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How to Complete a Lost Note Affidavit

When the Original Promissory Note Is Lost, Stolen, or Destroyed

INSTRUCTIONS — KEEP FOR YOUR RECORDS. DO NOT ATTACH THIS PAGE TO YOUR LOST NOTE AFFIDAVIT.

About this form. Lenders usually must return or surrender the **original** promissory note when a loan is paid off, and trustees often require it before reconveying a deed of trust. If the original is lost, stolen, or destroyed, California law (Commercial Code § 3309) still lets the owner enforce or release it — if they swear to how it was lost, that they did not transfer it, and agree to protect the borrower against anyone else claiming it.

1. **Search thoroughly first**
   Check files, safe deposit boxes, and with any escrow company, attorney, or servicer that handled the loan.
2. **Fill in the note details**
   Enter the note's date, original amount, borrower, original lender, and unpaid balance. Add the deed of trust details if the note was secured.
3. **Explain the loss**
   Mark whether it was lost, destroyed, or stolen, and briefly describe when and how.
4. **Confirm no transfer**
   Sign only if the note was never sold, assigned, or pledged to anyone. If it was, the new holder must handle it.
5. **Sign under oath in front of a notary**
   The note owner (or an officer or trustee for the owner) signs. Do **not** sign ahead of time. Bring a current government-issued photo ID. We come to you.
6. **Use it with the reconveyance**
   Give the affidavit to the trustee or borrower, usually along with a Substitution of Trustee and Full Reconveyance.

Good to Know

- Some trustees, title companies, or courts may also require a bond or other security against future claims.
- If you are suing on a lost note, a court must find that the borrower is adequately protected. Talk to an attorney.
- Keep a copy of the note (if you have one) and any payment records with this affidavit.

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SCAN TO BOOK

Questions about this document? Talk to an attorney. Gavrilov & Brooks Law Firm has attorneys licensed in California, Nevada, and other states. Phone and video consultations are available. **(916) 504-0529** · **www.gavrilovlaw.com**

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YOUR FORM BEGINS ON THE NEXT PAGE

LOST NOTE AFFIDAVIT

Affidavit of Lost, Stolen, or Destroyed Promissory Note

State of California)

County of _____) ss.

I, the undersigned affiant, being first duly sworn according to law, depose and say:

1. Affiant.

_____ _____

(full name of affiant) (capacity: owner of the note, or officer/trustee of the owner)

_____

(name of the owner and holder of the note, if different from affiant)

2. The note. The owner is the lawful owner and holder of the following promissory note (the "Note"):

_____ _____ _____

(date of Note) (original principal amount) (maker(s) / borrower(s))

_____ _____

(original payee / lender) (unpaid balance, or "paid in full")

The Note is secured by a deed of trust (if any) recorded on

_____ _____ _____

(recording date) (instrument number) (county)

3. Loss. The original Note has been (mark one) ☐ lost ☐ destroyed ☐ stolen. The owner was entitled to enforce the Note when the loss occurred. The loss was not the result of a transfer by the owner or a lawful seizure. A diligent search has been made, and the original Note cannot be found or reasonably obtained. Circumstances of the loss:

_____

(brief description of how and when the Note was lost)

4. No transfer. The Note has not been sold, assigned, endorsed, pledged, or otherwise transferred, and no other person has any interest in it.

5. Indemnity and return. The owner agrees to indemnify and hold harmless the maker(s), the trustee under the deed of trust, and anyone relying on this affidavit from any loss or claim arising from the Note, including any claim by another person to enforce it. If the original Note is found, the owner will promptly deliver it to the maker(s) or the trustee for cancellation.

I make this affidavit for the purpose of (mark one) ☐ obtaining a reconveyance of the deed of trust ☐ enforcing the Note ☐ other: _____. I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Executed on _____ , at _____

(date) (city and state)

_____ _____

(signature of affiant) (printed name and title, if any)

Sign only in front of the notary, who will place you under oath and complete the jurat on the next page.

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JURAT

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

State of California)

County of _____)

Subscribed and sworn to (or affirmed) before me on this _____ day of _____ , 20 _____

by _____

(name(s) of signer(s))

proved to me on the basis of satisfactory evidence to be the person(s) who appeared before me.

(Seal)

Signature _____