

Lenders can modify commercial notes

The airwaves are abuzz with advertisements for companies offering to help people modify their home loans, and by now most people are aware of the potential benefits of seeking a residential mortgage loan modification.

Businesses and individuals that own commercial property, such as free-standing buildings, office condos and larger centers, also are finding that some lenders are willing to restructure their commercial loans as a result of the devastating impact of today's turbulent economy. Depending on the situation, lenders are acting to avoid a commercial mortgage default and finding creative ways to temporarily or permanently modify commercial loan terms.

By and large, the holder of a commercial note would rather modify the terms of the loan than foreclose and take over the property. Banks are dealing with a large amount of bad debt and would prefer to keep

a performing loan on their books at full value rather than being forced to mark it down as defaulted.

More to the point, lenders want to remain focused on their business of lending money and not owning or managing commercial real estate, which can be much more cumbersome and time consuming than a foreclosed residential home because of the smaller number of potential buyers and the nature of the property, which may require additional cash outlays to keep operational and may have been built to suit the needs of a particular occupant or require substantial improvements before it can be sold off.

As part of a commercial loan workout or modification, lenders are finding ways to decrease the monthly payment amounts by using one or more of the following approaches: reducing the applicable interest rate, extending the term of the loan, allowing for interest-only payments for an agreed-upon term, or moving the payment of past-due amounts to the end of the term. Of course, any modification will depend greatly on the particular situation and the circumstances facing the borrower and the lender. Factors relating to the borrower that are considered include the equity at stake, the property's cash flow, payment history, the debt ratio and whether there may be a guaranty.

The type of lender involved very often sets the tone for the modification process. Borrowers will have an easier time reaching a modification in situations where the loan is held and controlled by a "relationship lender" that originated the loan, usually portfolio lenders, such as banks or insurance companies.

Many commercial loans, however, are securitized and not with relationship lenders. Securitized mortgages are loans placed in a securitization trust and, generally, the borrower's relationship is with a loan servicer, rather than the loan originator. Modifying a securitized loan is generally more difficult because of the (1) limitations created by the tax treatment of the securitization trust as a Real Estate Mortgage Investment Conduit (REMIC) and (2) the limitations pursuant to the terms of the pooling and servicing agreement between the loan servicer and the interest holders in the securitization trust.

Borrowers are more likely to be successful modifying their commercial loans when they are assisted by a creative and knowledgeable advocate and adviser to approach their lender with realistic proposals based on the particular loan and lender.

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Scott Stein



leischmann of
Tire & Auto Ser-
vices Inc., Ginger
Holt Times Media,
of Deloitte & Tou-
che. Kevin Sandler
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WHAT'S NEW

NETWORKING

Networking: 11:30
a.m. July 21. Arizona
Business Alliance at
1001 E. Shea Blvd.,
Cost: \$10. RSVP
at azjba.com.

WORKING

Job Network
Windsor Job
8:00-11:45 a.m.
with Family Shalom
and Yehuda Chai. Topic:
Emotions of Career
Development
Develop Your
Skills marks the launch
of a new job search
program for those who are
underemployed.
For more info@
net.com.

BUSINESS

Parties & Events
July 21. Camelback
Park. Recently
retired Natasha Gittens,
CEO, to provide
career planning
services. 651-9841.
artyexperts.com.

COURSES

Area Agency on
Disability Senior Com-
munity Employment
Workshop provides training
to help unemployed
persons age 55
to 20 hours per
hour. Allows
to improve skills.
Contact aaaphx.org.

CLASSES

Nonprofits:
July 8. Jewish
Community Center at
7825 E. Paradise
Ave. Topic: "40
Hours Fundraising
Website." Pre-