifying assumption with substitution of entitlement is completed. In the event of default or foreclosure, the veteran may be held liable by the Veterans Administration for any debt incurred. This debt must be paid to retain eligibility or the veteran's entitlement will be forfeited.

ASSUMPTION /RELEASE OF LIABILITY REQUEST FROM EXISTING LENDER

Typically, when a purchaser wants to formally assume an FHA or VA loan one of the following options happens.

Seller contacts their lender and says I have a purchaser who wants to assume my loan will you send me an assumption package. And they do.

OR

Lender will NOT send assumption package and tells seller to have the purchaser contact them and they will do a loan application over the phone, then if pre-qualified, will send out loan package

NOTE FROM ANGIE:

Since “formal assumptions” are just starting to occur as our interest rates go up, most lenders do not have an Assumption Department. It is a “newer” form of financing that few have done or even know about. Lenders typically have a person or persons who take on this task until there is a necessity to have a specific department set up. So, bear in mind, there is a lot of “learning” happening on all ends. Most lenders I have talked to say that a “formal assumption” could take between 4-6 weeks to complete, so you must allow for this time frame also. But, in the end, it will be worth the wait to your purchaser!

Here is a typical letter from a lender on a VA loan

Dear future homeowner applicant:

Thank you for your assumption/release of liability request. The assumption process usually takes four to six weeks to complete.

To expedite the processing of your application, please review the enclosed documents carefully and then sign and return them to our office along with the following items:

Credit report fee \$50.00

Assumption fee \$300.00

Real Estate title fee \$75.00

VA funding fee (1/2 of 1% of the unpaid balance, due at closing)

In addition to the above, we will need:

INCOME:

*Copies of the following Federal Tax returns (including all schedules) Must e re-signed and re-dated with the current date. **Applicable only if you are self-employed or have rental properties***

- *Personal Returns for 2016 and 2017*
- *Business Returns for 2016 and 2017 (if you are self-employed)*

Copies of your latest year-to-date pay stubs for one full month for each source of income. Pay stubs must be dated and no earlier than 30 days prior to application,

Copies of your W-2's and/or 1099's for 2016 and 2017

Copy of most recent award letter for social security, disability or pension benefits. If applicable.

Year-to-date profit and loss statement signed by your accountant, if self-employed.

Letter addressing reasons for employment change if with current employer less than two years.

If using child support income for qualification, provide a 12-month child support ledger from the courthouse or copies of the last twelve (12) months of canceled checks showing receipt of child support.

Copy of complete Divorce Decree/Separation Agreement/Property Settlement Agreement.

Copies of current leases on all investment properties owned.

ASSETS:

Complete copy (all pages) of your most recent bank statement(s) for two (2) consecutive months for each bank account and investment account. Computer generated statements from your bank must be signed by a bank representative. Printed internet statements are acceptable if they have the bank name and balance. (Please include documentation for the source of any large deposits to your accounts.)

CREDIT:

Name, address and phone number for each landlord for the past two years.

If Bankruptcy has been filed within last seven (7) years, copy of the following:

- *Petition*
- *Schedule of debts*
- *Discharge papers*

OTHER:

Subject property must be owner occupied if substituting eligibility.

Copy of your signed purchase contract/offer for this property, signed by all buyers and sellers, stating the amount of equity to be exchanged.

If equity payment for property has been paid prior to application, provide proof of this payment.

Copy of most recent property tax bill and insurance bill for the subject property.

Copy of the listing agreement or sale contract on your present home.

Evidence as to the source of funds used of funds used for down payment and/or assumption fee.

Copies of front and back canceled checks or bank statements showing rent/mortgage payments for the last twelve (12) months.

Copy of Social Security card (all applicants).

Signed 4506 tax Information Authorization and signed W-9 forms(s). Enclosed.

Copy of driver's license, birth certificate, passport or other legal documents verifying date of birth.

Copy of Death certificate, if applicable, and documentation evidencing the assumer(s) has rights to the property i.e. a copy of the Will and Last Testament.

**** The loan must be current PRIOR to the receipt of this Assumption Package. If the Loan becomes delinquent during the review process, the assumption process will automatically be terminated. ***

CLOSING REQUIREMENTS FOR ATTORNEY/TITLE COMPANY: At time of closing

- 1. Copy of the recorded deed transferring title will be required at closing*
- 2. Buyer will be required to furnish evidence of a one (1) year pre-paid hazard insurance policy OR endorsement to the existing hazard insurance policy from seller's insurance agent.*
- 3. A current title search is required. The title search must be provided to our office prior to preparation and mailing of the closing package (Owner's policy only)*

Please be advised that these terms and requirements are subject to change without notice.

