

POLICY & PROCEDURE

Trust Policy

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1. Trusts (inter vivos or living trusts)

1.1 General Overview

- All trust requests must be approved in writing by the NewRez Legal Group by submitting a ticket through the legal portal (<https://jira.newrez.com/servicedesk/customer/portal/17>) as early as practical, but should be prior to submission for underwriting to avoid customer closing delays.
- Closing Manager must be notified prior to closing document preparation. There are additional specific documents and borrower name information that needs to be on the forms that the Closing Manager will assist closer with.
- Occupancy allowed, unless otherwise restricted per the loan product description or investor:
 - Primary Residence (1-4 units) allowed
 - Second Home (1 unit only) allowed
 - Investment Property allowed

1.2 Removal From Trust

- It is **unacceptable** to instruct the borrower to deed the subject property out of a Trust into his/her personal name for the purposes of obtaining financing and avoiding NewRez Trust approval.
- If the borrower wants to remove the property from the trust in order to facilitate closing, we will require a written statement signed by all trustees to the effect that (i) they made the decision to deed the property out of the trust of their own accord, (ii) they were not advised to take this action by any party to the loan transaction (lender, broker, escrow/settlement agent), (iii) this action is not intended to influence the lending process in any way, and (iv) they understand the legal implications of this decision. The Vesting Waiver Form is an acceptable written statement.

- [Vesting Waiver Form](#)

1.3 Preliminary Review Items

- Review title commitment or binder reflecting at least a 12-month title history and, if a purchase transaction, the purchase contract.
- Title history must include transfer date, loan amount, buyer's and seller's names for all title transfers within the past 12 months. An appraisal is NOT an acceptable source of title history.
- Exceptions to deeding out of the trust and allowing closing in the individual names or the 12 month title history will be considered on a case-by-case basis. Submit the review through the legal portal and clearly state in the comments the request for an exception and why the request is being made.
- Review of Trust Must Confirm the Following Six Elements of a Trust:
 1. The borrower or borrowers must be creator(s) of the trust. The creators of the trust are usually called the Grantor, Settlor or Trustor.
 2. The borrower(s) must be the trustee(s) of the trust (or there must be an approved institutional trustee).
 3. The trust must be revocable.
 4. The borrower(s) must be the primary beneficiaries of the trust.
 5. The trustee(s) must have the authority to borrow money and pledge the trust property as security.
 6. The trust must have been created during the lifetime of the borrower(s); it may not have been created by a will.

1.4 Trust Document Review Process

- Submit the items listed on the below Trust Submittal Checklist (Title Commitment, Any Existing Trust Certification, Trust Agreement, All Trust Amendments,) through the NewRez Legal portal.
 - In the event NewRez Legal Group feels the trust documentation provided is ambiguous or has concerns interpreting the documentation, an Attorney Opinion Letter from the borrower's attorney will be required
 - In the event a trust certification is not available for a state, Form A must be utilized
 - **California Exception**
 - For Trust Properties in California a trust certification completed by the borrower or the borrower's attorney is acceptable in lieu of the full trust documents. The title commitment is still required
 - [CA Certification](#)
 - Should any portion of the trust certificate be found inaccurate or in disagreement with the title report, this

exception cannot be applied and the complete trust documents must be provided

- This exception to trust documentation is ONLY for properties located in California.
- NewRez Legal Group will create a Final Trust Certification. Legal Group will email Approval to submitter and upload Final Trust Certification to XDoc
- The Final Trust Certification must be executed at closing.

1.5 Trust Certifications by State

- NewRez Trust Certification Form A
 - AK, AL, CA, CO, CT, DE, DC, HI, IA, ID, IL, KS, KY, LA, ME, MD, MA, MS, MO, MT, NE, NH, NJ, NM, NY, NC, NV, OK, PA, RI, SC, VA, WV, WI, WY
- NewRez Trust Certification Form B
 - AR, AZ, FL, IN, GA, IN, ND, OH, TX, UT, WA)
- NewRez Trust Certification - Michigan
- NewRez Trust Certification - Minnesota
- NewRez Trust Certification - Oregon
- NewRez Trust Certification - Tennessee
- NewRez Trust Certification - Vermont

2. Non-Intervivos Trust Estates

2.1 Blind Trusts

- Blind trusts are not eligible for financing.
- A blind trust is an arrangement where financial holdings of a person are placed in the control of a fiduciary, typically to avoid a conflict of interest. Therefore, someone other than the borrower has control over the trust assets.

