



# National Family Mortgage®

## Seller Financing Guide

*The smart way to manage real estate loans between family members.*



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(Yes, this guide is 36 Pages and it's all important. Please read it carefully – don't rely on an AI summary!)

# National Family Mortgage ® Seller Financing Guide

This guide is all about how an intrafamily mortgage loan can help someone:

## Buy a Relative's Home



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We also offer the following three separate guides all about how an intrafamily mortgage loan can help someone:

## Buy a Home



## Renovate a Home (Lump-Sum Home Equity)



## Refinance out of a Commercial Mortgage Loan



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## **THE LEGAL FINE PRINT**

National Family Mortgage, LLC is committed to increasing accessible digital materials to all users. This guide strives to meet WCAG 2.1 AA and Section 508 principles for clarity, structure, and compatibility with assistive technologies. The material in this guide should be used for general informational purposes only and is not geared toward any specific transaction or goal. National Family Mortgage, LLC is not a law firm or fiduciary and does not provide legal advice, tax advice, or financial planning advice. All compliance references describe the intended design of our Website, products, and services, not the provision of professional advice. National Family Mortgage, LLC is not a mortgage agent, broker, lender, originator, or servicer. We recommend that you consult an attorney and real estate, tax, or financial professional before entering into a financial transaction like an intrafamily mortgage loan. This guide includes links to supporting documents and information found on non-affiliated third party websites. The information contained herein is the sole property of National Family Mortgage, LLC, and may not be reproduced or redistributed for any purpose without the express written consent of National Family Mortgage, LLC. National Family Mortgage, LLC does not offer a solution for every intrafamily real estate loan situation. Please review our website [Terms of Service & Privacy Policy](#), including our [Company Standards](#) for comprehensive restrictions.

## About Us

For generations, families have passed homes from one generation to the next. Family homes are more than walls and roofs — they carry memories, milestones, and the stories of those who came before. Parents sell their longtime homes to adult children, sometimes below market value; grandparents transfer property to grandchildren; and siblings occasionally buy one another out of inherited family properties.

But even with the best intentions, selling a home to a loved one can be complicated. In today's world, informal family real estate transactions — especially those involving payment plans or reduced sale prices — can create serious tax, legal, and relationship risks if not handled correctly.

A family sale isn't just a transaction — it's a transfer of legacy and opportunity. Everyone wants to give and receive support in a way that builds stability while protecting shared financial interests, honoring fairness among relatives, and keeping families strong.

That's where **National Family Mortgage**® comes in.

We're not a bank or a mortgage broker. We're a specialized online company that helps families create **safe, legal, and IRS-compliant mortgage loans** when selling a home to a relative. Our process transforms a family sale into a professional, enforceable arrangement — protecting the Seller's investment and giving the Buyer the stability of a properly recorded mortgage.

With National Family Mortgage®, families avoid the tax, legal, and relationship pitfalls that too often arise from informal or poorly documented home transfers.

Since 2010, we've helped thousands of families nationwide document and manage billions in family mortgages — with a loan default rate consistently under 1%.

Our work — and the success of our clients — has been featured in **The Wall Street Journal**, **The New York Times**, **Consumer Reports**, **Kiplinger**, **ABC News**, as well as by **Michael Kitces**, the late, great **Jonathan Clements** and other respected publishers.

We're here to make **family home sales** — and family mortgage lending — safe, simple, and successful. Because when families can pass homes between generations with clarity, fairness, and confidence, everyone wins — today and for years to come.



*National Family Mortgage® reflects Founder and CEO Timothy Burke's long-standing commitment to helping families build, protect, and transfer wealth. Burke began his career in family lending at CircleLending, the peer-to-peer pioneer that launched the model in 2001. After CircleLending's 2007 acquisition by Sir Richard Branson and rebrand as Virgin Money USA, Burke helped carry the vision forward. When the Great Recession led Virgin to exit the U.S. market in 2010, Burke continued the mission by founding National Family Mortgage®.*

# What is Seller Financing?

## What Is Seller Financing? (Also called Owner Financing or Carry-Back Financing)

**Seller Financing** is a home sale in which the **Seller acts as the Lender**. Instead of receiving the full purchase price at once, the Seller agrees to receive **regular monthly payments** from the Buyer — until the full balance is paid.

This arrangement isn't a cash loan. It's an **installment sale** — a structured exchange of value, supported by formal loan documents and secured by the property itself.

### How It Works

- The **Seller transfers ownership** of the property to the Buyer through a recorded **deed or title**.
- In return, the **Buyer signs a Mortgage, Deed of Trust, or Security Deed**, granting the Seller a lien on the property until the loan is fully repaid.
- The Buyer gains homeownership — with flexible, family-centered financing terms.
- The Seller earns interest on the unpaid balance and may also benefit from **spreading out capital gains tax** on the sale of a primary residence over time.

✔ *Seller Financing works best when the Seller owns the home outright, or can pay off any existing mortgage balance with the Buyer's down payment or other funds.*

### Tax Advantages of Seller Financing of a Primary Residence

Seller Financing doesn't just create predictable income — it can also create significant tax advantages.

When you sell a primary residence and carry the financing yourself, you can often **spread your taxable capital gain over time** instead of reporting it all in the year of the sale. Under the IRS *Installment Sale Method*, you report your gain gradually, in the years when you actually receive payments from the Buyer.

This approach can defer a substantial portion of your tax liability while improving cash flow — allowing you to keep more of your money working for you.

Each monthly payment you receive generally includes three parts:

1. **Return of Basis** — A portion of your original investment in the property (not taxable).
2. **Capital Gain** — Your profit from the sale (taxed as capital gain).
3. **Interest Income** — The interest you earn on the loan (taxed as ordinary income).

Each year, you'll calculate how much of your payments are taxable as gain and how much are a non-taxable recovery of your cost basis. If your family Buyer resells the property within two years, under **§ 453(e)** you must immediately recognize any remaining deferred gain — even if you haven't been paid yet. In most family transactions, this rule is moot because when your relative eventually sells, the family note is repaid and you will recognize the gain at that time anyway.

Tax deferral should never be the sole reason for choosing seller financing; it works best when combined with genuine cash-flow and family financial planning goals.

## Why You Usually Can't Defer Taxes When Selling a Vacation or Rental Home to Family

Under **IRS Section 453(g)**, if the property being sold is something the buyer can **depreciate** — like a rental home or vacation property used for income — the Seller **must report the entire gain in the year of sale**, even if the buyer will make payments for years to come.

That means there's **no tax deferral**, even though the payments are spread out. Families can still use **seller financing** if it helps the child qualify for the purchase or gives parents predictable income, but the **tax benefit of deferring the gain disappears** for rental or vacation properties.

### Bridge-to-Family Sales

Sometimes, families close on a new home in the parents' name first — and then sell the home to their adult children soon after. That's okay. When Mom and Dad sell the home to their kids **for about what they paid**, there's usually **no taxable gain** to report — whether the property will be the children's **primary residence or a vacation home**. Because no profit is being spread out, the IRS doesn't treat this as a "tax-deferral" installment sale; it's simply a **family financing arrangement**.

### Required Interest Income

Once an intrafamily transfer has been legitimately documented as a loan, especially of over \$100K, it's important to remember that the IRS requires the Lender to report minimum annual interest income based upon the proper IRS Applicable Federal Rate. **All interest earned on a private loan is taxable income**. Some Sellers assume that if the annual interest earned is less than the IRS annual gift exclusion limit, they can simply forgo collection and treat it as a gift. Unfortunately, that's not how the IRS sees it.

Even if you choose not to collect the interest owed, the IRS will still tax you as though you did. A loan is a loan — and a gift is a gift. They can't be mixed for tax convenience. Please learn more about the IRS Applicable Federal Rates on Pages 13 and 20 of this Guide.