If you have any questions, please contact us at 000-000-0000. These forms should be signed and returned directly to the assumption department.

COMMON DOCUMENTS THAT NEED TO BE COMPLETED BY PURCHASER/SELLER:

1. Uniform Residential Loan Application commonly known as 1003

This document is 5 pages and is to be completed by the purchasers. They will fill in all five pages with such information as names, addresses, where they work, how much they make and all their assets and debts.

2. HUD/VA Addendum to Uniform Residential Loan Application

This document will have a repeat of names, address, type of loan. The borrower will sign on page 2 in two different places – one stating the lender has the right to verify the borrower's social security number with Social Security Administration and the 2nd time that they intend to occupy the home and understand loan was based on appraised value.

3. Department of Veterans Affairs – Statement of purchaser or owner assuming sellers' loan

This document questions whether the applicant is a Veteran and if so, required information so they can start their search.

4. Borrower Signature Authorization

This authorization, once signed, give the lender authorization to verify income, bank accounts, stock holdings and any other asset balances that are needed to process the application.

5. Applicant's Agreements and Understandings

6. Certificate of Eligibility

7. Counseling Checklist for Military Homebuyers

8. Funding Fee Exemption Questionnaire

9. 4506-T – Request for Transcript of Tax Return

10. W-9 Request for Taxpayer Identification Number and Certification

11. Notice to FHA/VA Loan Applicants

This form explains that the current lender will process your assumption application as long as they can get a guarantee that the assumption is subject to the continuation of the FHA Mortgage Insurance program, or VA Loan Guaranty program, whichever is applicable, under its present rules and regulations.

12. Notice to VA Loan Applicants

13. Owner Occupancy Certification

14. Important Information about procedures for opening a new account Notice to Applicants

15. VA Department of Veterans Affairs – Request for a Certificate of Eligibility

16. Source of Funds Statement

17. Statement of Veteran Assuming GI Loan

18. VA Borrower Certification and Statements

19. VA Release of Liability Assumption Clause

20. Verification of VA Benefits

21. Application for assumption approval and/or release from personal liability

22. VA Amendment to sale contract

23. Definitions of Truth-in-lending terms

24. Patriot Act Information Form

25. The Federal Equal Credit Opportunity Act

26. Flood Disaster Protection Act of 1973

27. Federal Collection Policy Notice

28. Property Condition Certification

29. FACTS – what does the lender do with your personal information

30. Servicing Disclosure Statement

31. Acknowledgement

WHEW!!!!!! That's a lot of documents. Now, imagine your purchasers receiving this in the mail or emailed to them to complete with no one in front of them! Will they call you, most likely!

SO, WHAT IS INVOLVED IN APPLYING FOR A FORMAL ASSUMPTION:

Now, not all lenders will send ALL those documents, but quite a few are mandatory. With a formal assumption, the purchaser does not work with a loan officer at the lender's local office. Instead, it is all done thru mail, email and phone.

So, how does this all start

1. Seller contacts their lender and tells them they have a purchaser for their home who would like to formally assume their note & deed of trust
2. Lender will obtain name and address from seller of who the purchaser is
3. Lender will send assumption package to purchaser to complete and return along with appropriate fees. Typically credit report and assumption fee
4. Then, the lenders work begins. They review all the documents and information provided, verify and then make their determination that the purchaser can qualify to formally assume the sellers loan. This process is the exact same process a typical purchaser goes thru when they are applying for a loan. EXACTLY! It can take from 4-6 weeks for approval.
5. Once the lender approves this assumption, they will send the designated closing agent certain documents to be signed at closing by the seller and purchaser and the actual assumption agreement which will provide the closer with the necessary information in order to accomplish this transaction.

