

Private Money Disclosure Statements

Sample Disclosure Documents
and Instructions

Private Money Blueprint dot Com



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Private Money Lender Sample Disclosures

NOTE: As always, these disclosures and verbiage are for reference only. They are a good place to start, then take your disclosure to your local attorney who specializes in real estate and/or mortgage related law in your state. These disclosures are used successfully by actual investors around the country; however, your states laws may be different and require different verbiage. Last... if you're serious about being a successful real estate investor and recruiting private money... treat it like the REAL BUSINESS that it is. Real businesses sometimes require you to invest in getting it going... part of that "investment" is making sure the documents you are using follow the state and federal laws... as well as spending the time to create some type of business plan for the REI venture you're starting up.

Sample Private Lender Disclosure:

This disclosure is a sample disclosure that private money lenders can review and sign indicating that they understand what working w/ you is all about... and that the investment is **NOT** guaranteed. Feel free to modify it how you wish. In addition, this disclosure is catered toward a specific investment and private lender strategy that may not necessarily be the same as yours. So, if your strategy is different, modify it as you wish. For many investors this disclosure is more comprehensive than they'll need... just use this (or one of the other disclosures in this packet) as a starting point. This is usually signed with the loan documents before each loan is funded. And yes... use this as a starting point AND take it to your attorney to ensure it follows your state laws.

=====DISCLOSURE STARTS BELOW=====

Trust Deed Investor Disclosure & Agreement

I understand that Trust deed loans inherently have a number of significant risks. Any number of these risks may cause a loss of some or all of the principle loan amount and/or interest, and/or the temporary or permanent cease of all interest payments. (your company here) does not guarantee nor secure any loan. Trust Deed loans are not insured by the FDIC or any other governmental agency.

Acknowledged & Agreed _____

Trust Deed loans may not be suitable for all lenders or investors. By acknowledging this disclosure and agreement, you hereby declare that you and/or your lending entity is of suitable and substantial means to make Trust Deed loans, and that a loss on capital, interest income, and/or a temporary or permanent cease in interest payments will not create a financial hardship for you or your lending entity.

Acknowledged & Agreed _____

Although (your company here) may provide information regarding specific Trust Deed loans, it is the sole and absolute responsibility of each lender to research and verify all information provided by (your company here) including but not limited to, borrower's credit worthiness, borrower's past project success, borrower's financial status, and property condition. By acknowledging this statement, you hereby understand that each lender is solely responsible for verifying all information about any specific Trust Deed loan, and you agree to hold (your company here) harmless for the verification of information given by borrowers, brokers or other third parties.

Acknowledged & Agreed _____

(your company here) does not guarantee the performance or quality of any loan presented for consideration. (your company here) will not be held responsible for any financial hardship or loss suffered as a result of lending on Trust Deeds.

Acknowledged & Agreed _____

By acknowledging this statement, you agree that you have not been coerced, forced, or guaranteed results, in order to lend on Trust Deeds. You hereby hold (your company here) harmless of all responsibility and liability regarding the performance and quality of all loans you decide to make.

Acknowledged & Agreed _____

By signing below, I am acknowledging that I fully understand and agree with the terms, conditions and disclosures herein. If you do NOT understand these items, please consult with an attorney before proceeding.

Primary Lender's Signature: _____ Date: _____

Title (if signing for a legal entity): _____ Entity's legal Name : _____

Secondary Lender's Signature: _____ Date: _____

Title (if signing for a legal entity): _____ Entity's legal Name : _____

===== END THIS DISCLOSURE DOCUMENT =====

Sample Website Short Disclosure Statement:

Too many investors throw up a website and start marketing and/or asking for private money without taking the proper precautions and making the right disclosures.

The following is a simple disclosure statement you can use on your own website if you plan on using your website for the purposes of recruiting private money lenders. This disclosure statement is a sample statement and you should consult with your own legal advisor to make sure this specific disclosure applies to your state and the laws that apply to you and your business. This short disclosure statement should be at the bottom of every page and should link to the full disclosure statement.

=====DISCLOSURE STARTS BELOW=====

This is not a security. The information provided herein is not intended to be for the purposes of soliciting a Security under State or Federal regulations. This information is intended to give the private investor alternatives to stock market investments, but is not intended to be a solicitation of a Security under SEC rules and regulations. This is intended to be a private borrowing transaction. For more information see our disclosure statement (link the words "disclosure statement" to a page that outlines the potential risks of investment, etc.)

. ===== END THIS DISCLOSURE DOCUMENT =====

Sample Full Disclosure Statement For Website #1:

It is very important to fully disclose the risks, roles of the investor, what the investor is taking part in when they invest with you, statement to the potential investor that just like with any other investment they should research the investment and the company they are lending to (aka, you)... and make the decision based on their own risk factors and investment goals. Use this full disclosure doc as an example to start from. Be sure to run your disclosure by your attorney because the last thing you want is to have the SEC knocking at your door because of improper disclosures.