Handled correctly, Seller Financing can transform a lump-sum sale into a **steady, tax-efficient stream of income** that benefits both the Seller and the Buyer. Always consult your tax advisor or financial planner to confirm how these advantages apply to your situation.

### Family Benefits

Seller Financing allows families to:

- Keep homeownership within the family.
- Offer affordable terms to relatives who might not qualify for bank loans.
- Can prevent unnecessary taxes and closing delays that often arise from informal or undocumented family real estate sales
- Pass down property — and opportunity — in a financially responsible way.

But while Seller Financing is flexible, it's also a **real estate transaction** — and that means it must be handled properly to protect both parties.

## **Why You Need a Local Attorney, Title Company, or Escrow Company**

Even though you're selling to or buying from a family member, this is still a legal property transfer.

For everyone's protection, **National Family Mortgage® only supports Seller Finance transactions that include a formal real estate closing with a licensed attorney, title company, or escrow company.**

This approach is required in many states and ensures the Buyer receives **marketable title** — clear, insurable ownership of the home — while the Seller's lien is correctly recorded.

### **Warranty Deed vs. Quitclaim Deed**

When you buy or sell a home, you should almost always use a **general warranty deed**.

This deed guarantees that:

- The Seller legally owns the property and has the right to sell it.
- No undisclosed liens or claims exist.
- The Buyer's ownership is protected through **title insurance**.

Before issuing title insurance, the settlement agent will conduct a **title search** to confirm the Seller's ownership and clear any title issues.

By contrast, a **quitclaim deed** makes no such promises. It simply transfers whatever interest you *may* have in the property — without confirming ownership.

That's why:

- Quitclaim deeds **cannot be insured** by title companies.
- Properties sold by quitclaim deed are often considered **unmarketable** and difficult to resell.
- Future Buyers may have trouble obtaining financing or title insurance.

✔ *In short: a warranty deed with title insurance protects everyone — and keeps the property marketable for generations.*



*Our Founder and CEO, Timothy Burke, is a featured expert in the 2025, 9th edition of "[Nolo's Essential Guide to Buying Your First Home](#)" It's a well-reviewed classic! Please check it out!*

## **What the Settlement Agent Does**

The settlement agent — whether an attorney, title company, or escrow company — will:

- Conduct the real estate closing.
- **Closing attorneys typically draft or review the sales contract.**
- Perform a title search on the property.
- Prepare and record the deed with the local government authority.
- Issue the Buyer's / Lender's title insurance policy.
- Oversee the execution of family mortgage documents and record them simultaneously with the deed.
- Collect and remit any required **state or county transfer taxes.**
- The settlement agent — whether an attorney, title company, or escrow company — is selected based upon state law and customs.

Once your family has reviewed and approved your National Family Mortgage ® documents, the documents are emailed to your local settlement agent for execution and recording at your real estate closing.

As most states and counties levy a real estate transfer tax, total closing costs on the real estate portion of the transaction can be as much as 3.00% of the value of the property.

- ✓ While loan closing costs are separate from your National Family Mortgage ® service fees, they're a vital part of ensuring your loan is properly recorded, insurable, and compliant with local real-estate law.

### **How to Contact a Settlement Agent**

"I'm refinancing a private intrafamily mortgage on a residential property. The loan will be executed and recorded at closing, similar to a standard refinance, but the lender is a family member rather than a bank. We're working with National Family Mortgage ® to document the loan; your role would be to conduct the loan closing, handle the payoff, record the lien, issue the settlement statement and any required title insurance."

## **As Featured By**



# Top 10 Dealbreakers

## Is National Family Mortgage ® Right for Your Family?

National Family Mortgage ® is a specialized, scalable service. We operate within a narrow vertical to ensure every loan is enforceable, tax-compliant, and successful.

To save your time and minimize disappointment, please review these **Top 10 Dealbreakers**. If any apply to your family's situation, unfortunately, we cannot help you. Please contact a local estate attorney for assistance.

### 1. Location Matters 📍



The Borrower's home is in one of our supported U.S. states:

**AL, AZ, CA, CO, CT, DC, FL, GA, IL, IN, ME, MA, MN, MO, NV, NH, NJ, NM, NY, NC, OR, PA, SC, TN, TX, UT, VT, VA, WA, WI**

All Lender(s) and Borrower(s) must have:

- A U.S. mailing address
- A U.S. Social Security Number or Tax ID Number



We cannot support transactions anywhere else.

### 2. Family Relationship Requirement 👨👩👧👦



At least one Lender and one Borrower must be **family members** (parents, grandparents, children, siblings, or aunts/uncles, nieces/nephews — including adoptive / step).

A significant other, fiancé, or spouse may be included on the loan as a Co-Borrower if the Lender and primary Borrower share a qualifying relationship above.

Loans may also be to / from **Grantor(s) / Trustee(s) of a Trust** (Family, Living, Revocable / Irrevocable, Land, Realty, Special Needs), provided the Trustee and counterparty share a qualifying relationship above.



Loans between friends, cousins, colleagues, or ex-spouses do not qualify.



Loans through a business or retirement account do not qualify.



Loans involving a deed transfer or buy-out / refi due to a divorce or breakup do not qualify.

### 3. Don't Bet the Farm 🏠



Loans must be secured by a **1–2 family residence, condominium, townhouse, or rowhouse**.

Manufactured or modular homes are permitted only if permanently affixed to land under one tax ID number.



We do not support construction loans or loans secured by vacant land, co-ops, mobile homes, tiny homes, tenant-in-common properties, or property zoned commercial or agricultural.

#### 4. Timing Is Everything 🕒

- ✓ The family mortgage must be executed and recorded at the Borrower's real estate closing — not afterward and not “on the sidelines.”
- ✓ The real estate closing must be scheduled between the **4th and 25th of the month**, and at least two weeks away from completing our online checkout.
- ✗ If you've already closed or are closing too soon, we cannot assist.
- ✗ We do not support “after-the-fact” loans.
- ✗ Loan documents cannot be formatted to accommodate Borrower execution via Power of Attorney. However, your settlement agent may be able to modify the documents locally to accommodate execution via POA, remote, or digital notarization.

#### 5. Marriage Matters 💍

- ✓ When not lending through a Trust, married Lenders must include their spouse on the loan. “A married couple, as joint lenders” is our standard vesting designation for two spouses acting together as Co-Lenders. This language is universally accepted for loan documentation and allows us to treat both spouses as joint parties to the transaction. *If your family attorney or settlement agent requires different vesting language for married Lenders, please contact your National Family Mortgage® team member. We can make arrangements within your account to allow you to enter the requested language directly. **Please note, we do not support Lenders who wish to hold their loan as Tenants in Common.***
- ✓ Likewise, unless borrowing through a Trust, married Borrowers must include their spouse on both the property deed / title and the loan. If a Borrower has a spouse or unmarried partner who will appear on the property deed / title, that person must also be on the loan.
- ✗ National Family Mortgage® does not review prenuptial agreements or support holding assets as “sole and separate estates.”
- ✗ Individual Borrowers / Lenders who wish to exclude their spouse or partner from loan documents or title do not qualify.

#### 6. No Shared Ownership Between Lender and Borrower 🔑

- ✓ The Lender / Seller is simply playing the role of the bank and **cannot co-own** the home being sold / purchased.
- ✗ If the Lender will also appear on the property deed / title, the transaction does not qualify.

#### 7. Keep It Simple: Two Lenders, Two Borrowers, Maximum ⚖️

- ✓ National Family Mortgage® supports up to **two Lenders** (typically a married couple living at the same address) and up to **two Borrowers**.
- ✓ Families wishing to combine funds from multiple households (e.g., parents and siblings, or both sides of a family) must structure **two separate Family Mortgages** as 1st and 2nd position liens.
- ✗ We cannot support:
  - Loans with more than two Lenders or Borrowers.
  - Sibling Co-Borrowers who are not borrowing through a qualifying Trust.
  - Crowdfunded or pooled family loans.