THE FOLLOWING IS WHAT A LETTER WILL LOOK LIKE FROM A LENDER TO THE CLOSER UPON APPROVAL OF THE FORMAL ASSUMPTION

September 19, 2018

Angie DeArth

WFG Title Insurance Company

W. 25 Cataldo

Spokane, WA. 99201

Re: Seller to Buyer

1234 E. Easy Living Street

Spokane, WA. 99202

Loan number # 456789

Dear Ms. DeArth:

The purchasers have been approved to formally assume the sellers existing loan. To help you to prepare the closing statement, we are providing the following loan insurance for you:

190,727.07 unpaid principal balance with interest paid to 9/1/18 -interest rate 3%

1,332.81 reserve account balance

Next payment due 10/1/18 (please collect at closing) in the amount of \$1,123.51

The payment breakdown is as following

861.34 principal & interest

216.35 reserves for taxes

45.82 reserves for insurance

\$1,123.51 TOTAL PAYMENT AMOUNT

We will require the following from you in order to accomplish the completion of this formal assumption:

1. Executed closing statements signed by both purchaser and seller;
2. Copy of warranty deed (please forward a copy of the recorded deed under separate cover when you have received it back from the recorder);
3. Original assignment of loan reserves executed by the seller;
4. Insurance binder from the purchases which you need to collect at closing;
5. A check in the amount of \$2,077.15 which represents the following:
 - a. 1,123.51 10/1/18 payment
 - b. 953.64 ½ of 1% VA funding fee

The purchaser has already prepaid for the \$50.00 credit report and the \$300.00 if you wish to show them on the closing statement as POC (paid outside of closing)

If you have any questions, do not hesitate to contact me at 860-624-5934

Sincerely:

Johnny Lender

VA FORMAL ASSUMPTION SAMPLE

ESCROW NO. Estimated Costs FILE NAME 4507 W Weile

Pro-rated 9-1-18

SELLER

	DEBIT	CREDIT	DEBIT	CREDIT
Sales Price	\$245,000.00			\$245,000.00
Loan Amount w/ int to 9/1/18`		\$190,727.07	\$190,727.07	
Interest 9/1/18 to 9/19/18 credit report (\$50.00 POC)		\$297.85	\$297.85	
VA Funding fee 1/2 of 1% reserve account transfer	\$953.64 \$1,321.81			\$1,321.84
10/1/18 payment	\$1,123.51			
Assumption fee (\$300.00 POC)				
Owners title policy			\$858.73	
deed recording fee	\$124.00			
1/2 escrow fee	\$505.92		\$505.92	
1st years insurance	\$549.84			
Excise tax 1.78%			\$4,366.00	
2nd 1/2 taxes pro-rated 7-1-18- 9-19-18		\$577.73	\$577.73	
Utility holdback			\$400.00	
R.E Commission 6%			\$14,700.00	
Sub total	\$249,578.72	\$191,602.65	\$212,433.30	
Balance due from buyer/to seller		\$57,976.07	\$33,888.54	
TOTALS	\$249,578.72	\$249,578.72	\$246,321.84	\$246,321.84

HOW DO THE NUMBERS REALLY WORK?

The following three pages are lists of what AVERAGE interest rates were for 2015, 2016 and 2017

During those years, sellers were paying a portion of “purchasers closings costs” as part of the transaction and in those closing costs came “buy down of interest rates”.

So, if the loan was obtained 1/1/15 and the average was 3.71 the seller could have bought the rate down by making it 2.71!

Doesn't this rate of 2.71 look very enticing compared with a rate very close to 5% at today's rates?

Now, the big picture. Do you have a buyer who only can get the 100% VA loan or the 3.5% down FHA loan? Maybe, maybe not. Perhaps your purchase has funds available to buy down to the existing loan..... show him/her the numbers. Let them be the judge of which type of program to go for. You may know right up front that down payment is an issue, then this type of financing will not work for this transaction.

But, do you really know your client????? It sure doesn't hurt to ask.

BUT, remember that this “formal assumption” scenario will only work under the following conditions:

- 1. Sellers loan is FHA or VA and the interest rate on their loan needs to be considerably lower than the current interest rate**
- 2. Purchasers need additional down to cash the seller out to the underlying lien.**

LISTING AGENTS:

If you have a seller with an FHA or VA loan with a great interest rate, you can offer this property for sale with additional terms “Formal assumption of a 3% interest rate to qualified purchasers”

SELLING AGENTS:

When you find a home the purchasers loves, check out when the seller purchased the property and if it was VA or FHA. Really easy to do, just ask your title company to send you a listing package and it will provide you with the deed of trust

HISTORY OF INTERST RATES OVER THE YEARS....

