

COMPLIANCE OVERDRIVE

COMMON MISTAKES CAN WRECK LENDER RELATIONSHIPS

One of the most important keys to a successful dealership is strong relationships with lenders. You may regularly get advice on what you can do to build and improve these relationships, but as a dealer, what *shouldn't* you be doing?

Many common problem areas can be traced back to financing documentation. First and foremost, dealers cannot forget they are responsible for retail sales contracts as the original creditor – even if they plan to subsequently assign the contracts to a lender. In fact, dealers may sometimes hear the term “assignee” instead of “lender,” highlighting the fact they are assigning a contract for which they are originally responsible.

If a dealership manages the loan documentation process poorly, it may not be able to assign the contract to anyone. Or, if the contract is assigned, it might have to be bought back later because of documentation defects.

Remember, when financing a sale, the dealer – as the original creditor – needs to be as careful, accurate and complete as possible. That attention to detail will help the dealership if it intends to hold the paper, and will also improve relationships with lenders to whom the contracts are assigned.

But how do you avoid creating contracts your lender (assignee) refuses to buy? The simplest answer is just to avoid some of the most common mistakes cited by lenders, including:

Charging incorrect fees, such as fees paid to public officials and documentation fees: States often authorize dealers to charge fees with specific names and in specific amounts for processing documents or other activities. You need to be aware of the fees allowed in your state, the amounts allowed for those fees and when they can be charged.

Charging fees that aren't specifically authorized can create problems for you (the original creditor) and also cause a lender to refuse to buy your completed contracts. You also need to stay current on the fees required for submitting title applications and other official fees.

Usually, it's fairly easy to confirm and use up-to-date fee information so you stay in your lender's good graces.

Contracting with outdated form versions or noncompliant forms: Most lenders conduct a legal review of popular base forms used for retail motor vehicle sales transactions. Lenders then require use of a retail sales form that has been reviewed and approved so they only need to review the financial terms and completion fields when an executed contract is assigned.

Retail sales forms are revised with some regularity in response to state and federal law changes as well as changes in market

requirements. As a result, lenders regularly cull their lists of pre-approved forms to remove outdated or noncompliant versions.

If you use an outdated/noncompliant form, your lender will not buy the executed contract. Your lender may also refuse to buy an executed contract on a base form it hasn't already reviewed and approved. As a result, you should always use the current, lender-approved versions of forms.

Improperly listing collateral: When you finance the sale of a motor vehicle, you take a secured interest in the vehicle sold. If a buyer defaults on the terms of the retail sales agreement, one remedy available to you (or the assignee/lender) is to repossess the vehicle.

The right to repossess the vehicle is a huge risk mitigation tool for a creditor and a huge factor motivating the buyer to avoid default. However, it might be difficult or impossible to repossess a vehicle if the retail sales contract doesn't include enough information about the vehicle, such as the VIN or other key identifying information.

Lenders' funding decisions are also affected by whether a vehicle is a “Limited Edition,” has automatic or manual transmission, alloy wheels, etc. An accurate and complete description of the vehicle and its extra features is critically important for the lender to analyze the transaction.

With such high stakes, it's understandable that lenders require the vehicle description to be accurate and complete. Remember, lenders may also do post-sale audits with buyers to make sure the vehicle's features are accurately described in the retail sales contract. If the vehicle's features and condition were exaggerated, the lender may require you to buy back the transaction.

Improperly disclosing trade value or cash down payments on contracts: A critical promise dealers make to lenders/assignees is that the retail sales contract is an accurate report of all financial terms of the sale. The lender/assignee isn't in the dealership to oversee the transaction, so it relies on the dealer to fully and accurately describe it.

If that trust is violated on just one transaction, it can affect the entire business relationship between the dealer and lender/assignee. As a result, it is critically important you understand and accurately report all the fees and charges, especially in the “Itemization of Amount Financed” section of a retail sales contract.

An obvious deal killer for a lender is if the dealer fails to report all cash received from the buyer or manipulates the agreed-on value of a trade-in vehicle. For example, if a lender discovers a buyer paid additional cash not reported by the dealer, it will result in a rejection of that transaction and also call into

question the dealership's integrity on all other transactions.

Failing to provide signed disclosure forms in the finance package: In addition to federal notices and disclosures, every state has its own requirements for consumer retail sales transactions. Some disclosures and provisions require separate buyer or dealer initials or signatures.

It's easy to forget or overlook acknowledgement provisions during the signing process. If any required acknowledgments are not initialed or signed, the retail sales contract has a compliance problem.

A lender will not buy – and will return to you – any contract missing required initials or signatures. Before the buyer drives away, double-check to ensure you have collected all required initials and signatures on all finance package documents.

Problems can also result from general data entry errors within loan packages, so be sure your sales transaction documents don't have any typos. Technology can greatly improve manual data entry errors, but if you're using a software system to generate and print your forms, always check to ensure the system is computing everything correctly. You may even want to consider a loan documentation audit and review process for each deal.

Although we are focusing on common mistakes made by dealers, it's important to remember lenders aren't perfect either. In fact, as you work with your lender partners, there are areas in which you can seek their help to make the process easier.

For example, have they made their program guidelines clear and accessible, and do they readily provide instructions for dealers regarding the completion of contracts? If so, do their instructions include information regarding calculation methods and how payments should be disclosed?

One of lenders' biggest concerns is whether or not dealers represent consumer information and transactions accurately and honestly. So dealers who make an effort to avoid documentation mistakes will find it easier to gain the trust of lenders.

Remember: lenders want to help make the process smoother, too. Consider monthly or quarterly meetings with your lending partners to discuss how portfolios are doing, address any concerns that might hinder the relationship, and determine what both parties should – and should not – be doing to make sure the relationship remains a positive and profitable one. 🚗

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