## 8. The Price Must Be Right \$

- ✓ For primary intrafamily mortgage loans, the Borrower's total mortgage indebtedness may not exceed the home's purchase price.
- ✓ For secondary intrafamily mortgage loans, the Borrower's family mortgage indebtedness may not exceed the Borrower's available equity position, defined as the difference between the home's purchase price and the amount of any simultaneous primary (first-position) mortgage.
- ✗ Loans above the purchase price will not qualify.

## 9. The Rate Must Be Right 💰

- ✓ The loan's interest rate must **meet or exceed the term appropriate annual IRS Applicable Federal Rate (AFR)** in effect at the time the loan is made, and may not exceed **8.00% (6.00% in PA or TN)**.
- ✗ Loans structured below the required AFR, or above the stated maximums, will not qualify.
- ✗ These rules apply regardless of whether your family intends to file a gift tax return or report imputed interest income differently.

## 10. Lending Is a Privilege, Not a Practice 🏛️

- ✓ The family Lender must **not have made three or more mortgage loans within the past 12 months**.
- ✗ Families engaged in frequent or ongoing private lending activity may be subject to additional federal and state licensing requirements.
- ✗ National Family Mortgage ® cannot participate in any loan that may be deemed a commercial or habitual lending practice.

### You're Doing This for the Right Reasons ❤️

- ✓ A National Family Mortgage ® works best when it's about **family opportunity, not obligation** — a way to help loved ones build and strengthen their life, not just shuffle paper.

If you made it this far — and that's your *why* — then you're in the right place.

You're our people. Let's build something together. We're excited to help you!

# The Problems We Solve

## Problem #1 / Broken Banking

- Traditional lenders profit twice — charging your family higher interest rates on mortgage loans while paying your family almost nothing on low-risk deposit accounts.
- Family Seller Financing lets you keep those profits in the family. You can sell your home, earn fair market interest on the financed balance, and give your Buyer a better rate than any bank could.

### *Real Numbers (February 17, 2026)*

<b>Traditional Banking</b>	<b>Family Mortgage</b>
<i>Borrower pays: 6.22% Mortgage Rate Average interest rate for a 30-year fixed mortgage according to BankRate.com</i>	<i>Borrower pays: 4.72% Mortgage Rate March 2026 Long-Term, Annual, IRS Applicable Federal Rate</i>
<i>Lender earns: 4.125% 10 Year Treasury Note According to TreasuryDirect.com</i>	<i>Lender earns: 4.72% 10 Year Family Mortgage</i>
<i>Bank profit: 2.095%</i>	<i>Bank profit: 0.00%</i>

### ***\$500K Family Mortgage Loan Example (30 Year Amortization w/ 10 Year Balloon)***

- *Borrower saves: \$470/month (\$74K in interest over 10 years)*
- *Lender earns: Nearly \$9K more than money parked with 10 Year Treasury Note*
- *Family keeps: Over \$215K that would go to bank profits*

## Problem #2 / Gifts That Backfire

- Outright gifts often lead to regret. A loan can always be forgiven later — but a gift can't be turned back into a loan.
- If your child later divorces, part of your gifted equity could walk out the door.
- If you transfer property below market value without proper loan documentation, the IRS may classify part of the sale as a **gift** — reducing your lifetime exemption and possibly triggering a **gift tax filing requirement**.
- Life can change quickly. A structured mortgage can be refinanced by a Borrower should a Lender need emergency liquidity later — something a gift can't provide.

- A Family Mortgage turns good intentions into a **structured, legal sale**, protecting your equity and maintaining fairness among relatives.

### **Problem #3 / IRS Scrutiny**

- The IRS presumes all below-market family transactions are **gifts**, unless proven otherwise with formal loan documents.
- For financed balances over \$100,000, you must report earning at least the proper **Applicable Federal Rate (AFR)** — or the IRS can **impute income**, taxing you on interest you never collected, but should have collected under the law.
- Proper documentation also ensures your Buyer qualifies for the **mortgage interest deduction**, and you properly report primary residence **capital gains** and **interest income**.

 *We work directly with your settlement agent to help ensure your family sale is structured, recorded, and compliant.*

#### ***Short-term Annual IRS AFR Rate - For Loans Up To 3 Years***

March 2026	February 2026	January 2026
3.59%	3.56%	3.63%

#### ***Mid-term Annual IRS AFR Rate - For Loans More Than 3 & Up To 9 Years***

March 2026	February 2026	January 2026
3.93%	3.86%	3.81%

#### ***Long-term Annual IRS AFR Rate - For Loans More Than 9 Years***

March 2026	February 2026	January 2026
4.72%	4.70%	4.55%

### **Problem #4 / Awkward Thanksgiving**

- Was it a sale? A gift? A handshake deal?
- When nothing's in writing, misunderstandings happen — especially once taxes, home maintenance, or resale enter the picture.
- Our process removes awkwardness and emotion by adding accountability, clarity, and professionalism.

 *At this point, the details matter — because this is where informal family sales most often go wrong.*

# Our Solutions

A **National Family Mortgage**® helps relatives sell homes directly to one another — eliminating the bank middleman while preventing legal, tax, and relationship problems.

Borrowers gain access to affordable financing; Sellers earn steady income, can spread out capital gains, and keep family wealth where it belongs – in the family.

## Legal and Tax Protection



- State / County specific mortgage documents designed for family lending
- Clear protections for both Borrowers and Lenders — legally, financially, and personally
- IRS-compliant structure supports accurate capital gains reporting and prevents gift tax issues; local lien recording ensures deductibility and tax compliance

## Professional Service



- Streamlined documentation and compliance at every step
- Alignment with settlement attorneys, financial advisors, tax professionals, and estate planners
- Optional Dodd-Frank–compliant payment servicing with annual IRS tax reporting (Forms 1098 and 1099)

## Simple Process



1. **Confirm Eligibility** – Review our Top 10 Dealbreakers (see Page 09)
2. **Build Your Loan** – Our online platform walks you through setup.
3. **Close on Home** – We confirm scheduling with your settlement agent.
4. **Manage Payments** – Optional professional servicing keeps payments on track, tax reporting accurate, and relationships protected.

# The Benefits

## Lender Benefits

### Wealth Protection



- Protect family wealth across generations — even in the event of divorce. Lend personally or as Trustee of a Trust.
- Ensure fairness for all heirs by structuring your support as a sale with a mortgage, not an outright gift. You hold a registered mortgage lien — just like a bank.
- Preserve access to your money if you need liquidity later for unexpected personal, medical, or retirement expenses.

### Earn a Strong Return



- Earn reliable monthly income at a fair, IRS-compliant rate — typically higher than traditional bonds, CDs, or savings accounts.
- Your family Buyer benefits from a lower interest rate, while you enjoy stronger earnings and predictable cash flow.
- Keep family wealth productive and working for you, not sitting in low-yield deposit accounts.

### Monthly Income Stream



- Create steady, recurring monthly income from loan payments.
- Use this reliable revenue stream towards other investments, cover living expenses, or fund retirement.

### Relationship Protection



- Formal documentation keeps your sale “business-like,” and transparent, preventing future misunderstandings.
- Your Buyer remains accountable with clear terms, payment schedules, and optional professional loan servicing.
- By separating family and finance, you protect both your investment and your relationships.

### Tax Protection



- Avoid IRS scrutiny and gift tax issues with properly structured and recorded seller financed mortgage loan documents.
- Eliminate the risk of “imputed” interest income — being taxed on money you never collected, but legally should have collected.
- Spread out capital gains over time through IRS installment-sale treatment, improving long-term tax efficiency.
- Manage annual gift tax exclusions correctly and confidently.
- Automate annual IRS reporting with professional servicing.

## **Borrower Benefits**

### **Low Fees**



- Save thousands of dollars by eliminating bank origination charges, application fees, and hidden costs.
- Avoid expensive private mortgage insurance (PMI) that banks often require.

