CANHR's Guide to Reverse Mortgage Alternatives

Is an Inter-Family Loan Right for You?

Are you a senior homeowner who needs to access cash, but are concerned about the significant risks and costs associated with a reverse mortgage? If so, you may want to explore other ways to tap into the equity in your home. Consider an Inter-Family Loan with a Secured Promissory Note Agreement.

In a nutshell: An Inter-Family Loan with a Secured Promissory Note Agreement is a private arrangement among family members. It can be a lower-cost, more flexible alternative to a commercial reverse mortgage.

The basic elements are:

- The family fronts the homeowner the money they need.
- In exchange for the contributions, the homeowner agrees that the contributors will be paid back, with interest, when the home is sold.
- The terms of the loan and the right to be repaid are spelled-out in a written agreement called the Secured Promissory Note Agreement.
- A second written document called the Contract Lien is needed. The Contract Lien must be recorded (filed) with the County Recorder in the county where the home is located. This tells the world that the contributors have a right to be repaid.

Done properly, families who can support their elders in this manner may create a win-win situation. They can meet the financial needs of the senior while keeping costs down and preserving the family wealth. See the **Appendix B** for a realistic example.

This Guide is designed to help families get started with basic information about crafting an Inter-Family Loan Agreement and Contract Lien. *This Guide is only a starting point.* If you decide to proceed with an Inter-Family Loan Agreement, protect the legal rights of each party to the agreement by consulting with a qualified lawyer and tax professional. These professionals can help draft a contract that reflects your unique situation and protects everyone's interests.

Step One: The Big Picture

Family members should have a firm understanding of potential risks, legal and otherwise, and be willing to consult with a qualified legal professional for advice.

Step Two: The Nuts and Bolts

The key parties are the Owner of the real property and the family member Contributors. The loan creates a mortgage against the Owner's Home Equity. An Inter-Family Loan is an alternative to a commercial reverse mortgage and involves a Secured Promissory Note Agreement and a Contract Lien.

Step Three: Follow these tips to decide if an inter-family loan is right for your family

Bring the family together. Keep all terms transparent and all participants fully informed. Schedule a family meeting to discuss. Prepare to consult a qualified lawyer and tax professional if you decide to go forward.

Step Four: What Should Be Discussed at the Family Meeting

Appoint a note taker. Explore alternative options. Discuss the benefits of proceeding with an Inter-Family Loan with a Secured Promissory Note. Discuss the role of each contributor and decide which professionals to contact for advice.

Step Five: Getting Started and Protecting the Contributors' Right to Reimbursement

Meet with an estate planning attorney to get legal advice specific to your family's situation and to draft the Secured Promissory Note Agreement and the Contract Lien. Your attorney should have the Contract Lien recorded (filed) with the County Recorder in the county where the Owner's home is located. Learn about any problems with the property and use a formal process for any changes to the original agreement.

If the Owner is on Medi-Cal or may enroll in Medi-Cal in the future, you should take steps to avoid Medi-Cal Recovery. Consult CANHR's Medi-Cal Recovery Guide or contact CANHR at (800) 474-1116 for more information.

This guide is meant to cover the basics for an Inter-Family Loan Agreement. For a more in depth guide, please visit: *www.canhr.org/factsheets/abuse_fs/familylendingguide.pdf*.

APPENDIX A:
Resources

1. California State Bar Lawyer Referral Service:
   www.calbar.ca.gov/Public/LawyerReferralServicesLRS.aspx

2. California Certified Public Accountants (CPA):
   www.dca.ca.gov/cba/consumers/select-a-cpa.shtml

3. Contribution Spreadsheet:
   www.canhr.org/abuse_fs/contribution-spreadsheet.xlsx

4. Family Caregiver Alliance Factsheet on Personal Care Agreements:
   www.caregiver.org/personal-care-agreements

5. Long-Term Care Information:
   www.canhr.org

6. Medi-Cal Recovery Claims Information:
   www.canhr.org/medcal/medcal_recoveryinfo.htm

7. Sample Inter-Family Loan Secured Promissory Note Agreement:
   www.canhr.org/factsheets/abuse_fs/sample_promissory_note.pdf

CANHR does not endorse any individual on the referral list.

APPENDIX B:
A Realistic Scenario

Four adult children contribute to their mother, Mary. Mary's house is paid off with a current market value of $400,000. Mary expects to leave each of her four children an equal share of her estate, which consists of her home. If Mary were to die today, each of the children would get a ¼ share of the equity in the house. But right now, Mary doesn't have enough income to make ends meet. How can her children help close this gap?

- Every month, Mary's expenses exceed her income by six hundred dollars ($600). If each of her children were to contribute $150 per month, Mary's costs would be covered. However, not every child has the same amount of extra cash to lend.
- One child has a job paying $75,000 per year; one has job that pays $50,000; one makes $35,000 per year, and one child is unemployed.
- The 5% investment solution. Financial advisors would say that if possible, an individual should set aside at least five percent (5%) each month out of every paycheck. If the children who made $75,000, $50,000, and $35,000 respectively, were each to put up five percent (5%) of their income, that would more than cover Mary's $600 shortfall even though each child contributes a different amount. Here's how that would work, in approximate figures:

5% of $75,000 is $313 per month

5% of $50,000 is $208 per month

5% of $35,000 is $146 per month

In this example, with each child contributing five percent of their monthly paychecks to cover their mother's expenses, the children are able to make a collective contribution of $667.00

- Flexibility. In the above example, three children can make monthly contributions that exceed their mother's need for $600. This means that in some months not every child has to put in a maximum amount. What is important is that the total of contributions equal the mother's needs.

APPENDIX C

Potential Benefits of an Inter-Family Loan vs. a Commercial Reverse Mortgage	Other Important Considerations
• Involves family members who make contributions instead of a company that sells reverse mortgages. • Will be less expensive to set up and maintain. • Allows for more flexible terms than a commercial reverse mortgage. • Keeps costs down and preserves the home's equity. • Requires sound legal and tax planning advice which can help families make an informed choice to assess their best options.	• Encourages multiple family members who can contribute. • Encourages family members to work together. • Sets up safeguards to prevent Contributors from lending beyond their means. • Encourages Contributors to seek guidance from qualified professionals to avoid triggering any negative tax consequences.