

# E-Notes

## Electronic Promissory Note Electronic Negotiable Instrument (Transferable Records) (Listen to the Lies)

Mortgage Bankers Association released a Technology White Paper<sup>1</sup> in 2007 titled "Security Interests in Transferable Records". On page two under the copyright notice the Technology White Paper is intended to be informational only and does not constitute legal advice.

*"Because the paper notes are usually negotiable instruments, warehouse lenders have protected themselves against unauthorized sales by taking possession of the original notes and delivering them to investors, pending payment, subject to special protections provided by existing secured transactions laws. **These special protections will not apply to electronic promissory notes.** If warehouse lenders are to be protected when taking electronic promissory notes as collateral, a new set of strategies must be developed and deployed to address their needs," page four (4).*

**"New set of Strategies": Change everything to give the illusion of legitimacy.**

**Lie to the Investors; lie to the courts; lie to land records; lie to taxing authorities;  
lie to the world.  
NO MORE!**

The white papers' definition of "What is a Negotiable Promissory Note?" is correct.

*"A promissory note is a document containing an unconditional promise to pay money to another person on demand or at a specified time." "A primary characteristic of a promissory note is its status as "negotiable" or "non-negotiable." "In order to be treated as negotiable under current law, a promissory note must satisfy a specific set of objective criteria. It must be: (i) in writing...." "In summary, the hallmark of negotiability in the paper world is the transfer of the right to payment (evidenced by the note) by delivery of the paper note itself, along with any necessary indorsement."*

**"How do you perfect a security interest in a negotiable promissory note?"**

Under Revised Article 9, a security interest in a negotiable promissory note may be perfected by filing."<sup>2</sup>

*Transferable Record. "The investor community for the mortgage industry has adopted and is using the registry model as the most efficient solution for the industry - it has become the de facto standard. Lenders and investors are already registering and transferring control in transferable records in the MERS® eRegistry -- which acts as an industry utility -- at the time of origination, in order to comply with the safe harbor and establish control.<sup>3</sup> In the MERS® eRegistry model, control of the electronic record, and the location of its authoritative copy, are determined solely by reference to the registry."*

## E-Notes are "Not Legal"

**Under the E-Sign Act or the Uniform Commercial Code  
E-Sign 15 USC 7003 excludes the Uniform Commercial Code Article 3  
Negotiable Instruments**

<sup>1</sup> <http://www.mbaa.org/files/Technology/MBAResTechWhitePaper-SecurityInterestsinTransferableRecords.pdf>

<sup>2</sup> UCC Revised Article 9 § 9-312(a).