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Beware of Sending Customers to Sign

by Gil VanOver

Occasionally I run across sub-prime deals where customers are sent to the local lender's office to sign the paperwork.

I understand the sub-prime lender's desire to close the customer on premises. It gives the loan officer the opportunity to eyeball the customer and conduct a hard close, i.e. "pay or we repo."

Unfortunately, in a typical dealer-lender indirect relationship, this off-site closing is fraught with potential compliance issues.

Who signs as the seller?

Many of these off-site closings utilize the standard three-party, indirect lending Retail Installment Sales Contract that is ultimately assigned to the lender.

The dealer should not sign this RISC since it did not witness the customer signing. Yet the lender will generally require the dealer to sign the RISC before it accepts the RISC and pays the dealer. Now the dealer is left in the position of representing to the closing lender a number of reps and warrants that the lender may have violated, yet left the dealer with the liability.

Whose Gap?

What happens if your customer gets to the office and now your customer is solicited to purchase the lender's Gap or Service Contract and cancels yours?

Present all products

Your policy dictates that all customers are presented all products all the time. Partially as a business decision to promote higher penetration levels, partially as a defense mechanism so that customers cannot come back at a later date and protest they were not offered a product that would have paid for a calamitous situation that has now occurred in his life. If the customer is closed at the lender, who presents the menu?

Rescission

If the customer is closed and executes papers off-site, does your state rescission laws kick in?

Before you agree to send one or two deals a month to an off-site lender, consider these questions and ask yourself if that one sale is worth the risk.

Gil Van Over is the President and founder of gvo3 & Associates, a nationally recognized F&I, Sales and Red Flag Rule compliance consulting and training firm (www.gvo3.com).

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