

What Does it All Mean?

<i>E-SIGN Act:</i>	<i>(Electronic Signatures In Global and National Commerce Act¹) (15 USC ch. 96²)</i>
<i>UETA:</i>	<i>(Uniform Electronic Transactions Act³)</i>
<i>Mortgage:</i>	<i>(Mortgage Loan; a loan secured by a mortgage on real property⁴) (Tangible Paper Promissory Note, Tangible Security Instrument) (A mortgage is a security interest in real property held by a lender as a security for a debt, usually a loan of money. While a mortgage in itself is not a debt, it is the lender's security for a debt. It is a transfer of an interest in land (or the equivalent) from the owner to the mortgage lender, on the condition that this interest will be returned to the owner when the terms of the mortgage have been satisfied or performed. In other words, the mortgage is a security for the loan that the lender makes to the borrower.)</i>
<i>Assignee:</i>	<i>The One that sells the Mortgage Loan Package.</i>
<i>Assignor:</i>	<i>The one that buys the Mortgage Loan Package.</i>
<i>Tangible:</i>	<i>(substantially real⁵)</i>
<i>Intangible:</i>	<i>(not tangible; incapable of being perceived by the sense of touch⁶)</i>
<i>Promissory Note:</i>	<i>(Payable Note⁷)</i>
<i>Negotiable Instrument:</i>	<i>(Specialized type of "contract" for the payment of money that is unconditional and capable of transfer by negotiation.⁸)</i>
<i>Security Instrument:</i>	<i>(Mortgages, Deeds of Trust or Security Deed⁹)</i>
<i>Secured Indebtedness:</i>	<i>(Debt backed or secured by collateral to reduce the risk associated with lending. An example would be a mortgage, your house is considered collateral towards the debt. If you</i>

¹ http://en.wikipedia.org/wiki/Electronic_Signatures_in_Global_and_National_Commerce_Act

² http://www.law.cornell.edu/uscode/15/usc_sup_01_15_10_96.html

³ http://en.wikipedia.org/wiki/Uniform_Electronic_Transactions_Act

⁴ <http://en.wikipedia.org/wiki/Mortgage>

⁵ <http://east.merriam-webster.com/dictionary/tangible>

⁶ <http://dictionary.reference.com/browse/intangible>

⁷ http://en.wikipedia.org/wiki/Promissory_note

⁸ http://en.wikipedia.org/wiki/Negotiable_instrument

⁹ <https://www.efanniemae.com/sf/formsdocs/documents/secinstruments/>

default on repayment, the bank seizes your house, sells it and uses the proceeds to pay back the debt.¹⁰⁾

Unsecured Indebtedness: (A loan not secured by an underlying asset or collateral.¹¹⁾

Perfected Lien: (Perfection of a lien on real estate is accomplished by recording the mortgage deed of trust in public land records of a municipality, such as a town clerk's office.¹²⁾

Perfection: (In American law, perfection is generally taken to refer to any steps required to ensure that the security interest remains enforceable on the debtor¹³... The holder may "perfect" the security interest to put third parties on notice thereof. Perfection is typically achieved by filing a financing statement with government, often the secretary of state located at a jurisdiction where a corporate debtor is incorporated. Perfection can also be obtained by possession of the collateral, if the collateral is tangible property.

Absent perfection, the holder of the security interest may have difficulty enforcing his rights in the collateral with regard to third parties, including a trustee in bankruptcy and other creditors who claim a security interest in the same collateral.)

Negotiation: (Transfer of possession.¹⁴⁾

Assignment: (transfer of rights held by one party—the assignor—to another party—the assignee¹⁵⁾

Conveyance: (transfer of legal title of property from one person to another, or the granting of an encumbrance such as a mortgage or a lien.¹⁶⁾

Now for the Author's Definitions:

Real property is the land, buildings and anything rights that goes with the land.

Personal property is anything other than real property.

1. House and Land – Real Property

2. Paper Promissory Note – Personal Property – Tangible

¹⁰ <http://www.investopedia.com/terms/s/secureddebt.asp>

¹¹ <http://www.investopedia.com/terms/u/unsecureddebt.asp>

¹² <http://www.allbusiness.com/glossaries/perfected-lien/4946417-1.html>

¹³ http://en.wikipedia.org/wiki/Security_interest

¹⁴ <http://www.law.cornell.edu/ucc/3/3-201.html>

¹⁵ http://en.wikipedia.org/wiki/Assignment_%28law%29

¹⁶ <http://en.wikipedia.org/wiki/Conveyancing>

3. Paper Security Instrument – Personal Property – Tangible
4. Electronic Promissory Note – Lacks supporting law.
5. Electronic Security Instrument – Lacks Supporting law.
6. Secondary Market Electronic Certificates – Personal Property - Intangible
7. Paper Promissory Note/Security Instrument as collateral – Personal Property - Tangible
(As collateral in MBS, Reflects interests in real property) Tangible as collateral for Intangible
8. Electronic Promissory Note/Security Instrument as collateral – Lacks supporting laws.

Again we go to the language even Humpty Dumpty can understand.

Will shall address the note then the security instrument in succession then dwell into how they interact in closing of the loan up to the secondary market securities investment vehicle.

We shall start with the term, “Note”.

The “Original Paper Note”, (Negotiable Instrument, Personal Property - Tangible), is signed by the homeowner as an obligation for indebtedness for the purpose of funding the purchase of a house, (Real Property).