	2017		2016		2015		2014		2013	
	Rate	Pts	Rate	Pts	Rate	Pts	Rate	Pts	Rate	Pts
January	4.15	0.5	3.87	0.6	3.67	0.6	4.43	0.7	3.41	0.7
February	4.17	0.5	3.66	0.6	3.71	0.6	4.30	0.7	3.53	0.8
March	4.2	0.5	3.69	0.5	3.77	0.6	4.34	0.6	3.57	0.8
April	4.05	0.5	3.61	0.6	3.67	0.6	4.34	0.7	3.45	0.8
May	4.01	0.5	3.60	0.6	3.84	0.6	4.19	0.6	3.54	0.7
June	3.9	0.5	3.57	0.5	3.98	0.7	4.16	0.6	4.07	0.8
July	3.97	0.5	3.44	0.5	4.05	0.6	4.13	0.6	4.37	0.8
August	3.88	0.5	3.44	0.5	3.91	0.6	4.12	0.6	4.46	0.7
September	3.81	0.5	3.46	0.5	3.89	0.6	4.16	0.5	4.49	0.7
October	3.90	0.5	3.47	0.6	3.80	0.6	4.04	0.5	4.19	0.7
November	3.92	0.5	3.77	0.5	3.94	0.6	4.00	0.5	4.26	0.7
December	3.95	0.5	4.20	0.5	3.96	0.6	3.86	0.6	4.46	0.7
Annual Average	3.99	0.5	3.65	0.5	3.85	0.6	4.17	0.6	3.98	0.7

SAMPLE VA CLOSING STATEMENT:

pro-rate date 9-19-18	BUYER		SELLER	
	DEBIT	CREDIT	DEBIT	CREDIT
Sales Price	\$245,000.00			\$245,000.00
Earnest Money Pd. To Realtor				
Deposit With				
Loan Amount		\$250,267.50		
interest 9/19/18 - 10/1/18	\$402.22			
Interest @ to				
Reserves for taxes 216.35 x2	\$432.70			
Reserves for ins 45.82 x 2	\$91.67			
Aggregate		\$56.30		
Loan Origination %				
Loan Discount %				
Appraisal				
Credit Report				
MIP Premium				
Tax Registration				
Flood Determination				
Doc Prep Fee				
VA Funding fee	\$5,267.50			
seller paid closing costs				
Closing fee			\$1,011.84	
Loan Payoff to Estimate				
Loan Payoff to				
Interest Assumed:				
Interest to				
Reserves				
Assumption fee				
lenders title	\$448.93			
owners title			\$858.73	
Recording Fees	\$224.00			
appraisal fee	\$800.00			
Flood certification	\$17.00			
credit report	\$65.00			
tax registration fee	\$74.00			
Escrow Fee				
underwriting & processing	\$1,190.00			
FIRST YEARS INS	\$549.84			
reserve for ins (1 x 58.00)				
Excise Tax 1.78 % + \$5.00			\$4,366.00	
2nd 1/2 taxes	\$1,298.10			
pro-rated taxes (7/1/18 - 9/19/18)		\$577.73		
Final Utility Bill Holdback			\$400.00	
Homeowners Dues				
RECORD DEED AND TRUST DEED				
Commission - L			\$14,700.00	
Commission - S			\$0.00	
Misc.:				
set up charge				
set up charge reserve				
first month fee				
total	\$255,860.96	\$250,901.53	\$21,336.57	\$245,000.00
Balance From Buyer/To Seller		\$4,959.43	\$223,663.43	
Total	\$255,860.96	\$255,860.96	\$245,000.00	\$245,000.00

