



**Documents Required Prior to Funding a Secured Note (401k)**

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**Because the contemplated Private Loan will be held in a Self-Directed 401(k) Account, the following instructions must be followed to ensure compliance with both regulatory requirements and RealTrust IRA Alternatives, LLC (RealTrust) policies. These instructions are designed to help our office in efficiently completing your transaction.**

**\*\*Any delays or incomplete documentation may result in a delay of funding or closing\*\***

**\*\*RealTrust requires all documents be submitted to our office at least 48 hours prior to funding\*\***

**Documents Required Prior to Funding:**

- Escrow Instructions & Settlement Statement (signed by *401(k) Client as Trustee or Participant of the Plan*).
- Wire Transfer Instructions.
- Preliminary Title Report.
- Copies of signed Promissory Note & Deed of Trust (if applicable).
- Servicing Agreement (if applicable) with statement by the Servicer detailing the documents held and their location.
- Statement of Priority Position of Deed of Trust (e. g. – First Position; Second Position, etc.).
- Proof of hazard insurance showing the Plan Participant’s Account as Additional Insured.
- RealTrust Account Holder to complete, sign and return the Asset Purchase Directive.
- Fully-executed Private Loan Instructions & Acknowledgement (attached)

**Documents Required at Close of Escrow:**

- Closing Statement
- Copy of Deed of Trust, properly recorded, and original Promissory Note
- Mortgagee's Policy of Title Insurance

**All Vestings to Read:**

\_\_\_\_\_ 401(k) Plan & Trust, fbo (Plan Participant name here), Plan Participant Account # \_\_\_\_\_

**All investments will be vested using the 401(k) Plan’s Trust Tax ID #, NOT the client’s Social Security Number.**

**EXAMPLE of Signature Blocks:**

*(All documents the 401(k) Plan Lender is required to sign **MUST** be signed by 401(k) Plan Trustee or Plan Participant)*

\_\_\_\_\_ 401(k) Plan & Trust fbo (*Plan Participant*), Account # \_\_\_\_\_

By: \_\_\_\_\_

Date: \_\_\_\_\_

\_\_\_\_\_, Trustee or Plan Participant

Operations Center

312 E. Trow Avenue, Suite 201 ♦ P.O. Box 69 ♦ Chelan, WA 98816  
(509) 888-8100 (office) ♦ (877) 536-4100 (toll free)

[www.realtrustgroup.com](http://www.realtrustgroup.com)



**PRIVATE LOAN INSTRUCTIONS  
AND ACKNOWLEDGEMENT (401k)**

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Date: \_\_\_\_\_  
Borrower: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

401(k) Plan Participant: \_\_\_\_\_ 401(k) Plan & Trust FBO \_\_\_\_\_, Acct# \_\_\_\_\_  
(Employer Sponsor's Name) (Plan Participant)

Administrator: Foundation Trust Company, LLC  
Record-Keeper: RealTrust IRA Alternatives, LLC

RealTrust IRA Alternatives, LLC ("RealTrust") has received a request from the above-referenced 401(k) Plan Participant (hereinafter, "Lender") concerning such Lender's intent to make a Private Loan using 401(k) funds held in the subject Account. As the contemplated Private Loan is to be held in a 401(k) Account, the following instructions must be followed to ensure compliance with both IRS requirements and RealTrust policies.

**Please initial all items in the spaces provided below to evidence your intent to comply with these instructions; sign and return this form to RealTrust; retain a copy of this letter for your files.**

\_\_\_\_\_ **All loan-related documents must be submitted at least 48 hours prior to funding.**

\_\_\_\_\_ **Vesting on the Promissory Note and related documentation shall be as follows:**

\_\_\_\_\_ 401(k) Plan & Trust FBO \_\_\_\_\_, Acct# \_\_\_\_\_  
(Employer Sponsor's Name) (Plan Participant)

\_\_\_\_\_ **The original Promissory Note and original Security Agreement (e.g. – Deed of Trust), properly recorded (as applicable), shall be administered by Foundation Trust Company, LLC, via RealTrust IRA Alternatives, LLC, Record-Keeper.**

