302.02 LOANS, PROMISSORY NOTES & PROPERTY AGREEMENTS

This section provides resource policies that primarily apply when the client or spouse is the creditor (lender or seller) and is, therefore, the owner of a loan agreement, promissory note or a property agreement. The principal amounts of these items are evaluated under appropriate SSI or liberalized resource policy.

302.02.01 GENERAL

TERM	DEFINITION
Bona Fide Agreement	An agreement which is legally valid and made in good faith.
Negotiable Agreement	A type of agreement where legal title or the amount of the agreement can be transferred (sold) to another party. Generally, promissory notes, loan agreements and personal and real property agreements can be sold to a third party. An agreement may be assumed to be non-negotiable if there is a legal bar to its sale.
Loan	A transaction in which one party advances money to, or on behalf of another party, who promises to repay the lender in full, with or without interest. The loan agreement must be enforceable under state law and be in writing. A written loan agreement is a form of promissory note.
Informal Loan	With formal loans (e.g., commercial), there is rarely a question about whether the loan agreement is bona fide. An informal loan is a loan between individuals who are not in the business of lending money or providing credit. An informal loan must be written and is bona fide if: • It is legally binding under state law • It was in effect at the time of the transaction (money given with no obligation to repay cannot become a loan at a later date) • There is an acknowledgement of an obligation to repay, with or without interest, by the lender and the borrower • There is a plan or schedule for repayment and the borrower's express intent to repay by pledging real or anticipated future income. • The repayment plan is feasible.

General (Continued)

TERM	DEFINITION
Promissory Note	Written, unconditional agreement where one person promises to pay another party a specific amount at a specific time (or on demand). It can be repayment for goods, money loaned or services rendered.
Property Agreement	A piece of property is used to secure payment of a debt or performance of services within a specified period of time. Other names for property agreements include: • Mortgages • Real estate or land contracts • Contracts for deed • Deeds of trust • Personal property agreements, e.g., pledges of crops, fixtures, inventory, etc., are known as chattel mortgages

Property Agreements Prior to Settlement

A person holding a contract for sale of real estate (seller or creditor) owns **two** items until the settlement of the sale is completed:

1. The real estate, which is not a resource since it cannot be sold while encumbered by the contract, and.

2. The value of the contractual agreement.

Determining the Value of a Contract

The status and value of a contract, i.e., loan agreement, promissory note or property agreement, must be evaluated to determine if it is a resource under appropriate SSI or liberalized resource policy.