This disclosure is essentially the same as the first disclosure on this document... just with the signature and initial boxes taken out. Feel free to tweak the wording and add in your own personality to the text... that goes a long way toward building trust with your prospective lender.

=====DISCLOSURE STARTS BELOW=====

I understand that Trust deed loans inherently have a number of significant risks. Any number of these risks may cause a loss of some or all of the principle loan amount and/or interest, and/or the temporary or permanent cease of all interest payments. (your company here) does not guarantee nor secure any loan. Trust Deed loans are not insured by the FDIC or any other governmental agency.

Trust Deed loans may not be suitable for all lenders or investors. By acknowledging this disclosure and agreement, you hereby declare that you and/or your lending entity is of suitable and substantial means to make Trust Deed loans, and that a loss on capital, interest income, and/or a temporary or permanent cease in interest payments will not create a financial hardship for you or your lending entity.

Although (your company here) may provide information regarding specific Trust Deed loans, it is the sole and absolute responsibility of each lender to research and verify all information provided by (your company here) including but not limited to, borrower's credit worthiness, borrower's past project success, borrower's financial status, and property condition. By acknowledging this statement, you hereby understand that each lender is solely responsible for verifying all information about any specific Trust Deed loan, and you agree to hold (your company here) harmless for the verification of information given by borrowers, brokers or other third parties.

(your company here) does not guarantee the performance or quality of any loan presented for consideration. (your company here) will not be held responsible for any financial hardship or loss suffered as a result of lending on Trust Deeds.

. ===== END THIS DISCLOSURE DOCUMENT =====

Sample Full Disclosure Statement For Website #2:

This sample full disclosure is a bit different than the one above... but does essentially the same thing. Again, use this sample as a starting point and run it by your own attorney BEFORE using it to protect your business. This specific disclosure has elements that are geared toward companies who may offer securitized private loans (usually when there is multiple lenders for one property). When you begin to use more than one private money lender for a specific property you begin to complicate things a bit... and more legal restrictions apply in these situations.

Before you combine multiple private money lenders into one single property, please consult your own attorney.

=====DISCLOSURE STARTS BELOW=====

Disclaimer (your company name)., may from time to time offer securities in the financial markets.

The information provided through this website does not constitute or form part of any offer or invitation to sell or any solicitation of any offer to purchase any securities in the United States or any other jurisdiction. Any securities may only be offered or sold, directly or indirectly, in the state or states in which they have been registered or may be offered under an appropriate exemption.

(your company name), has made all reasonable efforts to ensure that all information provided through its website on the Internet is accurate at the time of inclusion; however there may be inadvertent and occasional errors. (your company name), does not guarantee, and makes no representations or warranties of any kind whether express or implied about, the information and opinions provided through this website, including any items used either directly or indirectly from its website, and reserves the right to make changes and corrections at any time, without notice.

(your company name), accepts no liability for any inaccuracies or omissions in its website and any decisions based on information and opinions contained in its website are the sole responsibility of the visitor. Links to other websites are provided for your convenience but we are not responsible for the contents of any external websites which link to this website or which are linked to from it. We accept no liability for any direct, special, indirect or consequential damages, or any other damages of whatsoever kind resulting from whatever cause through the use of any information and opinions obtained either directly or indirectly from our website. This website may contain information about past investments and case studies of the business. It should be remembered that past performance cannot guarantee future performance and you should base your decision to invest with (your company name) only after researching the investment fully and deciding that it fits your risk and investment goals.

This website may contain statements concerning our business, financial condition, results of operations and certain of our plans, objectives, projections, expectations or beliefs with respect to these items. These statements may constitute forward-looking statements as that term is defined in the United States Private Securities Litigation Reform Act of 1995. These statements include, without limitation, those concerning the company's strategy and its ability to achieve it, expectations regarding real-estate investments, investment plans, and those preceded by, followed by, or that include the words "believe," "expect," "intend," "plan", "anticipate" or similar expressions. The company cautions that any forward-looking statements on this website may and often do vary from actual results and the differences between these statements and actual results can be material. Accordingly, readers are cautioned not to place undue reliance on these forward-looking statements.

The company undertakes no obligation to release publicly the result of any revisions to any forward-looking statements that may be made to reflect subsequent events or circumstances. By their nature, forward-looking statements involve risks and uncertainties that could cause actual results to differ materially from those expressed or implied by such statements. There are a number of factors that could cause actual results and developments to differ materially from those expressed or implied by these forward-looking statements. This website is not directed at any person in any jurisdiction where for any reason the publication or availability of this website is prohibited.

. ===== END THIS DISCLOSURE DOCUMENT =====

Creating Your Own Disclosure Statement:

While using the sample disclosure statements are a great place to start, truthfully, it is usually best to customize your own disclosure statement that is unique to you, your business, and the specific acts that your business takes part in.

As you noticed, there are many ways to create your private money disclosure statement. With the long “legal words” laden disclosure like the last one... to the short and sweet disclosure statement like the first one... they both do the job.

