



Issue #1: November, 2007



Dear Anthony,

Welcome to our firm's first newsletter. We appreciate your business. A highlight of what's inside:

- Mortgage Pools and Funds - What are they?
- Accepting Deeds in Lieu of Foreclosure
- Real Estate Finance Business Partners

Should you have any questions about the below, please do not hesitate to call or email Anthony Geraci at (949) 260-9156 or email him at anthony@geracilawfirm.com.

Mortgage Pools and Funds

What are they and how do they work?

by Anthony F. Geraci

The liquidity crunch in today's market has seriously limited mortgage brokers' ability to place loans with lenders and most lenders' ability to loan money to loans they wish to underwrite. This strain on capital significantly reduces both brokers' and lenders' ability to make money. Brokers and lenders in today's market must seek additional sources of financing if they want to stay in business. Enter the mortgage pool (also known as a mortgage fund).



What is a Mortgage Pool?

In essence, a mortgage pool is nothing more than a sophisticated securities offering. Brokers (who want to become lenders) and lenders find investors who want to invest with the mortgage company in expectation of a certain amount of return on their investment. The lender pools the investors' money together in a company and loans it out at a certain amount of interest, depending on the market conditions, type of loan product, risk, and their investors' expected return. Investors receive a monthly or quarterly distribution and the lender (you, not the investor) receives an asset management fee, servicing fees, and other fees in

In This Issue

[Mortgage Pools and Funds](#)

[Accepting Deeds in Lieu of Foreclosure](#)

[Real Estate Finance Business Partners](#)

Quick Links

[Newsletter Archive](#)
[More On Us](#)



connection with running the lending company.

How Exactly Does a Mortgage Pool Work?

Two companies are formed: (1) a limited liability company which will be the lending company, and (2) a corporation, which will be the Manager of the lending company, and the company in which the lender will make its money.

The manager will act as both a mortgage broker to the fund and as well as the manager of the lending company, which puts the manager in control of the lending company.

The manager can typically expect to make between 3-10% of the lender's raised capital per year through creating a mortgage fund, depending on the aggressiveness and structure of the fund.

Types of Mortgage Funds

In today's market, a lot of lenders are moving away from origination to REOs, purchasing "scratch and dent" notes and purchasing pools of loans from lenders who either are out of business or will discount a package of loans to free up capital to make more loans. The mortgage pool is perfect for all of the above.

Mortgage Pool Offerings

There are two types of offerings that lenders can use to raise money for their mortgage pool: (1) a private offering and (2) a public offering.

Private Offerings

The typical offering that most lenders are attracted to is private offerings. There are two types of private offerings: (a) a federal private placement memorandum and (b) a state registered offering. Both of these are discussed below.

Federal Private Placement

A private placement memorandum is a private offering that allows lenders to raise an unlimited amount of money from investors. They may also lend money in all 50 states and accept money from investors in all 50 states. However, lenders cannot generally advertise for investors, can only accept money from high net worth or high income individuals, and are limited to 500 investors without registering the offering with the SEC.

State Registered Offering

A state registered offering is a private offering that allows lenders to raise an unlimited amount of money from investors in one state. Lenders can advertise for investors within that state, but can only accept investors in that one state, can only accept money from high net worth or high income individuals, and are limited to 500 investors without registering the offering with the SEC.

Public Offering

A public offering of securities offers the best avenue for mortgage lenders to raise capital for a mortgage pool. A public offering is a registered offering with the SEC, and allows a lender to raise up to \$25,000,000.00 in capital. The benefits of a public offering are immense: the lender (1) can

advertise and accept money from investors in all 50 states, (2) can accept money from an investor without regard to their net worth or income and (3) can have an unlimited number of investors in the pool.

Conclusion

With the current lack of capital in the market, brokers who want to become lenders and lenders who want additional capital resources should consider a mortgage pool. Unlike a warehouse line of credit, lenders (a) have a renewable source of income and (b) have the control to set the guidelines on which loans to make and which to reject. For more information on how to create a mortgage pool, contact Anthony Geraci at (949) 260-9156, via email at anthony@geracilawfirm.com or visit Geraci Law Firm's website at <http://www.geracilawfirm.com>.