### **Lower Interest Rates**



- Family Lenders typically charge **1% or more below** traditional bank rates.
- That savings can often add up to **tens of thousands of dollars in savings** – and a more manageable monthly payment.

### **Simplified Approval**



- Skip the weeks of stress and red tape that come with bank underwriting.
- Your family Seller sets terms directly with you, making the process faster and more flexible.
- Tailor repayment schedules that suit your family's financial realities, not a bank's rigid rules.

### **Tax Deductible Interest**



- Properly documented family mortgages are eligible for the **same itemized interest deduction** as traditional home loans (primary or secondary residence).
- Prevent IRS scrutiny by structuring support as a compliant loan, not an informal gift.



*Buying from family shouldn't mean cutting corners. With National Family Mortgage®, you gain the same protections, deductions, and peace of mind of mind as any other homebuyer.*



### **Loan Servicing Benefits**

- Loan Servicing keeps family loans business-like, provides the Borrower with a professional experience, and helps remove the emotion and unnecessary conversations from managing the loan long-term.
- Having a third-party buffer between the Lender and Borrower can help ensure Borrower accountability and protect family relationships, especially with new in-laws.
- Do you really want to handle the accounting and annual IRS tax reporting yourself?
- Professional, 3<sup>rd</sup> party administration can help demonstrate to the IRS that the loan is legitimate and being enforced. This is especially helpful in the event of an IRS audit of a deceased parent's estate.
- Third-party mortgage payment verification from a licensed, Dodd-Frank compliant mortgage loan servicer can make it easier for the Borrower to refinance out of a Family Mortgage and into a commercial loan if / when desired.
- Loan Servicing provides Lenders with an easy, cost-effective solution when they need to endorse the Promissory Note (via an Allonge) and Mortgage (via an Assignment) following the creation of a Trust, or a division of assets following a Lender's divorce.
- Loan Servicing provides an easy, cost-effective solution for the Lender to remove the Mortgage lien from the Borrower's property once the loan is over (except in Colorado, where local title agents or real estate attorneys usually handle it.)

# How it Works In 10 Detailed Steps

-  **1. Read this Guide:** Start by reading this guide and our [Terms of Service](#) online.
-  **2. Build the Loan:** Either the Borrower / Buyer or Lender / Seller can begin the loan build and pay out one-time setup fee, with the following exceptions:
  - **IL, FL** → Lender / Seller must build / pay.
  - **TX, UT, VA** → Borrower / Buyer must build / pay.
  - *If the Borrower builds, they must be the blood (adoptive / step) relative of the Lender / Seller and use a credit card in their own name.*
  - All loans must close on the 4<sup>th</sup> – 25<sup>th</sup> of the month. Please schedule your closing date accordingly.
-  **3. Confirm Timing:** You may start building anytime, but checkout requires:
  - Executed purchase contract and final loan amount
  - Declaration of purchase price
  - For secondary loans, disclosure of primary mortgage amount
  - Completed [Pre-Closing Questionnaire](#) by settlement agent, and
  - Closing date scheduled within 2–3 weeks, on the **4th–25th** of the month.
-  **4. Welcome Call:** We'll call you to confirm details. After our conversation, you may need to log back in to make updates before your documents are generated.
-  **5. Settlement Confirmation:** We call your settlement agent to confirm closing expectations. We're also available for your attorney, or financial / tax advisor.
-  **6. E-Draft Documents:** Final loan documents are generated within 7 business days of checkout and delivered for your family's review via Adobe Sign. If updates are needed, log in to make the changes (processing may take up to 3 business days).
-  **7. Review & E-Sign:** All parties review and e-approve the documents, including acceptance of our Terms of Service, through secure, mobile-friendly Adobe Sign.
-  **8. Delivery to Settlement Agent:** Once e-signed, documents and instructions are automatically emailed to your settlement agent.
-  **9. Optional Loan Servicing:** Professional servicing helps keep things business-like, protect family relationships, and simplify tax reporting.
-  **10. Celebrate!:** The Borrower / Buyer is now a homeowner — with a formal, secure National Family Mortgage ® in place, your entire family wins!

# Building Your Loan

## The Loan Documents

Now that you're ready to explore how to structure a family mortgage, here's what your loan documents actually include.

National Family Mortgage ® offers two home purchase loan products with three available templates:

- **Win-Win Mortgage** ® – Amortized (fixed principal & interest) – Amortized with balloon payment
- **Gift Mortgage** ® – Interest-only template

All National Family Mortgage ® purchase loan must also meet the following additional Standards:

- Repayment or amortization terms must be between 1 and 30 years.
- Late payment fees must be between 1%–2% of the monthly payment, with a 15-day grace period.
- There are no pre-payment penalties.
- Payments are due on the 1st of each month. The first payment is due one full month after the last day of the month following the Loan Issue Date.

- Examples:**
- Loan issued Jan. 4 → First payment due Mar. 1
  - Loan issued Jan. 25 → First payment due Mar. 1

We do not support deferring the first payment date. If you use FCI Loan Servicing, you may later arrange a deferral of **future** payments directly through FCI after the standard first payment has been made.

## The Loan Closing

All family mortgage transactions are considered *private financing* and must be executed at the Buyer's / Seller's real estate closing with their local settlement agent. This ensures the loan is properly reflected on the settlement statement and recorded with the local authority.

- All real estate closings must occur between the **4th–25th** of the month.
- The type of settlement agent varies by state (attorney, title company, or escrow agent). The following states typically require closing attorneys:  
AL, CT, DC, FL, GA, MA, NH, NJ, NC, NC, PA, SC, VT
- The settlement agent is responsible for:
  - Overseeing the Execution of the loan documents,
  - Attaching the Exhibit "A" legal description to the Mortgage,
  - All title work and applicable title insurance
  - Recording the lien with the proper government authority, and
  - Reflecting the loan on the Borrower's settlement disclosure (HUD-1 or ALTA)
  - *We do not make referrals to settlement agents.*

## **Know the IRS Applicable Federal Rates**

When families **lend or help finance a home purchase for a relative**, the IRS wants the transaction to look and behave like a legitimate loan.

That's where the **IRS Applicable Federal Rates (AFRs)** come in.

Each month, the IRS publishes interest rates called the **Applicable Federal Rates (AFRs)**. These rates serve as the **minimum interest the IRS expects to see** on family loans. If a loan is written below the appropriate AFR, the IRS may treat part of the loan as a **gift** and **tax the Lender as though AFR based interest had been collected by the Lender anyway**.

Using at least the current AFR keeps your loan fair, compliant, and free from unwanted tax complications.

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### **The Three AFR Terms**

- **Short-Term:** Loans of up to 3 years
- **Mid-Term:** Loans greater than 3 years and up to 9 years
- **Long-Term:** Loans longer than 9 years

The AFRs are based on the average yields of U.S. Treasury securities (T-Bills, T-Notes, T-Bonds) over the prior 60 days. They change monthly and set the benchmark rate that keeps a family loan recognized as a legitimate financing arrangement under federal tax law.

To choose the correct AFR:

1. Determine the **repayment term** you've agreed upon.
2. Use the AFR for that term **in effect for the month your loan is made**.

All National Family Mortgage ® loans are **term loans** with a clear maturity date — no variable or “on demand” loans — ensuring predictable payments and long-term compliance.

Once locked in, the AFR stays **fixed for the life of the loan** ([IRC §1274\(d\)](#)).

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### **AFRs and Simple-Interest Loans**

Even though NFM loans require **monthly payments**, they are **simple-interest, annual-rate loans**, not monthly-compounded loans.

That means:

- Interest is **calculated monthly using one-twelfth of the annual rate**, and

- Because Borrowers pay that interest in full each month, it **never compounds** (no “interest on interest”).

This is the same structure used by **Fannie Mae** and **Freddie Mac** mortgages.