\_\_\_\_\_ **All payments, income, distributions and/or payoffs for the subject Promissory Note and Security Agreement must be sent to RealTrust.**

Make checks payable to RealTrust IRA Alternatives, LLC FBO \_\_\_\_\_, Acct # \_\_\_\_\_  
(Plan Participant)

**Mailing Address is: RealTrust IRA Alternatives, LLC  
P.O. Box 69  
Chelan, WA 98816**



**PRIVATE LOAN INSTRUCTIONS  
AND ACKNOWLEDGEMENT (401k)  
(continued)**

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Under pertinent law, it is generally unacceptable for an Account Holder to receive funds directly.

Should that happen, Account Holder agrees to indemnify and hold RealTrust IRA Alternatives, LLC and Foundation Trust Company, LLC harmless as against all liability concerning IRS compliance.

If you have any questions concerning the subject Private Loan, including, but not limited to, the manner of making or receiving payments or distributions, please contact your IRA Specialist at RealTrust directly. You agree to honor all written instructions from RealTrust concerning changes in asset registration and the subject 401(k) Account/Plan.

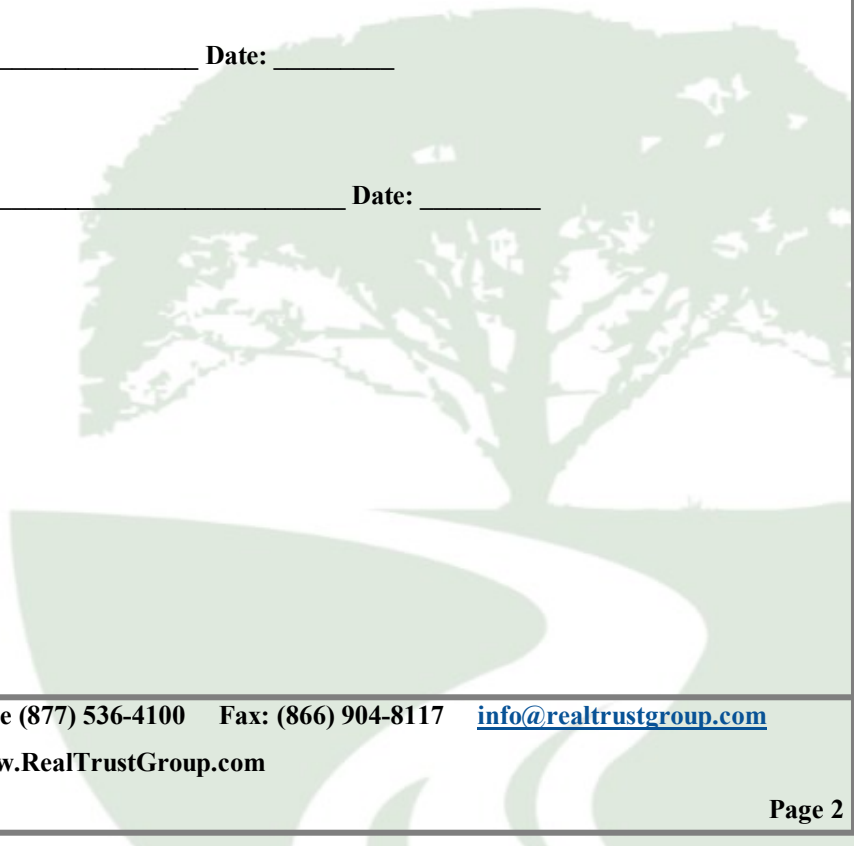
You agree to inform RealTrust promptly of any change in address, telephone number, or financial status (such as bankruptcy filings, regulatory agency investigations or litigation).

RealTrust does not generate an amortization schedule for private loans, therefore, you acknowledge and agree to include a payment voucher with every loan payment, which will reflect the interest and principal reduction amount; otherwise RealTrust will be unable to accurately post interest income and principal balance reductions.