Accepting Deeds in Lieu of Foreclosure

Pitfalls to Look Out For

by Anthony F. Geraci

Given today's real estate market, it may make sense to accept a deed in lieu of foreclosure instead of going through a lengthy and expensive foreclosure. However, understanding the legal ramifications is essential to accurately determining whether accepting the deed in lieu is a good idea.

Deed in Lieu Basics

When you accept a deed in lieu, you take title to the property in the same condition and the property is encumbered by the same liens that are on the property as of the date the borrower transfers the property to you. Contrast this to a foreclosure, where every lien junior to your lien is wiped out and the bidder takes title to the property subject only to those liens senior to your lien.

To Accept, or Not to Accept, a Deed in Lieu

When considering whether to accept a Deed in Lieu, many elements should be considered. First and foremost, order a preliminary title report. What liens are on the property? Remember, you will be taking title subject to those liens. Next, is there a guarantor to go after for the borrower's default in payments? The Guarantor is probably off the hook now that you've accepted the Deed in Lieu.

Alternatives to the Deed in Lieu

Have you given any thought to a workout plan? This may initially sound like a ridiculous idea - after all, the borrower owes you a lot of money and is in default already. Why not just take the property? The answer to that is that the property may be worth a fraction of what your loan amount is. After accepting the Deed in Lieu, you must then hire a real estate broker (or sell the property yourself) and hope that it sells in the next 60-90 days.

If you did a workout with the borrower, however, they are still the owner, and at least you will be given some money towards the principal balance of the loan.

Conclusion

Order a preliminary report. Get the property re-appraised either through a BPO or an appraisal. If it makes sense, do a Deed in Lieu. Remember, however, that it may make more sense to do a workout with the borrower. If you're not sure - talk to your attorney or peers; they may be able to advise you on your best course of action.

Real Estate Finance Business Partners

Geraci Law Firm has researched and identified the best companies with complementary services and partnered with them to provide you with a complete level of service for your real estate finance needs. Please find them below:

Pitbull Mortgage School

Pitbull Mortgage School trains loan officers, mortgage professionals, Real Estate Investors and hard money lenders how to succeed in the hard money business.

The Mortgage Office

The Mortgage Office is the premier software provider for mortgage pools and servicing. For more information, contact A.J. Poulin at (800) 833-3343 or visit them at <http://www.themortgageoffice.com>.

Titan Lenders Corp.

Titan Lenders Corp., domestically located in Denver, Colorado, exists to meet the mortgage industry's increasing demand for variable cost solutions needed to manage closing, post closing and mortgage fulfillment processes. Titan partners with mortgage bankers, brokers, and investors to increase closing and post closing capacity, decrease risk, reduce errors, and protect loan profitability by outsourcing process intensive back office functions allowing the lender to focus on productive origination strategies. For more information, contact Ruth Lee at (866) 412-9180.

Armanino McKenna LLP

Armanino McKenna LLP Certified Public Accountants & Consultants has been serving clients throughout California for over 50 years. As the largest California-based CPA firm and a top 50 in the United States, Armanino McKenna LLP has been serving the mortgage lending and commercial finance industries for over 20 years and provides a wide range of accounting and consulting services to more California mortgage pools than any other firm in the state. For more information, please contact Josh Nevarez at (925) 790-2600 or visit their website at www.amlp.com.

We hope that you enjoyed our firm's first newsletter. As you may know, Geraci Law Firm is a full service law firm. Geraci Law Firm provides the following services at very reasonable rates:

- General Corporate Law
 - Mergers and Acquisitions
 - Compliance
- Securities
 - Mortgage and Hedge Funds
 - Amendments to Private Placements
 - Public Securities Registration
- Real Estate Finance
 - Compliance with state and federal lending laws

- Mortgage broker and lender licensing
- Draft custom loan documentation, including construction, commercial and HELOC documents
- Litigation
 - Complex business litigation
 - General civil litigation

Should you have any questions or need legal help, please contact Anthony Geraci at (949) 260-9156, via email at anthony@geracilawfirm.com or visit Geraci Law Firm's website at <http://www.geracilawfirm.com>.

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Anthony Geraci
Geraci Law Firm

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