

- (7) There are encumbrances remaining that have not been explained or considered.
- (8) There are unresolved lawsuits and active bankruptcies.
- (9) The owner of record of the deed of trust securing the promissory note you are purchasing is other than the person from whom the purchase is being made.

If you have any questions concerning the PRELIM, ask your MLB or title officer for assistance.

3. Borrower's financial standing and credit worthiness

The borrower's ability to repay the loan involves the "capacity" and "desire" to make the loan payments.

The **borrower's capacity** is measured by: income; job position and stability; and overall financial standing, including assets, liabilities, and net worth, and any profit or losses incurred as the result of any business or investment activity. This information is reflected in the borrower's "Loan Application," which may be accompanied by a "Financial Statement" if the borrower is either self-employed or involved with significant business or investment activity. The MLB must give you a copy of the written loan application and the credit report.

To verify the borrower's representations about **capacity to pay**, you may examine:

- (1) Verification of employment;
 - (2) Income tax records;
 - (3) Verification of cash deposits or other assets;
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