2.2 Life Estates

- Life estates are not eligible for financing.
- A life estate is an estate whose duration is limited to the life of the party holding it, or some other person, upon whose death the right reverts to the grantor or his heirs.

2.3 Land Trusts

- Properties held by Land Trusts are not eligible for financing.
- A Land Trust is when an organization holds property or when one party holds ownerships of real property for the benefit of another party.

NewRez Trust Submittal Checklist

The following must be presented to the Legal group for trust approval:

- Title Commitment
- Any Existing Trust Certification
- Entire Trust Agreement
- All Amendments to the Trust
- Death Certificates , if applicable
- Divorce Decrees, Marriage Certificates and Proof of name change...etc if applicable

Legal Review:

The trust is signed, notarized, and dated by all applicable parties.

- You have a complete copy of the executed Certificate of Trust.
- The individual(s) establishing the trust (Grantor/Settlor") is/are alive at the time of loan application, and loan closing/funding.
- The trust has been established in writing by a natural person and is to be effective during their lifetime. (The trust is not created in a will or codicil.)
- The Grantor(s) has the right to revoke or alter the trust.
- The primary beneficiary of the trust is the Grantor(s) (the interest and principal of the trust estate is applied for their benefit) and the mortgage has been underwritten as if the Grantor (or at least one of the Grantors) is the borrower (or the co-borrower, if there are additional individuals whose income or assets will be used to qualify for the mortgage.)
- The loan applicant(s) are both the Grantor(s) and the trustee (or one of the co-trustees).
- The trustees must include at least one of the Grantors, if there are two or more, or an institutional trustee that customarily performs trust functions (i.e., a bank).
- The trustee(s) has the power to mortgage and borrow money and sign the security instrument.
- The trust does not contain an unusual risk or impairment of the lender's rights (i.e., distributions required to be made in specified amounts from other than net income).
- The title must be vested: in the name of one trust; jointly in the trustee (s) on the inter vivos revocable trust and in the name (s) of an individual borrower (s); or in the trustee(s) name if more than one inter vivos revocable trust
- The title policy assures full protection to the lender, its successors, and/or assigns, and must state that title to the property is vested in the trustee(s) of the trust. (It must not list any exceptions arising from the trust ownership of the property.)

B. If there is more than one trustee, [] all, or [] less than all (select one) are required to act in order to exercise the enumerated powers of the Trustee. (if the response is "all", go to Paragraph 9). If "less than all", the number of Trustees required to act in order to exercise the enumerated powers of the Trustee is _____

(9) The identifying number of the Trust is: _____. This number is: (_) the social security number of _____ or (_) the tax identification number of the Trust (select one).

(10) The manner in which title to trust assets should be taken is: _____

(11) The trust has not been revoked, modified, or amended in any manner which would cause the representations contained in the certification of trust to be incorrect. To the best of our knowledge, there are no claims, challenges of any kind, or cause of action alleged, which contest or question the validity of the Trust or the trustee's authority to act for the Trust.

(12) This Certification is being signed by all of the currently acting trustees of the trust.

(13) The Beneficiaries [] are [] are not required to consent or direct this transaction. If required to direct or consent, they are all signing this certification.

(14) The Trustee(s) understand and acknowledge that the recipient of this Certification of Trust may make a good faith request of the Trustee(s) to furnish copies of those excerpts from the original Trust, and amendments thereto, that designate the Trustee(s) and confer upon the Trustee(s) the Power to act in the pending transaction.

Intending to be bound hereby, and acknowledging that the title insurance company is relying on these affirmations and confirmations, and further confirming that the copy of trust provided to the title insurance company is accurate and will be through closing, we have set our hands and seals.

DATED: _____

Trustee: _____

printed name: _____

Witness: _____

printed name: _____

Trustee: _____

printed name: _____

Witness: _____ printed name: _____

VESTING WAIVER

_____ (herein "Borrower(s)") are currently Trustees of the _____ dated _____ (herein "Trust").

Borrowers wish to refinance property located at: _____ (herein "Property").

Title to Property is currently vested in the above named Trust. Borrower(s) wish(es) to remove the Property from the Trust during this loan transaction with NewRez LLC.

The decision to deed the Property out of the Trust is solely that of the Borrower(s). Borrower(s) has/have not been influenced by NewRez LLC or any other third party in connection with the loan transaction. This action is not meant to influence the lending process in any way and Borrower(s) fully understand(s) all legal implications of deeding the subject property out of the Trust. This waiver is executed and acknowledged by all Trustees of the above named Trust.

Trustee

Trustee

Trustee

Trustee

Trustee

Trustee

Trustee

Trustee