Here is a sample of a FHA closing statement

Tax Rate 8.8%		BUYER		SELLER	
PRORATION DATE					
	DEBIT	CREDIT	DEBIT	CREDIT	
Sales Price	\$245,000.00			\$245,000.00	
Earnest Money Pd. To Realtor					
Deposit With					
Loan Amount		\$240,562.44			
Deposit w/Lender					
interest 9/19/18 - 10/1/18	\$355.90				
Reserves: Taxes Mo. <input type="checkbox"/>					
Fire Ins. Mo. <input type="checkbox"/>					
Aggregate					
Loan Origination %					
Loan Discount %					
Appraisal	\$800.00				
Credit Report	\$65.00				
MIP Premium	\$4,137.44				
Tax Registration	\$74.00				
Flood Determination	\$17.00				
underwriting/processing fee	\$1,190.00				
First years insurance	\$549.84				
res for insurance 2 x 45.82	\$91.67				
res for taxes 2 x 216.35	\$432.70				
aggregate		\$56.30			
Loan Payoff to Estimate					
Loan Payoff to					
Assumed:					
Interest to					
Reserves					
Assumption fee					
Title Insurance	\$460.00		\$790.00		
Tax	\$40.48		\$69.52		
Recording Fees	\$224.00				
Escrow Fee	\$505.92		\$505.92		
Tax					
FIRST YEARS INS					
reserve for ins (1 x 58.00)					
Excise Tax 1.78 % + \$5.00			\$4,366.00		
2nd 1/2 taxes					
pro-rated taxes 7-1-18 - 9-19-18		\$577.73	\$577.73		
Final Utility Bill Holdback			\$400.00		
Homeowners Dues					
RECORD DEED AND TRUST DEED					
Commission - L			\$14,700.00		
Commission - S			\$0.00		
2nd 1/2 taxes	\$1,298.10				
Misc.:					
set up charge					
set up charge reserve					
first month fee					
total	\$255,242.05	\$241,196.47	\$21,409.17	\$245,000.00	
Balance From Buyer/To Seller		\$14,045.58	\$223,590.83		
Total	\$255,242.05	\$255,242.05	\$245,000.00	\$245,000.00	

Here is a sample of a CONVENTIONAL closing statement

Pro-rated 9-19-18	BUYER		SELLER	
	DEBIT	CREDIT	DEBIT	CREDIT
Sales Price	\$245,000.00			\$245,000.00
Loan Amount		\$196,000.00		
Deposit w/Lender				
interest 9/19/18 to 10/1/18	\$289.97			
first years insurance	\$549.84			
res for taxes (2 x 216.35)	\$432.70			
res for insurance (2 x 45.82)	\$91.67			
aggregate		\$56.30		
underwriting/processing	\$1,190.00			
Appraisal	\$800.00			
Credit Report	\$65.00			
Tax Registration	\$74.00			
Flood Determination	\$17.00			
Doc Prep Fee				
lenders policy	\$432.63			
2nd 1/2 2018 taxes	\$1,298.10			
Loan Payoff to Estimate				
Loan Payoff to				
in Assumed:				
Interest to				
Reserves				
Assumption fee				
Title Insurance			\$858.73	
Tax				
Recording Fees	\$224.00			
Recording Service Charge				
Escrow Fee	\$505.92		\$505.42	
Tax				
reserve for ins (1 x 58.00)				
Excise Tax 1.78 % + \$5.00			\$4,366.00	
2nd 1/2 taxes				
pro-rated taxes 7-1-18- 9-19-18		\$577.73	\$577.73	
Final Utility Bill Holdback			\$400.00	
Homeowners Dues				
RECORD DEED AND TRUST DEED				
Commission - L			\$14,700.00	
Commission - S			\$0.00	
Misc.:				
set up charge				
set up charge reserve				
first month fee				
total	\$250,970.83	\$196,634.03	\$21,407.88	\$245,000.00
Balance From Buyer/To Seller		\$54,336.80	\$223,592.12	
Total	\$250,970.83	\$250,970.83	\$245,000.00	\$245,000.00