Really, you need to determine what your business is all about and write the statement to reflect your business. There really is NO one single disclosure statement that can apply to all real estate investing business.

So... there are some specific steps you can take to start to draft your own disclosure statement... then take that draft to your attorney for a final review. A final review of your disclosure will likely cost you less than \$300 from a competent attorney... and will be well worth the investment if you ever plan on making any real money in real estate.

Here we go...

The Elements of A Private Money Lender Disclosure Statement

There are specific elements that should be a part of any private money disclosure statement. While these elements should be included... there may be additional requirements in order to protect your business in your specific state... or for your specific activities.

1. **About Your Business And What You Do:** Essentially you want to include a section that states who your company is and what you are in business to do. Of course, as a real estate investor... you want to describe that briefly in the disclosure.

Example: (your company name) is a real estate investment company based out of (your state) who specializes in (your specialty). Our business purchases real estate in many different ways and funds those deals using a variety of sources including private lenders. Private lenders lend funds to (your company name) for use in our (residential/commercial/etc.) property investments that are secured by mortgages (or trust deeds depending on your state). Each private lending transaction follows the applicable state laws and regulations in each state in which we conduct business.

2. **Risk Factors For The Investor/Private Lender:** Just like with any investment, there are certain risks involved in these transactions.... and it is important that these risks be disclosed to the potential investor so they can make a well informed decision. Risk factors not only include real estate market changes, cash flow problems, competition, etc... but they also can include an unproven real estate investing company (if you've never done a deal before) etc. In order to be out-front with potential investors be sure to disclose everything that you would disclose to your own grandma if she were to invest with you. Just remember, the disclosure statement is to protect you in case an investor chooses to sue you. If you can show that you disclosed everything to them BEFORE they invested, you are much more protected in the court of law.
3. **How A Private Lenders Funds Will Be Used:** In order to help a private money lender gain more clarity on exactly what they are investing in, it is usually a great idea to disclose on how their funds will be used after they invest.

Be as specific as possible... lay out where their money will end up going and for what use. This way there is no doubt where and “what for” your funds will be used. Some private money lenders will only choose to invest in certain types of properties, or will refuse from providing funds that will be used for rehab expenses, etc. Usually private lenders will not care, as long as they are protected with a mortgage backed by the low LTV (loan to value) property or have an actual stake in the property. Just be upfront with them about exactly what their funds are going towards. These can include: marketing, rehab expenses, purchase of a property, rent, admin expenses, insurance, supplies, etc. Just be clear

and concise.

4. **Key Officers and Shareholders of the Company:** Let your private money lenders know who is behind their investment. People like to lend to other people that they trust... not corporations with no track history or trust.

In your disclosure or the education documents you use to educate potential investors on your program, let the investors know what your company is all about and who is within the company making the decisions that are affecting their investment. State who the owners of the company are, their experience, background, etc. Basically, give the potential private money lender a good idea of who they are working with.

5. **Financial Information:** Think about it for a sec... if you were to lend \$50,000 to a company... you'd probably want to see what kind of financial shape they're in... right? Well, for some private money lenders this is a must... for others they just want to make sure the transaction they're lending on is a good deal.

Either way, it's a great idea to gather the financial data of your company and disclose earnings, etc. with the potential lenders. If you are a new investor and have not done any (or just a few) deals... you'll have to rely on the financials from your previous deals and show them to the investor to show them what you've done in past deals. If you have done no deals... you'll have to rely on how good the specific deal is that the lender is looking at investing on. If the deal is marginal and not that great of a buy... a lender is taking more of a risk. If the deal is at 50-60% ARV (after repair value) and it's a no brainer... it'll be very easy to find a private money lender who will loan on the deal.

Those elements are some good elements to include in your disclosure statement.

Summary:

All in all, a disclosure statement is nothing scary that should bring about too much worry on your part. Just use the sample disclosures in this document as a start... then take it to an attorney in your area who knows real estate and business law. Pay the \$150-\$300 to get the attorney to look it over... and you're on your way.

As in all business and in life... it may be easier at first to not tell people everything. But, when you don't tell people everything... it can really come back to bite you in the rear end. So, as long as you're completely upfront with potential private money lenders, tell them what you're about, what risks they may have, etc... you should be fine from a legal standpoint (if you plan on using direct mail, fax blasts, phone calls, ads, etc.. be sure you're studied up on the SEC guidelines BEFORE you send out any marketing pieces). What we've found ourselves is that private money is easiest by simply going out and networking with a bunch of people and letting them know what you do. Go to local REIA's, meet real estate agents, mortgage brokers, join the chamber of commerce, etc.

Real estate investing is a REAL BUSINESS and should be treated as one. Get out there, spread the word... and people will eventually flock to you go lend you money... especially now that the stock market is tanking and CD's are earning 3%. Offer them 10% returns, educate them on you/your business/etc., tell them about your deals as they come through, disclose things to them... and start building your private money lender list!

Cheers,

Patrick

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Patrick Riddle

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