

# Script For Talking to Senate Staffer About HR 1728 sec 101(3)(e)

This script was created by LC Kelly of Fine Touch Build Remodel. Dean Dretske of Tulsa House Buyers did some editing for presentation – and therefore takes credit for any errors.

The purpose of this script is to convey our outrage about 1728's restrictions on seller financing. LC did a great job making the point in a way to which a Senator's staffer can relate. To use this script, call each of your Senators and ask to talk to the staffer who is responsible for finance and /or banking issues. The script shows the actual Staffer's responses; hopefully, your conversation will be similar.

You: Can you tell me a little about your background and expertise, so I have an idea about your knowledge in this area?

Staffer: [Give him a chance to puff himself up a little. It's all negotiating tactics...]

You: One of the things that I do is I buy houses that are in bad shape and fix them. (Best not to throw around that you are an "investor." We already have a bad name not only on Capitol Hill, but just around in general. If you don't rehab, figure out a way to say that you've acquired some property, for your retirement, maybe. You get the gist.) I sell the houses that I fix to homebuyers. When I buy them, none of the houses I fix qualify for FHA financing (this may require a little more education), so I'm contributing to stimulating the home ownership market. So let me ask you a question: Would you agree that my houses are private property?

Staffer: They should say yes – if not, we have a much bigger problem!

You: Would you agree that as a private property owner I have the right to sell my property to whomever I see fit?

Staffer: Yes

You: Would you agree that I have the right to privately finance a sale to a qualified buyer- understanding that I bear the responsibility for qualifying the buyer?

Staffer: Yes.

You: Trust me, I'm not in the game to make bad decisions. Life happens sometimes and private loans can go bad, but overall, even in the depths of this foreclosure debacle, most people, do you have the figure? It's something like 90%, are paying on their loans. Anyway, so we're talking about private property, and the rights of private property owners. Are we in agreement on that point?

Staffer: Ok... said with a where-are-you-going-with-this kind of drawl

You: So I buy houses and fix them. Right now I don't have an inventory but for the sake of argument, let's just say that I have 7 houses, 5 of which I'd like to sell in the short term. They're not luxury McMansions, they're reasonable 3BR / 2BA houses, 1500 sq ft to 1900 sq ft. This is typical of the houses I get involved in. Let's say Mr B has been through foreclosure. It's the worst thing financially that's ever happened to him in his life. Nothing else has ever happened except one late payment on a credit card 15 years ago. He's generally financially responsible. He doesn't misuse or abuse credit. He just got sucked into an easy money loan with a heart-quickenning teaser rate. The problem only came after his rate adjusted. He couldn't afford the payment anymore. He lost the house. His credit is shot. He can't get a loan. But he wants to buy a house; he doesn't want to throw his money away on rent; he wants the tax advantages of ownership. Tough nuts, Mr. Responsible America. Same for you Mr. C, and Mr. D, E, F, and G. You can't buy. Period. It's not an option. Because you can't get a loan. Would you agree that there are a lot of Americans living this scenario?

Staffer: Sure.

You: The point I want to make is, that these people CAN buy houses. There is a way. Today, tomorrow, anytime- as long as it works for the parties involved. Private seller financing is the perfect solution to his problem. And to mine, because I have 5 houses that I want to sell in the next 18 months. Again, I'm the one responsible for qualifying my buyer. That onus

is on me. And I'm going to make sure that I have recourse to foreclose written into the deed of trust / mortgage. I'm going to retain counsel, the buyer is going to retain counsel; every piece of this transaction is on the up and up. Is this making sense to you?

Staffer: Yes.

You: Have you read section 101(3)(e) of HR 1728? It's right at the top TITLE I – RESIDENTIAL MORTGAGE LOAN ORIGINATION STANDARDS, Section 101 (3)(e):

HR 1728, which you can view in its entirety here:

<http://www.govtrack.us/congress/bill.xpd?bill=h111-1728> deals with a plethora of mortgage-related issues, mostly around limited terms and fees on residential loans. But the heinous piece of the legislation is in section 101(3)(e), which defines the affected principals as:

'(E) does not include, with respect to a residential mortgage loan, a person, estate, or trust that provides mortgage financing for the sale of 1 property in any 36-month period, provided that such loan-

(i) is fully amortizing;

(ii) is with respect to a sale for which the seller determines in good faith and documents that the buyer has a reasonable ability to repay the loan;

(iii) has a fixed rate or an adjustable rate that is adjustable after 5 or more years, subject to reasonable annual and lifetime limitations on interest rate increases; and

(iv) meets any other criteria the Federal banking agencies may prescribe; and

You: What this says is I can't sell my houses with seller financing after qualifying my buyers. Well, only one of them. Then I'd have to wait THREE MORE YEARS to sell ONLY ONE MORE! Even if a strong buyer with good credit qualifies for a purchase money first mortgage from an institution and I want to offer them a second because the first they qualify for isn't quite enough to cover the purchase price, I can't do that more than once in a 3 year period.

