



## Lost or Destroyed Note Guidelines

Lost or destroyed notes are not eligible for pledging to the Bank. When an original promissory note has been lost or destroyed, members may resolve this issue in one of three ways to make the loan eligible for pledging.

- *Replacement Note*: Replace the lost/destroyed note with a new note instrument, executed by both the lender and borrower. This method fully extinguishes the original lost/destroyed note obligation.
- *Restated Note*: Execute a Restated Promissory Note between the lender and borrower, affirming the existence and loss of the original promissory note, and reinstating its terms in their entirety. Restated Promissory Notes must be accompanied by a copy of the original promissory note and a Lost Note Affidavit as detailed below, and may be subject to additional discounting by the Bank.
- *Lost Note Affidavit (LNA)*: At its discretion, the Bank may provide lendable value for loans evidenced by a LNA, subject to applicable discounts.

Eligibility: The eligibility of these loans is subject to the following requirements:

1. The member's loan collateral is not subject to required delivery. The Bank will not accept delivery of LNAs. Members required to deliver loan collateral should pursue a replacement or restated note as described above.
2. The original note and mortgage instrument are subject to the laws of a state which has adopted the 2002 amendment to Section (a)(1)(B) of UCC § 3-309 Enforcement of Lost, Destroyed, or Stolen Instrument. If not explicitly stated in the note instrument, this may be attested to via an opinion from the Lender's counsel.
3. The original promissory note subsequently lost or destroyed was an ink signature promissory note. Loans originated with promissory notes in an electronic format (i.e., not an ink signature signed with an electronic signature pad or otherwise) are not afforded lendable value via this section.
4. The LNA meets the requirements for content and support documentation detailed below.

Required LNA Content: The LNA must include the following language and/or support documentation:

1. Description of Promissory Note:
  - a. Lender
  - b. Note Date
  - c. Borrower(s)
  - d. Original Payee

- e. Original Amount
- 2. Statements of Note Ownership:
  - a. Lender was the legal and beneficial owner and holder of the Note entitled to enforce the Note when loss of possession occurred.
  - b. The Note has not been forgiven, discharged, satisfied, cancelled, assigned, subordinated, sold, transferred, encumbered, pledged, hypothecated by Lender or paid in full.
- 3. Statement of Original Note Status:
  - a. The original Note was lost or destroyed and cannot be produced. Note was not located after a thorough and diligent search that consisted of a complete search of institutional records of Lender.
  - b. The loss or destruction of the Note occurred while the note was in the Lender's direct possession.
  - c. The loss or destruction of the Note was not the result of a transfer by the Lender or a lawful seizure.
- 4. Statement of Governing Law:
  - a. The Affidavit is governed by and in accordance with the laws of a state which as adopted the 2002 amendment to Section (a)(1)(B) of UCC § 3-309 Enforcement of Lost, Destroyed, or Stolen Instrument. If not explicitly stated in the LNA, this may be attested to via an opinion from the Lender's counsel. NOTE: 4.a criteria is not required for Lost Note Affidavits supporting Restated Notes.
  - b. The Affidavit is the sole affidavit governing the loss or destruction of the Note.
- 5. Evidence of Affidavit Execution:
  - a. The affidavit is signed by the Lender and notarized.
- 6. Supporting Documentation
  - a. A copy of the original promissory note is attached to the affidavit.
  - b. When not explicitly stated in the original promissory note and/or LNA, an opinion by Lender's counsel that the original note and LNA are subject to the laws of a state which has adopted the 2002 amendment to Section (a)(1)(B) of UCC § 3-309 Enforcement of Lost, Destroyed, or Stolen Instrument. NOTE: 6.b criteria is not required for Lost Note Affidavits supporting Restated Notes.

For questions, email: [advancecollateral@fhlbdm.com](mailto:advancecollateral@fhlbdm.com) or call 1-800-544-3452, ext. 2500. Any documents with personally identifiable information (PII) should be sent through secure email.