BOLHOUSE, BAAR & LEFERE, P.C.
ATTORNEYS AT LAW

The "*Dodd Frank*" & *"SAFE"* Acts

Michelle M. McLean

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If selling real property on a mortgage or land contract is in your future plans, you need to become familiar with the Wall Street Reform and Protection Act (the "Dodd Frank Act") and the Secure and Fair Enforcement for Mortgage Licensing Act (the "SAFE Act").

These two acts impose strict requirements on private persons who sell three or more real properties per year utilizing seller-based financing (such as private mortgages or land contracts). For example, sellers who fall under the scope of the acts must be fully licensed mortgage loan originators to sell property on land contracts.

Next, these particular sellers are prohibited from using seller-based financing in order to sell to buyers who do not qualify for conventional bank financing. This provision alone severely limits the pool of potential buyers and also limits options for buyers with credit issues who are turned down by a bank.

If the seller can get past these two issues, then the acts further limit repayment terms that sellers can offer to buyers. One such limit: sellers cannot impose a term of less than six years for a balloon payment.

Fines and penalties for violations of these acts are daunting and can expose sellers to civil and/or criminal liability.

Since the Dodd Frank Act alone is over thirty-thousand pages - yes 30,000 pages - be sure to seek the advice of a real estate attorney if these acts may apply to your situation.