Let me give you another example. Where did you grow up? (Most often the answer will not be Washington, D.C. if you're talking to a staffer in the D.C. office.) So let's say that you're living in the D.C. area and... do you own your own house? Let's just say for the sake of this scenario that you do.

Now let's say a treasured uncle dies and leaves you his house, free and clear, in your hometown (or another city in the person's home state).

Sadly, your treasured uncle wasn't doing so well in his last years and the house is in pretty bad shape.

You're aware that the only institutional financing out there right now is for first-time buyers? And that that money is FHA backed? Are you aware that a property financed by FHA backed money has to meet certain criteria? Your uncle's house, your house now, the one in pretty bad shape, it doesn't qualify for an FHA purchase money loan. It's not pretty enough.

So, you could travel back and forth, dealing with contractors long distance to try and get the place fixed up so that it's marketable, but there's a lot of inventory competing against your house even if you do spend the money and get it fixed up..... Or you could do some minimal fix-up and rent the place out and have all the property management headaches to handle long distance..... Or..... you could sell your house to someone like me, who will fix it up after it's off your hands. But remember, there's no financing out there for me now. I'm not a first time buyer. I can't get a loan..... But you can sell it to me with owner financing. You're going to check me out with a fine tooth comb, make sure I am who I say I am, that I have solid credit, that I do what I say I'll do. When you satisfy yourself that I'm a qualified buyer, you can consider my offer. Say the sale price is \$150,000., and I offer you 5.5% - a pretty good rate these days, but you decide you'll only take 5.875%. Deal. Are you going to go out into the marketplace and raise \$150,000. to lend to me to purchase your house?

Staffer: NO.

You: No, you're not. The equity in the property IS the loan. All you're doing is creating an income stream for yourself. At 5.875% on \$150,000 amortized over 30 years, you now have a new income stream of \$887.31 every month with principal and interest. Not too bad. And the loan can be structured with a balloon if we both agree. Or, once I show a solid payment history over 2 – 3 years, there IS refinance money out there for me. There's no purchase money for me, but there is refinance money. So I can pay off the loan in 3, 4, 5 years and you get that lump sum of cash. Not a bad deal, eh? (Trust me, they will agree.)

Then..... 6 months later..... You get an irresistible job offer in New York. You are going. You can not turn this thing down. You need to sell your

house in the D.C. area. But there's a ton of inventory in that area and you have to leave. You could list the house and have it sit and sit (they know the score in Metro D.C. area) and be making payments on the house while you're living in New York. Or..... even if your house is in good shape, and needs next to nothing in repairs, you are missing out on a whole segment of the market that wants to buy – the credit wounded market, the people who can't get a loan. Why not open up to that market and owner finance again? All you have to do is make the buyer jump through your hoops. As long as they sail through , Mr. B, C, D, E, F or G, any one of them, you have got yourself a buyer and have sold your house.

Bad news. Read section 101 (3)(e) of HR 1728. You just owner financed your uncle's house 6 months ago. You can't owner finance your house for another 2 years and 6 months.

(This is the spot where the pregnant pause came.)

Would you agree that this legislation is designed to help prevent predatory lending practices?

Staffer: Yes, I see.

You: Would you agree that there is and there will continue to be a sector of potential home buyers with wounded credit that will be shut out of the home buying market (and the tax base) if I and other property holders like myself are prevented from offering seller financing except for once every three years?

Staffer: Hmm.

You: Would you agree that such a regulation will add to stifling the rebound of the house-buying sector of the economy?

Staffer: Hmm.

You: Would you agree that this legislation is taking away my right to sell my 5 properties through seller financing to the qualified buyer of my choosing?

Staffer

You: Who is this protecting? Why is it good? Or necessary?

Staffer: [Final response/official line:] We'll look into it.

This tack was HEARD. I only live in one state. If every senator in even 40 other states HEARD THIS MESSAGE the legislation would not be passed as written. That's the point of this campaign. It ain't over, but Section 101(3)(e) as written is way off point in terms of the intent of this legislation. THANK YOU FOR SPENDING HALF AN HOUR OF YOUR TIME talking to your Senator's staffer!