

March 12, 2007

MEMORANDUM

TO: Clients of the Montgomery County Transfer/Recordation Office

FROM: Timothy L. Jones, Financial Programs Manager

SUBJECT: Indemnity Deeds of Trust

There have been quite a few questions from our customers in recent months about the proper wording of Indemnity Deeds of Trust.

Our office will determine that the IDOT is taxable if it has wording to the effect that the IDOT secures the obligations/indebtedness under the loan documents or the guaranty.

The IDOT, to avoid recordation tax, must be written to meet the following requirements:

Indemnity Deeds of Trust Requirements

1. The grantor of the IDOT must be a separate and distinct entity from the maker of the note.
2. The grantor of the IDOT must have signed a guaranty of the note.
3. The IDOT must secure the guaranty and only the guaranty. If the IDOT secures the obligations, the indebtedness or the obligations and indebtedness under the loan documents or the guaranty, it will be taxable.