

## What is a Subject To Deal? (Part 3)

**Written By: Bill and Kim Cook**

This is Part 3 of a series of three columns about Subject To deals.

What is a Subject To deal? It is when a Real Estate Investor buys a property from a seller, but instead of getting a new mortgage in the Investor's name, the seller's mortgage remains in place. In other words, after the closing, the investor owns the property but the seller's mortgage is still active. The Investor does not "assume" the seller's mortgage; rather the Investor agrees to make the seller's mortgage payments for the seller. Think of it as a form of owner financing.

For a better understanding of Subject To deals, be sure to read parts one and two in this series of columns.

The biggest risk to Real Estate Investors who do Subject To deals is a clause in the seller's Security Deed. It's commonly referred to as the "Due on Sale" clause.

Anyone getting a new mortgage with which to buy a property must sign three main documents in addition to lots of other documents. These three main documents are the Warranty Deed, Note, and Security Deed.

The Warranty Deed shows who owns the property. The Note shows how much was borrowed along with the terms of the loan. Finally, there is the Security Deed. The Security Deed lists the rules the borrower agrees to follow in order to be lent the money with which to buy the property. If the borrower violates any of these rules, the mortgage company has the option of calling the loan due. This means the mortgage company has the right to have all of the money that was lent be immediately re-paid. Welcome to the Due on Sale clause.

Selling one's property without first notifying the mortgage company is a violation of most Security Deeds. This means most Subject To deals violate the seller's Security Deed and can be called due.

Now that the warning has been given, let's rejoin the real world. Subject To deals are our favorite way to buy real estate. We have been doing Subject To deals since 1998. We have never had any of our Subject To deals called due. We know many investors who do Subject To deals. No one we know has ever had a mortgage called due. I'm not saying it can't happen, I'm just saying it very rarely happens.

Why don't mortgage companies call loans due? Two reasons: First, they rarely know the property has been sold. Second, what is a mortgage company most interested in? They want their money. It has been our experience that as long as a mortgage company receives their monthly mortgage payment in full and on time, that is all they care about. They don't care who sent the check or from where it was sent.

OK, in our last three columns we have tried to give a Readers Digest explanation of Subject To deals. Now let's look at a brief example of a Subject To deal.

Several months ago we got a call from a husband and wife who live in Cartersville. They were within two weeks of closing on the house of their dreams. Problem was, because their current house remained unsold, they were about to lose their dream house.

Trying to buy their house in a conventional method (applying for a new mortgage) would have taken too long. We offered to do a Subject To deal and they accepted. Five days later, thanks to our attorney Lee Perkins, we closed on the property.

After the closing, we owned the house but the seller's mortgage remained active. At the end of each month we pay the seller's mortgage payment.

The sellers are happy and living in the house of their dreams. We have a tenant/buyer who is living in the seller's old house and looking forward to purchasing the property from us later this year. We're happy because we were able to solve two family's real estate problems. A win-win deal.

It takes time and study to learn and fully understand Subject To deals. Here are three websites where you can learn more about Subject To deals: [dealmakerscafe.com](http://dealmakerscafe.com), [reiplace.com](http://reiplace.com), and our website at [reioutpost.com](http://reioutpost.com).

Hope this series of three columns has helped you to better understand Subject To deals.