Here is a sample of a combination of all closing statements

closing date 9-19-18	CASH	VA	FHA	Conventional	Formal Assumption of VA loan	Seller Financing
Sales price	245,000.00	245,000.00	245,000.00	245,000.00	245,000.00	245,000.00
Loan Amount		250,267.50	240,562.44	196,000.00	190,727.07	200,000.00
First Years Insurance	549.84	549.84	549.84	549.84	549.84	549.84
1/2 closing fee	505.92	224.00	505.92	505.92	505.92	505.92
Deed & DOT recording fees	101.00	224.00	224.00	224.00	124.00	224.00
taxes pro-rated 7-1-18 to 9-19-18	(577.73)	(577.73)	(577.73)	(577.73)	(577.73)	(577.73)
underwriting/processing - est		1,190.00	1,190.00	1,190.00		
Appraisal fee		800.00	800.00	800.00		
flood Certification		17.00	17.00	17.00		
credit report		65.00	65.00	65.00	50.00	
Interest 9/19/18 to 10/1/18		402.22	355.90	289.97		
VA Funding fee 2.15%		5,267.50				
Reserve for Insurance (45.82 x 2)		91.67	91.67	91.67		91.67
reserve for taxes (216.35 x 2)		432.70	432.70	432.70		432.70
Aggregate reserve		(56.30)	(56.30)	(56.30)		
lenders title		448.93		432.63		
tax service fee		74.00	74.00	74.00		
Mortgage Ins. Premium 1.75%		4,137.44				
Interest 9/1/18 to 9/19/18					(297.85)	
Escrow collection fees						150.00
2nd 1/2 2018 taxes	1,298.10	1,298.10		1,298.10		1,298.10
VA funding fee 1/2 of 1% of bal					953.64	
Transfer reserve balance					1,321.81	
10/1/18 payment					1,123.51	
balance to close		4,958.43	14,045.58	54,336.80	57,979.07	48,069.02
Totals	246,877.13	255,860.96	255,242.05	250,970.83	249,578.72	248,646.75
PAYMENT BREAKDOWN						
Principal & Interest		1,288.07	1,218.89	983.10	861.34	1,199.10
reserve for taxes		216.35	216.35	216.35	216.35	216.35
reserve for Insurance		45.82	45.82	45.82	45.82	45.82
MIP (.85% of loan amt divided by 12)		170.40	170.40			
TOTAL PAYMENT		1,530.24	1,651.46	1,255.27	1,123.51	1,461.27
interest rate		4.50	4.50	4.50	3.00	6.00
Total down at closing & 30 years	246,877.13	461,464.63	*452,845.98	411,852.80	*336,191.89	480,322.75

*861.34 x 323 pmts
 left + above bal to
 close
 if, PMI, based on
 LTV & credit
 80/20 - no PMI
 int rate usually 1-2
 point higher
 *1,199.10 x 360
 payments plus
 bal to close
 3.5% down pmt
 est \$32,000 MIP
 \$484,845.00

ASSUMPTION OF NOTE AND TRUST DEED OR REAL ESTATE CONTRACT FINANCED

TRANSACTION

Many times, if there is a real estate contract or a privately financed note and deed of trust against a property, the property may be fully assumable if there is no provision providing for a due-on-sale clause.

If it is not assumable, then this is what each document commonly says.

1. Promissory note and Deed of Trust

LPB Form 22A (Deed of Trust with Due on Sale and Due Date) securing the Property. The parties shall initial the Due on Sale clause, which provides: "The property described in this security instrument may not be sold or transferred without the Beneficiary's consent. Upon breach of this provision, Beneficiary may declare all sums due under the note and Deed of Trust immediately due and payable, unless prohibited by applicable law."

2. Real Estate Contract:

LPB Form 44 (Real Estate Contract) Optional Provision – Due on Sale If Purchaser, without written consent of Seller, (a) conveys, (b) sells, (c) leases, (d) assigns, (e) contracts to convey, sell, lease or assign, (f) grants an option to buy the property, (g) permits a forfeiture or foreclosure or trustee or sheriffs sale of any of the Purchaser's interest in the property or this Contract, Seller may at any time thereafter either raise the interest rate on the balance of the purchase price or declare the entire balance of the purchase price due and payable. If one or more of the entities comprising the Purchaser is a corporation, any transfer or successive transfers in the nature of items (a) through (g) above of 49% or more of the outstanding capital stock shall enable Seller to take the above action. A lease of less than 3 years (including options for renewals), a transfer to a spouse or child of Purchaser, a transfer incident to a marriage dissolution or condemnation, and a transfer by inheritance will not enable Seller to take any action pursuant to this Paragraph; provided the transferee other than a condemnor agrees in writing that the provisions of this paragraph apply to any subsequent transaction involving the property entered into by the transferee.

NOW, LET'S THINK OUTSIDE THE BOX

If either of the above "due-on-sale" clauses is on the instrument, many times the beneficiary might be interested in having the subsequent purchaser take over the contract or note and deed of trust. Just by asking, you would be surprised how many say "yes"! Of course, they will want to review the credit worthiness of the new "purchaser" or may want to get some information on their income, debt, work history, or other items. This is an approach that so many agents never think to check out. Many of the escrow collection companies state that these contract sellers get so used to monthly contract payments that they don't want to be paid off. They love the interest they earn and if they get paid off, now they may have to worry about capital gains on the payoff amount received. If the subsequent "purchaser" has credit worthiness that is equal to or exceeds the present purchaser, the contract seller may be interested in allowing the assumption. If the seller agrees to have the new purchaser assume their loan, the escrow holder will require a written statement from the seller stating that they agree to the assumption and the closer will also need a copy of this document for their file. A simple one-page statement works!