The loan originator then scans the “Original Paper Note”, (Personal Property - Tangible), into an electronic digitized graphic. The loan originator attempts to use ESIGN & UETA as the governing laws to allow this conversion from paper form into electronic form. This newly created electronic digitized graphic is the called an “eNote”, (Personal Property – Tangible). In actuality, it is this “eNote”, (Personal Property – Tangible) that is further negotiated to the Seller/Securitizer of the Investment Vehicle, (Personal Property – Intangible) as collateral for the Electronic Certificates, (Personal Property – Intangible) then to the Depositor of the Investment Vehicle, (Personal Property – Intangible) then to the Trustee of the Investment Vehicle, (Personal Property – Intangible). The investors that purchase the Electronic Certificates, (Personal Property – Intangible) are under belief that they bought Certificates whose collateral was the “Original Paper Note”, (Personal Property - Tangible).

We shall look at what the ratings agencies rated. Really, no need too. The ratings agencies were either absolutely oblivious of electronic negotiable instrument laws or were a party to the action. A document released by Moody’s Investment Services in 1999 suggests complicity in the fraud committed by the banks. The ratings agencies failed to inform the Investors that the “Underlying Collateral”, (“eNote”, Alleged Personal Property – Intangible) was lacking supporting laws and legally could not exist.

Time for the “Paper Security Instrument”, (Mortgage, Deed of Trust, and Security Deed – Personal Property – Tangible) and it process.

The loan originator then scans the “Paper Security Instrument”, (Mortgage, Deed of Trust, and Security Deed – Personal Property – Tangible) into an electronic digitized file. ESIGN and UETA also exclude UCC Article 9; as such this electronic conversion is without supporting laws.

Well, we shall continue. The loan originator negotiates the “eNote”, (Personal Property – Tangible) to a 3rd party. If this had been a negotiation of the “Original Paper Note”, (Personal Property - Tangible) the Assignor would have filed a “Notice of Assignment” reflecting the negotiation of the “Original Paper Note”, (Personal Property - Tangible) in public records to maintain a continuous perfection of lien rights. Failure to file this “Notice of Assignment” results in the lien expiring rendering what was once a “Secured” indebtedness to be “Unsecured”.

Here the ESIGN Act and UETA allow for a lawful “Notice of Assignment” to be executed in electronic form to public records, but the electronic filing of a “Notice of Assignment” reflecting an “Electronic Negotiation” would be fraud upon public records.

Where the loan originator elects to name MERS on the “Paper Security Instrument”, (Mortgage, Deed of Trust, and Security Deed – Personal Property – Tangible) as nominee/beneficiary while the lender is named on the “Original Paper Note”, (Personal Property - Tangible) results in bifurcation of the “Paper Security Instrument”, (Mortgage, Deed of Trust, and Security Deed – Personal Property – Tangible) from the “Original Paper Note”, (Personal Property - Tangible) rendering the once “Secured” indebtedness “Unsecured”.

How does all the above apply to what is happening in foreclosures today.

1. We know the banks state: “the trustee is the owner/holder of the note”. Big sow belly on that one, what the banks really own and hold is an unlawful “eNote”, (Personal Property – Tangible) that has been presented to the investors as lawful and is now being presented to the courts as proof of lawful ownership. What the trustee/bank needed was the negotiated “Original Paper Note”, (Personal Property - Tangible), which they do not have. In Short, the trustee/bank has lied to the investors and is now lying to the courts. What they may have is the “Original Paper Note”, (Personal Property - Tangible) which never left the custody of the original custodian and was never properly/legally negotiated.

2. To give an appearance of legality in public records, the trustee/bank for the Investment Vehicle Trust, where MERS is involved, will have MERS execute a “Notice of Assignment” in an attempt to show the “Original Paper Note”, (Personal Property - Tangible) was properly negotiated. This is a blatant fraudulent filing in public records as the unlawful “eNote”, (Personal Property – Tangible) is the only item that has been negotiated and this electronic negotiation lacks supporting laws and as such nothing was ever negotiated to MERS or any other party.

3. And who creates these unlawful “Notices of Assignments”? Lenders Processing Services, Nationwide Title Clearing and sometimes law firms such as “Barrett Daffin Frappier Turner & Engel, LLP just to name a few.

4. The biggest issue facing the truth being unraveled in the courts today, Judges still operate as if “Today” was “Yesterday”. “Yesterday”, the Mortgage was understood as to mean the note and the security instrument was together in the local corner bank. “Today”, utilizing electronic transfer means that the paper was scanned and the electronic file was moved to the Wall Street/New York Banks immediately after closing of the loan. Due to the fact that paper recordation of documents in public records may have taken days, weeks or even months. MERS was required to internally track who owns what, when and where to provide for the speed to send massive amounts of loans to Wall Street/NewYork Banks for securitization.

5. Many claim it was liar loans, subprime loans, miss ratings by the rating agencies, undisclosed risks that have caused today's financial meltdown. Bonkers, if the laws surrounding UCC governed Negotiable Instruments had been followed the crisis of today would not be here.
6. The banks were paid for the Investment Vehicles and by design of the banks servicing contracts the banks were able to receive even more funds for the serving. The banks raped and pillage everybody.
7. Then we deal with the High Throne Law Firms that represent the banks, for a price they will go into the courts and if we can't win on a technicality if you pay us enough we might even lie!!! Pay the lawyers millions/billions and if it cost us a few hundred million we still made a profit, just the cost of doing business.
8. So long as the banks only face a monetary fine the crimes will not stop, oopsie, forgot that laws were changed to protect the CEO's so as not to hold them criminally accountable for their firms actions. How many would come clean if jail time was inevitable?
9. Can willful intent be proven, if you know what you are looking for, bet your "Credit Default Swap".