

# CULTURE MORTGAGE

**If I loan a individual money to purchase a home, and they in turn take out a mortgage on the property without disclosing to the mortgager the undocumented loan; does this fall within mortgage fraud?**

Although I am not an attorney as licensed CA broker specializing in financing, in my professional opinion I do believe this constitutes mortgage fraud. Banks offer terms based on levels of risk. A large part of the calculation is based on Loan to Value (LTV), and Combined Loan to Value (CLTV). LTV and CLTV measure the amount of equity left in a home. CLTV is different from LTV when a second mortgage is taken out. Depending on guidelines sometimes this could prevent the first mortgage from being issued, which is why secondary financing should always be disclosed to the lender. This undisclosed debt could also raise the borrower's debt to income ratios to levels above guidelines preventing them from qualifying. Furthermore, on page four of the Uniform Residential Loan Application also known as a 1003, in Section VIII Declarations, a series of questions is asked of the borrower. Questions g. and h. are of particular interest: %g+ asking about other separate maintenance - which an additional mortgage payment could definitely be considered, %h+ asking is any part of the down payment is borrowed. If you have not disclosed the borrowed silent second, then you should probably answer yes to this question and they will want to know why.

By keeping information from the lender that changes your financial ability to repay the loan and increasing their risk, without disclosing it to the lender is in my opinion mortgage fraud. If you are a seller considering a seller carry, make sure it is disclosed to the lender, and recorded, it is in your best interest. By having your lien recorded you will protect your lien position, and should the owner want to refinance their first mortgage in the future without paying you off, they would have to get permission from you to subordinate.

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