When assuming a note and deed of trust or real estate contract on a private financing transaction, the closing statement would be handled the same way a formal FHA or VA assumption would be handled. However, rather than a lender's charge, the escrow holder would charge an assignment fee, which is usually between \$50.00 - \$100.00, and the escrow collection fee would also be pro-rated.

AND FURTHER OUTSIDE THE BOX:

Say the purchaser has the ability to assume the FHA or VA loan (or seller financed) has some cash to put down, but not all of it. Maybe the seller would be willing to "carry" a small note and trust deed in second position.....??????

SELLER FINANCING

Whether you call it "*Creative Financing*", "*Seller Financing*", or "*Seller Carry-Back*" it is an option that the seller may choose. Some of the reasons for this type of option may be:

- The seller owns the property free and clear and does not want to receive all of the proceeds at once but would rather receive the proceeds over time and therefore avoid all the capital gain at once. (They only pay based on the amount received at closing and installments received in the calendar year. Advice should be given to have the seller contact their accountant to get a clarification on how this will affect them.) Avoid giving legal advice on this. Always instruct your client to talk to the professionals, whether an attorney or an accountant, even if you think you know the answer.
- The property may not fully appraise at this time for the sales price, but the parties still wish to continue with the sale.
- The property may not be eligible for conventional financing at this time.
- The purchaser may not qualify for a conventional loan at this time due to credit issues or other issues.
- The property may be a commercial property with unusual terms.
- The property may be a land purchase with "deed release provisions" that will be handled over time.

QUIZ FOR FORMAL ASSUMPTIONS

1	The Garn-St. Germain Act of 1982 helped assignments into trusts so it does not trigger the due on sale clause.	True	False
2	Limited Practice Officers cannot prepare documents on "wrap arounds"	True	False
3	A "Limited Practice Officer" is also known as an LPO	True	False
4	Conventional loans cannot be formally assumed.	True	False
5	Prior to 1989 and 1988 all loans were assumable by anyone. No credit required.	True	False
6	The lender on a formal assumption will require a new appraisal.	True	False
7	Only FHA and VA loans can be formally assumed.	True	False
8	On a VA formal assumption, the "eligibility" issue must be considered.	True	False
9	Every lender has a fully staffed Assumption Department.	True	False
10	A formal assumption transaction only takes one week to process .	True	False
11	Completing the paper work on the formal assumption application is a series of many repetitive documents that is required by the lender	True	False
12	The purchaser may need help completing the formal assumption documents.	True	False
13	Typically, the purchaser reimburses the seller for what is in the escrow account.	True	False
14	Lender will always require a credit report on the purchaser.	True	False
15	A non-Vet can formally assume a VA loan.	True	False
16	A VA loan does not have monthly MIP premiums.	True	False
17	An FHA loan has MIP premiums for the life of the loan based on the declining principal balance.	True	False
18	Typically, seller financing interest rate is 1-2 points higher than FHA/VA/Conv	True	False
19	If a seller financing transaction has a due-on-sale clause, you can still approach that seller to see if they would be willing to have someone else assume.	True	False
20	If the purchaser does not have funds to assume and "cash out" the seller, the seller may be agreeable to "carry back" a small 2 nd position note and trust deed.	True	False

I HEREBY ATTEST THAT I HAVE READ THE MATERIAL AND ANSWERED THE QUESTIONS

Signature

date



Mandatory Evaluation

— For FORMAL ASSUMPTIONS —

Please fill out and return

Name/ Company: _____

Address: _____

City, State, Zip: _____

Phone: (personal) _____ (work) _____

Email: _____

License Renewal Date: _____

Signature: _____ Date: _____

What are 3 things that you learned from this course?

1. _____
2. _____
3. _____

Do you feel the clock hour material was easy to follow? _____

Did the material give you information to help you in your profession? _____

Will the material help you with future transactions? _____

Why did you choose to take this course? Topic __ Time __ Cost __ Ease __ Other __

How long did this class take you to complete? _____ (a "clock hour" is 50 minute)

How will you pay for this class?

_____ cash _____ check _____ debit/credit information needed:

Card number _____ exp date _____

3 digits on back _____ zip code of where bill is mailed _____