Acknowledged by Borrower: \_\_\_\_\_ Date: \_\_\_\_\_

Acknowledged by Plan Participant: \_\_\_\_\_ Date: \_\_\_\_\_

Acknowledged by Loan Servicer: \_\_\_\_\_ Date: \_\_\_\_\_



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EXHIBIT "A"

**WASHINGTON RESIDENTIAL MORTGAGE LENDING LAW BULLETIN**

This Bulletin is designed to make RealTrust clients aware of the law in Washington State that precludes a lender from making a “**residential mortgage loan**” to Washington residents without first obtaining a license, a license waiver, or establishing an exemption from licensing that meets the standard imposed by the Department of Financial Institutions - Consumer Loan Division. In essence, a Private Loan made to a Washington resident that is secured by the Borrower’s “dwelling” may require the Lender to be licensed or clearly exempt from licensing prior to making such loan. This is true even if the subject loan is for *business, commercial, or agricultural purposes* where the borrower’s *primary dwelling* serves as collateral for the loan.

Set forth below are some pertinent statutory provisions and definitions that govern the law relative to private lending through Self-Directed IRA’s or 401(k)’s:

**RCW 31.04.025 (1)** states as follows:

Each loan made to a resident of this state by a licensee, *or persons subject to this chapter*, is subject to the authority and restrictions of this chapter.

**RCW 31.04.035** states as follows:

(1) No person may make secured or unsecured loans of money or things in action, or extend credit, or service or modify the terms or conditions of residential mortgage loans, without first obtaining and maintaining a license in accordance with this chapter, except those exempt under RCW 31.04.025.

(2) If a transaction violates subsection (1) of this section, any:

- (a) Non third-party fees charged in connection with the origination of the residential mortgage loan must be refunded to the borrower, excluding interest charges; and
- (b) Fees or interest charged in the making of a non-residential loan must be refunded to the borrower.

**Exemptions:** This chapter does *not* apply to the following:

(e): “Any person making a loan primarily for **business, commercial, or agricultural purposes** *unless the loan is secured by a lien on the borrower's primary dwelling*; ...

f) Any person selling property owned by that person who provides financing for the sale when the property does not contain a dwelling and when the property serves as security for the financing. This exemption is available for five or fewer transactions in a calendar year. This exemption is not available to individuals subject to the federal S.A.F.E. act or any person in the business of constructing or acting as a contractor for the construction of residential dwellings (RCW 31.04.025(2))

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**Definitions:**

(1) "**Residential mortgage loan**" means any loan primarily for personal, family, or household use that is secured by a mortgage, deed of trust, or other consensual security interest on a dwelling, as defined in the truth in lending act, or residential real estate upon which is constructed or intended to be constructed a dwelling.

(RCW 31.04.015)(23)

(2) "**Dwelling**". The Truth in Lending Act §103(v) defines "**dwelling**" as a residential structure or mobile home which contains one-to-four/family housing units, or individual units of condominiums or cooperatives. Thus, a "residential mortgage loan" is a dwelling-secured consumer credit transaction, regardless of whether the consumer credit transaction involves a home purchase, refinancing, home equity loan, first lien or subordinate lien, and regardless of whether the dwelling is a principal residence, second home, vacation home (other than a timeshare residence), a one-to-four/unit residence, condominium, cooperative, mobile home, or manufactured home.

**The undersigned Account Holder, having read and understood the foregoing content of this Bulletin, hereby warrants that the contemplated private loan transaction:**

**DOES    DOES NOT    involve a "residential mortgage loan" under Washington law.**

**If the subject loan does involve a residential mortgage loan, Account Holder warrants that an appropriate license and/or exemption applies thereto and that Account Holder will arrange for a qualified Loan Servicing Agent to service the subject loan throughout the term thereof. Account Holder hereby agrees to indemnify and hold Foundation Trust Company, LLC and RealTrust IRA Alternatives, LLC, its principals, agents, employees, delegees, successors and assigns, harmless from and against any liability that may arise with respect to the custody, administration and/or record-keeping of the subject loan unless such liability is the direct result of the intentional or grossly negligent act of RealTrust IRA Alternatives, LLC or Foundation Trust Company, LLC.**

**Account Holder: \_\_\_\_\_ Date: \_\_\_\_\_**