

CLOSING IN THE NAME OF A TRUST

Inter Vivos Revocable Trust (Living Trust)

- Created during individuals lifetime
- Becomes effective during its creators lifetime
- Can be changed or canceled by its creator at any time, for any reason, during their lifetime

Eligibility Requirements

- At least one individual establishing the trust must be used to qualify for the loan
- **May not be a Texas Equity Loan**
- **Not allowed in California.**
- Occupancy must be either:
 1. One to four unit primary
 2. Second home
 3. One to four unit investment property

Trust Agreement Requirements

- Established by one or more natural persons, solely or jointly. Referred to in the trust as Settlor, Trustor or Grantor.
- Only effective during the Settlers lifetime
- Settlor has the right to revoke or alter the trust
- Settlor is the primary beneficiary of the trust
- Settler is the trustee
- Settlers has the power to mortgage the Mortgaged Premises for the purposes of securing a loan
- Settler does not need written permission to mortgage the subject property
- No unusual risk or impairment of lenders rights

- Trust is valid under law
- If the trust requires more than one trustee to mortgage the security property, all must be on loan application and sign all loan documents

Title and Title Insurance Requirements

- There may be no exceptions arising from the trust ownership
- Full title to the property must be vested either”
 - In the trustee of the living trust or
 - Jointly in the trustee of the living trust and in the name of an individual borrower or
 - In the trustee of more than one living trust. If title will be vested in the trustees of more than one living trust, the terms of the two trusts must complement each other and not be in conflict with one another

Attorney’s Opinion Letter from the borrowers attorney verifying all of the following”

- The trust was validly created and is duly existing under applicable law,
- The trust is revocable
- The borrower is the settlor of the trust and the beneficiary of the trust,
- The trust assets may be used as collateral for a loan,
- The trustee is
 - Duly qualified under applicable law to serve as trustee,
 - Is the borrower,
 - Is the settler
 - Is fully authorized under the trust documents and applicable law to pledge or otherwise encumber the trust assets
- Complete copy of the trust documents

Exception to the Attorney Opinion Letter and cop of the trust documents

- Title Company Trust Certification is acceptable for the following states

- **Alabama, Arizona, Arkansas, California, Delaware, DC, Idaho, Iowa, Kansas, Maine, Michigan, Minnesota, Missouri, Nebraska, Nevada, New Hampshire, New Mexico, North Carolina, Ohio, Oregon, Pennsylvania, South Carolina, South Dakota, Tennessee, Texas, Utah, Vermont, Virginia, Washington, Wyoming.**

Revocable Trust Rider to the note required on all loans

- **Required on all loans**

Loan Documents

- **Note-the note and any addendum to the note must be executed by the trustee on behalf of the trust, indicating the complete legal name of the trust and each individual establishing the trust whose income and assets are used to qualify**
- **Signature requirements:**
 - **One individual**
 - **Signature: William Smith**
 - **Typed Name: William Smith, individually and as Trustee for the Smith Family Trust under trust instrument dated mo/day/year**
 - **Two Signatures**
 - **Signatures: William Smith Mary Smith**
 - **Typed Names: William Smith and Mary Smith, as Trustees for the Smith Family Trust Under trust instrument dated mo/day/year**
- **Security Instrument/Mortgage- The security instrument and any applicable riders ust be executed by the trustee on behalf of the trust when their income and assets are used to qualify for the loan.**
- **Signatures requirements:**
 - **One individual**
 - **Signature: William Smith**

- **Typed Name: William Smith, individually and as Trustee for the Smith Family Trust under trust instrument dated mo/day/year**
 - **Two Signatures: William Smith Mary Smith as Trustees for the Smith Family Trust under Trust instrument dated mo/day/year.**
- **The following must be added to the Security Instrument and any applicable riders following the borrowers signature**

By SIGNING BELOW, the undersigned, Settlor(s) of _____ Trust under trust instrument dated _____, acknowledges all of the terms and covenants contained in this Security Instrument and Rider(s) thereto and agrees to be bound thereby

_____ (seal) Trust Settler

Revocable Trust Rider to the Security Instrument required on all loans

Loan File Must Contain a complete copy of the trust agreement

Vesting on title to read as follows:

- **William Smith, individually and as Trustee for the Smith Family Trust**
- **William Smith Mary Smith as Trustees for the Smith Family Trust**

Loan File Must Contain a complete copy of the trust agreement