The interest rate is **annual**, the calculation is **monthly**, and the compounding is **none** — keeping the loan transparent, consistent, and IRS-compliant.

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## **Why the AFR Matters**

If a family loan is written below the appropriate AFR:

- The IRS can **impute taxable interest income** to the Lender, and
- Treat the **unpaid interest** as a **gift** from the Lender to the Borrower ([IRC §7872](#)).

That “phantom interest” counts toward the Lender’s **annual gift tax exclusion** (currently \$19,000 per recipient in 2026).

If exceeded, the Lender must file a **gift tax return** ([Form 709](#)).

Ignoring the AFR can effectively penalize the Lender twice — once through extra taxable income, and again through reduced gift-tax exclusion.

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## **National Family Mortgage’s ® Applicable Federal Rate (AFR) Standard**

National Family Mortgage ® requires that every family loan or seller-financed transaction meet or exceed the **annual-compounded AFR** for the applicable term **in effect for the month of closing**.

This single-rate standard satisfies the statutory semiannual compounding requirement under **IRC § 7872**, exceeds the minimum yield required for **§ 1274(d)** installment-sale transactions, and eliminates ambiguity between loan and sale treatment.

If you want to read more about the IRS Applicable Federal Rate than you ever dreamed, check our Mr. Burke’s detailed explanation on our policies: [IRS AFR Compliance for Intra-Family Loans and Seller-Financed Home Sales: Myths, and Best Practices](#)

👉 Always confirm tax implications with your own financial, legal, or tax advisor.



### **Budget, Budget, Budget!!!**

Before your family finalizes loan details, it helps to get a clear sense of how much house the Borrower can comfortably afford.

#### **Step 1: Current Monthly Expenses**

Start with post-tax income, then subtract recurring costs such as: Student loans, car payments/insurance/gas, groceries and dining out, life or health insurance, childcare, credit card debt, phone/data plans, entertainment and streaming, travel/vacations, gifts/charitable giving, memberships (gym/online), pet expenses, clothing, and other personal or household bills.

#### **Step 2: New Homeownership Costs**

Add expected costs of ownership, including: Property taxes, homeowner's insurance, utilities (water, sewer, electric, gas/oil), HOA fees, trash/lawn/snow/pool/ alarm services, ongoing maintenance, furnishings, and even family events or celebrations tied to the new home.

#### **Step 3: Choose a Loan Structure**

Once the budget is clear, discuss family mortgage loan options:

- **Win-Win Mortgage** ®: Classic amortized loan with a fixed interest rate and fixed monthly payment. Predictable and straightforward.
- **Gift Mortgage** ®: Interest-only loan with lower initial payments. Useful for shorter-term financing or greater flexibility.

Each offers unique advantages; choose the one that best aligns with your family's situation and goals.

## **The Win-Win Mortgage ®**

- **Principal & Interest**
- **No Prepayment Penalty**
- **1 – 30 years**
- **Fixed Rate & Monthly Payment**

The Win-Win Mortgage ® is a traditional amortized loan with fixed monthly principal-and-interest payments. It offers families a fair structure: Borrowers benefit from below-market rates, and Lenders earn more than they would from conservative investments.

- **IRS Rate Compliance:** All loans must meet or exceed the term appropriate annual IRS Applicable Federal Rate (AFR) at the time of closing. The rate is fixed for the life of the loan.
- **Traditional Amortization:** Monthly payments are fixed, covering both principal and interest. While the total payment is the same each month, the ratio of principal vs. interest shifts according to the amortization schedule.
- **Paying Ahead:** *If Borrowers make extra principal payments, **the monthly payment doesn't change – it's always fixed** – but the loan is paid off faster.*
- **Payment Timing:** Interest is paid monthly but calculated annually. As long as the Borrower makes each fixed payment, the loan will be fully paid by the end of its term.

## **The Win-Win Mortgage ® with Balloon**

- **Principal & Interest**
- **No Prepayment Penalty**
- **1 – 29 years**
- **Fixed Rate & Monthly Payment**

The Win-Win Mortgage ® with Balloon provides the affordability of a long-term amortized payment schedule, but requires repayment of the remaining balance at an earlier, agreed-upon **Balloon Date**.

**Example:** A loan amortized over 30 years but with a 5-year Balloon requires the Borrower to make 30-year-level monthly payments, then repay the balance in full at year 5 — typically by refinancing or selling the home.

### **Why Families Choose a Balloon Structure**

- **Flexibility for Lenders:** Some Lenders prefer not to commit funds long-term. A Balloon provides cash-flow flexibility for the Borrower, but sets a clear mid-term end date for the loan.
- **When a Borrower Needs More Time:** Families sometimes use a Balloon when a Borrower can't yet qualify for a bank loan (e.g., due to new employment or a credit blemish). The Balloon provides time to stabilize, with incentive to refinance by the Balloon Date.
- **Interest Rate Strategy:** If the IRS mid-term AFR (3–9 years) is lower than the long-term AFR (10–30 years), structuring a Balloon within the mid-term window can lock in compliance while reducing interest costs. For example, amortizing over 30 years but setting a 9-year Balloon allows use of the mid-term AFR, lowering monthly payments while ensuring IRS compliance.



### **The Gift Mortgage®**

- **Interest-Only** • **Fixed Rate** • **No Prepayment Penalty**
- **As Principal Decreases, Monthly Interest Payment Decreases** • **1 – 30 years**

The Borrower makes **monthly interest-only payments** for the agreed term (1–30 years). If the Borrower never reduces the principal, the **entire loan balance is due at the end** of the term in a Balloon payment.

Because payments only cover interest, the monthly obligation is lower than with a traditional amortized loan — giving the even Borrower more cash-flow flexibility. The Borrower may make additional principal payments at any time. *Each reduction in principal lowers the required interest-only payment going forward.*

### **Why Families Choose the Gift Mortgage®**

- 1. Cash-Flow Flexibility:** Lower required monthly payments provide breathing room for the Borrower. This can make sense when housing expenses must stay minimal for a period of time.
- 2. Market-Confidence Strategy:** If the home is in a desirable, stable market and the Borrower plans to stay long-term, families may see low risk. Property appreciation over time often offsets the outstanding balance at resale.
- 4. Wealth Transfer Considerations:** Over time, some families may choose to apply discretionary principal reductions to an interest-only loan. When principal reductions are treated as gifts, applicable IRS gift tax rules may apply, and families typically consult their tax advisors to ensure proper treatment and reporting.

*A Gift Mortgage® is always a loan, never a required gift. Families considering wealth transfer strategies should consult an attorney, financial advisor, or tax professional for proper guidance.*

# **Secondary Financing / Working with the Primary Lender**

## **Secondary Financing (The Piggyback Mortgage)**

Sometimes, someone may want to sell their home to a relative, but (A) they don't own their home "free and clear", or (B) they simply can't afford to be paid over time. These Sellers may have significant equity in their property to consider holding Secondary Seller Financing. Combining a primary mortgage from a commercial lender with a subordinate, secondary family mortgage can be a powerful solution.

### **Why Borrowers Use Piggyback Mortgages**

When buyers need to borrow more than 80% of a home's value, most government-insured and institutional lenders charge significantly higher interest rates and require **private mortgage insurance (PMI)**. PMI premiums vary widely, typically 0.20%–1.50% of the loan balance annually. In high-cost areas, PMI can add \$200 or more each month to the Borrower's loan payment.

### **How Piggybacks Work**

To avoid PMI, many buyers structure their financing as two loans: a primary mortgage covering up to 80% of the home value, and a secondary mortgage (Piggyback) to fill the down payment gap. Common structures include:

- **80-10-10 loan:** 80% primary mortgage, 10% Piggyback, 10% down payment.
- **80-15-5 loan:** 80% primary mortgage, 15% Piggyback, 5% down payment.

