



## Safekeeping the Original Note

---

Can you easily locate the original promissory note? This important legal document should be kept in a safe place, and here is why!

The note is a promise to pay or IOU from the buyer, spelling out the amount and terms of repayment. In legal jargon it is known as a negotiable instrument. Similar to a check, the original must be presented to collect or prove ownership.

If the seller desires to sell and assign the note payments to an investor, the investor will ask for the original note to be provided at closing. The promissory note is then endorsed over to the investor. Similar to endorsing a check, the following is written on the back of the note:

*Pay to the order of, (Insert name of investor), without recourse.*

————— *(Seller Signs and Dates)*

Sometimes the note endorsement is executed on a separate piece of paper, also called an allonge. The allonge is then attached as a permanent rider to the original note. The endorsement enables the investor to prove they are a holder in due course, with the same rights of repayment as the original note holder.

An investor may also ask for the original recorded mortgage or deed of trust at closing. However, if this original is lost, an investor will usually accept a certified copy from the county recorder's office.

A lost original note, on the other hand, can cause a problem. In most states the note is not recorded. If the original note becomes lost a note investor may ask for a duplicate or replacement note to be signed by the payer or maker. This means going back to the person that owes you money and asking them to resign. This relies on their cooperation and can cause delays.

The investor will also ask for a lost note affidavit from the seller or note holder, stating the note has been lost and it will be presented if found at a later date. Some investors will consider accepting just the lost note



affidavit with a copy of the original note.

The best option is to avoid losing the note by keeping it in a safe deposit box or a fire and waterproof safe. Some sellers elect to have the original held by their attorney or a third party escrow servicing agent for safekeeping. Whatever method you choose, be sure to keep the original note in a safe place that is easily located!