### **Why Families Choose National Family Mortgage ®**

Many of our clients use a **Win-Win Mortgage ®** or **Gift Mortgage ®** as their Piggyback. Doing so eliminates the cost of PMI, helps reach the 20% threshold, and lowers total monthly costs — even after accounting for two loan payments.

### **Documentation & Process**

The primary lender must include the family Piggyback and its payment when calculating the Borrower's debt-to-income ratio. Once the family approves their loan documents, the Borrower's primary lender will review them as well. After approval, the family mortgage documents are sent to the settlement agent for execution and recording at the real estate closing. The Borrower then makes two monthly payments: one to the bank and one to the family Lender / Seller.

### **The Savings**

Even with setup fees, the savings are substantial. By avoiding PMI and reducing the rate on the portion funded by family, the combined cost of two loans is often far lower than one high-rate institutional loan with PMI.



## **Working with the Primary Lender**

***(Remember, you're not “borrowing your down payment”)***

When interviewing primary lenders, Borrowers must avoid the critical mistake of mischaracterizing family-funded secondary financing as “borrowing my down payment from the Seller.” There is no such thing as borrowing a down payment. Down payments can be gifted, but they cannot be borrowed. Seller held secondary financing is entirely separate from a home buyer’s down payment.

Why does this confusion happen so often? Within the industry, there is a widespread tendency to blur the line between family gifts and loans. Mortgage brokers and salespeople often encourage applicants to call all Seller held family assistance a “gift of equity,” even when the Seller clearly expects to be repaid. The reason is simple: gifts don’t count toward debt-to-income ratios, so less reported debt makes it easier to qualify for a loan — and in turn helps the broker secure their commission.

The risks of mislabeling a loan as a gift are serious. Families may be asked to sign a “gift letter” affidavit swearing that the money is a gift, not a loan. Doing so when the money is in fact a loan exposes the family to mortgage fraud risks, potential tax complications, and estate planning problems down the line.

The truth is that **Fannie Mae underwriting guidelines explicitly permit subordinate financing, including loans from family members ([Selling Guide / Part B: Origination Through Closing / B2-1.2-04: Subordinate Financing](#))**. Still, some commercial lenders resist, fearing that a family Piggyback loan could make their primary loans harder to sell on the secondary market. This is why many Borrowers are pushed to mischaracterize loans as gifts, even when it isn’t true.

Home buyers should be clear with their primary lender: the family held secondary mortgage is not a gift, it is a legitimate loan, and it will be properly documented as a secondary Piggyback Mortgage.

**⚠ Bottom line:** Sellers should never sign a gift letter if they expect to be repaid. The short-term convenience of a “good deed” can lead to serious long-term consequences.



### **Sample Talking Points for When Working with a Primary Commercial Lender**

**Borrower:** “I’m hoping to buy my parents’ home for approximately \$Z.”

**Borrower:** “I have a down payment of \$W.”

*This may come from personal savings or a qualified family gift.*

**Borrower:** “My parents wish to hold a Piggyback Mortgage of \$X, documented as a proper second mortgage.”

*Explain that for tax and legal reasons, your family is not comfortable making a gift of equity. Instead, they wish to secure the loan with a second-position mortgage lien — also known as a Piggyback Mortgage. Be ready to share the loan type, repayment terms, and monthly payment.*

*The primary lender will use this information when calculating your debt-to-income ratio. If necessary, direct them to: [Fannie Mae Selling Guide, Part B: Origination Through Closing / B2-1.2-04: Subordinate Financing](#).*

**Borrower:** “I’m interested in potentially borrowing \$Y from you, which would be the primary mortgage loan on the home.”

*If the numbers work, and the primary lender allows the family’s second-position mortgage, then the structure is simple:*

**Down Payment \$W + Family Mortgage \$X + Primary Mortgage \$Y = Home Price \$Z**

**⚠ Bottom line:** The more confidently the Borrower presents family financing as *legitimate subordinate financing* — not a gift of equity, not “borrowing the down payment” — the easier it is for the primary lender to process.

## How Much Does This Cost?

*“National Family Mortgage ® provided top quality service and everything was accomplished quickly and efficiently. All in all an excellent way of setting up an inter-family transaction that makes the process as painless as possible, and at a reasonable price.” — Tom, California (Borrower)*

### One-Time Setup Fee

Loan Amount	Setup Fee
\$0 – \$300,000	\$1,175
\$300,001 – \$500,000	\$1,425
\$500,001+	\$1,875

### What’s Included

- **Dedicated National Family Mortgage ® Team Member**  
Your family will be assigned a dedicated specialist who will guide you through the entire process. We can also connect directly with your financial planner, tax consultant, or estate attorney.
- **Promissory Note**  
This document establishes the legal debt between Borrower and Lender, including repayment terms.
- **Mortgage / Deed of Trust / Security Deed**  
The lien security instrument pledges the property as collateral. Most states call this a “Mortgage,” some use a “Deed of Trust,” and Georgia requires a “Security Deed.”
- **Confirmation with the your Settlement Agent**  
We confirm scheduling details and expectations with the closing attorney, title company, or escrow agent. The settlement agent collects and remits municipality document recording fees (usually \$50–\$300, depending on state) and taxes. See Page 19 for more about the settlement agent’s role, and Page 31 for details on recording taxes in AL, FL, GA, MN, NY, TN, VA.

### Document Delivery

After working with your National Family Mortgage team member, you may need to log back in and update certain information before generating your documents. Final loan documents will be delivered via Adobe Sign within **7 business days of setup form completion**. All parties must also review, e-sign, and accept our Terms of Service. Document amendments may take up to three business days to process. Once approved via e-signature, final documents are automatically emailed to the settlement agent for execution and recording at the family’s real estate closing.

### Refund Policy

National Family Mortgage ® offers a **90-day refund of your purchase, valid any time prior to execution or government registration of the loan documents**. All refunds are subject to a \$75 processing fee.

## Optional Loan Servicing Fees

\*Powered by FCI Lender Services, Inc.\* > One-time account setup fee: **\$65 (paid by the Lender)**

<b>Loan Amount</b>	<b>Monthly Fee (Paid by Borrower or Lender)</b>
\$0 – \$400K	\$20
\$400K+ – \$500K	\$30
\$500K+ – \$600K	\$40
\$600K+ – \$700K	\$50
\$700K+ – \$800K	\$60
\$800K+ – \$900K	\$70
\$900K+ – \$1M	\$80
\$1M+ – \$2M	\$100
\$2M+ – \$3M	\$120
\$3M+ – \$4M	\$140

**New York surcharge:** *If the Borrower's property is located in New York, add \$10 to the monthly servicing fee.*

### What's Included

- Email reminders, monthly statements, full loan accounting
- Electronic payment processing, no pre-payment penalties
- Borrower / Lender mobile app & online portal / support
- Annual IRS reporting (Borrower 1098 / Lender 1099-INT)
- Payoff statements & lien release filing\*

*\*Colorado requires lien release by local title company / attorney. See FAQs on Page 34 for details.*

### **Optional Monthly Escrow of Property Taxes / Insurance Upgrade**

- \$175 one-time account analysis fee and up to an additional \$17.50/month.

### About FCI Lender Services

Founded in 1982, FCI manages over **\$30B in loans** and is fully compliant with Dodd-Frank and state servicing rules. Licensing info: [nmlsconsumeraccess.org \(#4920\)](http://nmlsconsumeraccess.org/#4920).

FCI can assist with allonge preparation, assignment preparation and recording, payment deferral agreements, loan modification agreements, payoff statements, and lien releases. For a complete list of additional services and pricing, please visit [MyFCI.com](http://MyFCI.com). Cancel anytime for \$90.

 **Bottom line:** Loan Servicing keeps family loans professional, IRS-compliant, and business-like — protecting both Lender and Borrower.

## **Title Insurance**

There are two types of title insurance – owner’s title insurance (an Owner’s Policy), which protects the home buyer, and Lender’s title insurance (a Lender’s Policy), which protects the Lender.

An Owner’s Policy identifies risk affecting the buyer’s ownership rights. The policy also provides the home owner with additional protections against various hazards, including those even the most thorough search of public real estate records do not disclose – such as document forgeries, unknown heirs of previous home owners, or local municipality document recording errors. The policy makes the home owner whole again in the event of another’s legitimate claim to the property.

**A basic Lender’s Policy guarantees the Lender a valid and enforceable lien position (Mortgage, Deed of Trust, Security Deed), and assures that no claimant (other than those noted in the policy) has a prioritized claim against the real estate.** A Lender’s Policy is issued in the amount of the loan, and liability decreases as the mortgage debt is reduced. The policy makes the Lender whole again in the event of a legitimate claim. Institutional mortgage Lenders always require the Borrower purchase a Lender’s Policy.

Most title insurance policies also offer Lender coverage enhancements, (endorsements, extensions) to provide additional insurance coverage for special situations. Available enhancements may include, but are not limited to, coverage for zoning, condominiums and planned unit developments, residential environment liens, and easement or mineral rights. These Lender enhancements often overlap with coverages provided in the Owner’s Policy.

Who pays for the title insurance and how much it costs is a matter of state law and local customs. The cost of title insurance also varies widely from state to state and from title company to title company. In most states, when both an Owner’s Policy and a Lender’s Policy are issued at the same time, a substantial “simultaneous issue” discount is offered on one of the two policies. The Buyer’s / Borrower’s settlement agent offering the insurance, or a representative from the title insurance company, should be able to help your family make sense of local title insurance practices, Owner / Lender Policy differences and / or coverage overlaps, including policy costs.

**While we strongly encourage both home Buyers / Borrowers and Lenders to consider the valuable merits of title insurance coverage, in most states, a Lender’s Policy is usually optional, provided an Owner’s Policy is in place. However, please know, some settlement agents may require a Lender’s Policy must also be in place as a condition of reflecting the mortgage on the Buyer’s / Borrower’s settlement statement and recording the mortgage lien with the local government authority.**

## **Closing Protection Letter**

**If the Borrower’s real estate settlement is being handled by a real estate attorney or escrow company who serves as an agent for various title insurance companies, we also recommend the Lender obtains a “Closing Protection Letter”.** A Closing Protection Letter, commonly called a CPL (or in some states an “Insured Closing Letter” or “ICL”), is an agreement from a title insurance company designed to protect the Lender against issues that might arise from fraud or negligence on the part of a closing attorney or escrow company, including non-compliance with Lender written closing instructions. **The cost for a Closing Protection Letter also varies widely from state to state – typically, ranging from \$0 - \$250.**

The Buyer’s / Borrower’s settlement agent, or a representative from the title company, should be able to help your family better understand the differences between a Lender’s Policy and a Closing Protection Letter, and how these protections can work together.

## **State Recording Taxes**

**Applicable in the following states: Alabama, Florida, Georgia, Minnesota, New York, Tennessee, Virginia**

In addition to our one-time setup fee, the following states require various Deed of Trust / Mortgage / Security Deed taxes be paid at the time of document recording with the proper government authority. The Borrower's closing attorney, title company, or escrow company will collect the required taxes from the Borrower as a real estate closing cost. It is the client's responsibility to pay all required local government document recording taxes.

**Alabama:** \$0.15/\$100

**Florida:** Intangible Tax: \$2.00/\$1,000  
Documentary Stamp Tax: \$0.35/\$100\*  
\*Miami-Dade County: \$0.60/\$100 plus surtax of \$0.45/\$100

**Georgia:** \$1.50/\$500 or fraction thereof

**Minnesota:** \$0.23/\$100  
Hennepin and Ramsey Counties: \$0.24/\$100

### **New York (Tax Rates Vary by County):**

Chemung, Chenango, Jefferson, Montgomery, Otsego, St. Lawrence, Tioga, Ulster: \$0.75/\$100

Allegany, Broome, Cayuga, Clinton, Cortland, Delaware, Erie, Franklin, Fulton, Hamilton, Herkimer, Lewis, Madison, Monroe, Niagara, Oneida, Onondaga, Ontario, Orleans, Oswego, Saratoga, Schoharie, Schuyler, Seneca, Sullivan, Tompkins, Yates: \$1.00/\$100

Dutchess, Nassau, Orange, Putnam, Suffolk: \$1.05/\$100

Albany, Cattaraugus, Chautauqua, Columbia, Essex, Genesee, Greene, Livingston, Rensselaer, Schenectady, Steuben, Warren, Washington, Wayne, Wyoming: \$1.25/\$100

Rockland, Westchester: \$1.30/\$100

Yonkers: \$1.80/\$100

New York City Counties of New York, Bronx, Kings, Queens, Richmond:

All mortgages securing less than \$500K: \$2.05/\$100

Mortgages of single family houses and individual residential condominium units, securing \$500K or more: \$2.175/\$100

When the loan is from an individual, NY state grants a discount of \$0.25/\$100 on the taxes referenced above, provided a 253 (1-A) Natural Person Affidavit is submitted for recording with the Mortgage. National Family Mortgage® will confirm the generation of this document by the Borrower's closing attorney or title company.

Buyers should also ask their attorney if there is any value in pursuing a NY Purchase Money CEMA.

**Tennessee:** \$0.115/\$100

**Virginia:** State Tax: \$0.25/\$100  
City/County Tax: 1/3 of state tax amount

**While we strive to keep the above estimated recording taxes up to date, please confirm current tax rates with the Borrower's closing attorney, title company, or escrow company.**

## **FAQs**

### **Q: I'm selling a home to a relative. Can't I just document this myself with AI?**

**A:** Seller-financed real estate transactions involve state recording requirements, IRS-published interest rate guidelines, and ongoing tax reporting considerations. These transactions are more complex than a simple payment agreement.

A family seller-financed transaction typically involves:

- A Promissory Note and a recorded Mortgage / Deed of Trust / Security Deed securing the lien
- State-specific closing documentation handled through a licensed attorney, title company, or escrow company
- Interest terms that align with the IRS Applicable Federal Rate (AFR)
- Ongoing IRS reporting related to installment sale treatment and interest income

If these elements are not properly addressed, the transaction may affect capital gains treatment, gift characterization, or lien enforceability.

National Family Mortgage ® provides structured informational resources and a documentation platform designed specifically for intrafamily mortgage arrangements. Families establish their own terms and use the platform to document their arrangements in alignment with IRS-published guidance and applicable recording practices.

### **Q: Do we really have to report the Lender's interest income to the IRS?**

**A:** Yes. For loans over \$100,000, Lenders are legally required to report interest income at a rate that meets or exceeds the proper **IRS Applicable Federal Rate (AFR)** in effect at the time of the loan.

### **Q: Why does it matter that we record the mortgage with public authorities?**

**A:** Recording the mortgage proves to the IRS — and to any third party — that this is a legitimate secured loan, not a disguised gift.

- It makes the Lender's lien legally enforceable.
  - It allows the Borrower to deduct mortgage interest on their tax return.
- Unrecorded loans, even when documented by a promissory note, are not eligible for the mortgage interest deduction.

### **Q: Can we lock in today's IRS Applicable Federal Rate?**

**A:** National Family Mortgage ® requires that every family loan or seller-financed transaction meet or exceed the **annual-compounded AFR** for the applicable term **in effect for the month of closing**.

*(continued >>>)*

**Q: Do we need an appraisal or title insurance?**

**A:** In most family home sales, an appraisal isn't legally required — but it's often *very smart*. An independent appraisal helps confirm that the sale price reflects fair market value, which can be important if the IRS ever reviews your transaction for possible gift tax or capital-gains issues. It's especially valuable when the home is being sold below market or when multiple heirs are involved, ensuring everyone agrees on the home's true value.

Even in a family sale, the Buyer should still obtain **title insurance**. Title insurance protects the new owner (and their Lender — in this case, you) against title defects, recording errors, or undisclosed liens. It also helps preserve the property's marketability if it's ever sold again.

- ✓ *Appraisal = proof of fair market value.*
- ✓ *Title insurance = protection for everyone involved.*

**Q: What happens if the Lender or Borrower dies during the course of the Loan?**

**A:**

- If the **Lender** dies, the Borrower repays the Lender's estate per the original terms. Lenders should update estate planning documents to reflect their wishes.
- If the **Borrower** dies, their estate remains responsible for repaying the loan under the same terms.

Loan documents identify the parties to a valid loan but do not determine how that loan fits within a Lender's broader estate plan. Laws governing marital property, survivorship, and probate vary by state. Families concerned about how a loan may be treated after a lender's death should consult their legal or estate-planning advisor.

**Q: Can a loan be forgiven upon the Lender's death?**

**A:** Yes. In most cases, forgiveness of an intra-family loan at death is addressed through the lender's estate-planning documents rather than through the loan itself.

Many families provide in their will or trust that any remaining loan balance is forgiven at death. When handled this way, the loan remains a standard, enforceable obligation during the lender's lifetime and is resolved as part of the estate administration process.

Because forgiveness at death is an estate-planning matter, families should work with their legal and tax advisors to ensure the outcome aligns with their broader estate plan and reporting obligations.

**Q: How does the optional Loan Servicing work?**

**A:** If you elect to have your family mortgage serviced by **FCI Lender Services**, they will:

- Send monthly email statements to both parties
- Process payments automatically via ACH
- Handle all loan accounting with no prepayment penalties
- Provide online access and annual IRS forms (1098 for Borrower, 1099-INT for Lender)
- Offer optional escrow for property taxes and insurance

*(continued >>>)*

**Q: Will the loan be reported to credit agencies?**

**A:** No. Credit bureaus do not currently accept intrafamily loan reporting.

**Q: How can a Lender give a financial gift to the Borrower?**

**A: Option 1 — Cash Gift:** The Lender may make a direct cash gift to the Borrower up to the IRS annual exclusion limit, which the Borrower may elect to use to prepay loan principal.

**Option 2 — Principal Reduction:** In lieu of making a direct cash gift, the Lender may elect to use their annual IRS gift exclusion in the form of an ad hoc, discretionary principal reduction on the loan. If working with FCI Lender Services, the Lender may email FCI Lender Services authorization to reduce the loan balance by whatever amount the Lender wishes. FCI will charge the Lender \$65 to implement the principal reduction and update the account.

Always memorialize financial gifts clearly and consult your trusted tax advisor.

**Q: How do we release the mortgage once the loan is repaid?**

**A:** Typically, the settlement agent handling either the property sale or commercial refinance of a family mortgage will prepare and record the lien release.

If your loan is serviced by **FCI**, they can also prepare and file the release (except in Colorado, where local title agents or real estate attorneys usually handle it).

**Q: Can we “refinance” or “amend” our interest rate if / when the IRS Applicable Federal Rates fall?**

**A: 1) What a true refinance means (cleanest for tax defense)**

The Lender pays off the existing loan and originates an entirely new loan at the current, lower AFR.

Expect: a new Promissory Note, updated payment schedule, and a new **Mortgage / Deed of Trust / Security Deed** document, along with another loan closing through your local settlement agent.

**Pros:**

- Easiest to defend if ever reviewed by the IRS — the AFR economics reset cleanly at market.
- Removes any argument that the loan wasn't truly a fixed-term loan.

**Cons:**

- Requires liquidity to “pay off” your own loan (even if only momentarily at closing).
- Involves more paperwork, coordination, and closing costs.

*(continued >>>)*

## 2) What an interest-rate amendment means (practical and fairly common)

You and your family sign a written modification, or amendment, to the existing Promissory Note that lowers the rate (still  $\geq$  current AFR).

Expect: in most cases, no new lien recording is required for a rate-only change — the **Mortgage / Security Instrument** remains in place securing the amended Note.

### Pros:

- Many tax practitioners consider one or two well-documented amendments that meet or exceed the then-current AFR to be reasonable and permissible.
- Appropriate when this is your 1<sup>st</sup> or 2<sup>nd</sup> change, purely to align with a meaningfully lower AFR.
- All other terms remain the same (loan structure and payment schedule remain fixed).
- You document the change formally (signed by all parties), meet or exceed the current AFR, and update the amortization and servicing records.

### Cons:

- A repeated habit of “chasing” AFR drops can invite IRS scrutiny about whether the loan is truly fixed-term or has a floating rate — potentially triggering application of a **blended AFR** (which could be higher than intended).
- If a Lender voluntarily accepts less interest with nothing in return, an auditor could argue there’s an element of **gift**, equal to the Borrower’s future savings.

Example **Interest Rate Modification Templates** are available for download in the “Knowledge Center” column within the footer of every page of our website.

If you’re participating in the optional **Loan Servicing** with FCI Lender Services, FCI charges **\$65.00** to implement the signed amendment and update your Loan Servicing account.

Please consult your **attorney, financial advisor, or trusted tax professional** for guidance on potential risks or concerns with reducing the interest rate, by any means, on your loan.

## Q: Who are your competitors?

**A:** Estate attorneys generally have both the tax code and real estate background to help families generate promissory notes and state / county specific real estate liens. Naturally, estate planners usually charge a premium for their expertise. Of course, estate planners simply cannot, and frankly don't want to, service family mortgage loans. For this reason, most attorneys appreciate our streamlined solutions.

Alternatively, several other online companies claim to facilitate "loans" between relatives. Please remember, an unsecured promissory note does not equal a registered, tax deductible mortgage loan. The legal and tax ramifications of a poorly documented intrafamily mortgage loan can be a nightmare for both Lenders and Borrowers alike.

Likewise, many money transfer companies also claim to "manage" loans between relatives. Please remember, the business of mortgage loan servicing is tightly regulated by federal and state laws — even when servicing mortgage loans between relatives.

# Why Families Choose National Family Mortgage ®

	National Family Mortgage ®	LoanBack	Namma	Venmo	Zelle	Zirtue	ZimpleMoney	AI or "Free" Legal Doc Websites
State & county specific Mortgage lien, Deed of Trust, Security Deed documentation	✓	✗	✗	✗	✗	✗	✗	?
Coordination of details with Borrower's settlement agent. Lien recording at RE closing	✓	✗	✗	✗	✗	✗	✗	✗
Tax-deductible home mortgage loan products	✓	✗	✗	✗	✗	✗	✗	?
Licensed, third-party, federal/state Dodd-Frank Act compliant national mortgage loan servicing solution*	✓	✗	✗	✗	✗	✗	✗	✗
Year-end 1098 & INT-1099 IRS tax forms & IRS reporting solutions*	✓	✗	✗	✗	✗	✗	✗	✗
Payoff statements & national lien release solution*	✓	✗	✗	✗	✗	✗	✗	✗

(\* Except in Colorado, where local title agents or real estate attorneys usually handle lien releases.)

## The Smart way to Manage Mortgage Loans Between Family Members

If this guide feels detailed, that's because protecting family wealth deserves care. We believe families considering an intrafamily mortgage loan deserve access to thorough information so they can select the solution that best fits their needs.

Since 2010, National Family Mortgage ® has successfully helped thousands of families across the US lend billions in home loans between relatives. We work with you and your trusted advisors to ensure a smooth and rewarding National Family Mortgage ® experience.

**Every National Family Mortgage ® begins with trust and ends with opportunity.**

We help Lenders make loans they feel good about — loans that prevent tax problems, protect family relationships, and get repaid. We help Borrowers fund their homeownership dreams, build wealth, and stay on track with their mortgage payments.

When families lend with clarity, fairness, and respect, everyone wins — today and for generations to come.

If your family's ready to take the next step, we're ready to help make it official!

# *Always invest in family®*