

Who's Who on HECM Loans

Defining parties related to a HECM can sometimes be a tricky business. This job aid provides insight into various parties to the transaction and defines each role.

Fee Simple Properties

- **Borrower/Co-borrower** - Must be on title to the home. All borrowers and co-borrowers must be 62 or over and **must** attend counseling.
- **Non-Borrowing Spouse** – Non borrowing spouses can remain on title, but they are not borrowers, they must be at least 18 years of age and they ALL must be counseled, whether they are eligible or ineligible for the deferral period. There are two types of NBS', Eligible (married at time of Closing, properly disclosed to, and living in the property) and Ineligible NBS who do not meet the criteria above.
- **Non-Borrowing Owner** – An individual on title to the property but does not live in the home and is not a borrower. They may stay on the deed, but either way must be counseled.
- **Non-Borrowing Household Members** – Individuals who are not married to the borrower, are not on title, but do live in the home.

Properties in a Life Estate

- **Life Tenant** - The individual(s) who has ownership in the property for his or her lifetime. The Life Tenant is the borrower(s) and they **MUST** be counseled.
- **Remainderman** – The individual(s) or Trust that the property passes to upon death of the Life Tenant. Remainderman must be counseled unless in a Ladybird (testamentary) deed. Remainderman must be an individual not a Trust or LLC.

Properties in a Trust

- **Beneficiary** – This individual(s) must be an eligible HECM borrower, and they **MUST** be counseled.
- **Grantor/Trustor** – The individual(s) that established the trust, often the borrower, but it is not required to be the borrower.
- **Trustee** – This individual(s) is often the same as the grantor but is not required to be.
- **Contingent/Successor Beneficiary** – Receives benefit of the trust's assets upon the death of the beneficiary, but not control of the Trust.
- **Successor Trustee** - Receives control of the trust upon the death or incapacity of the trustee.

Powers of Attorney

- **Attorney-in-Fact** – An individual granted the power of attorney for a borrower(s) or non-borrowing spouse. Powers of Attorney are used for many reasons; the reason determines who signs what documents, who must be counseled and whether a doctor's letter(s) is required or not.
- **Guardian/Conservator** – A court appointed individual acting on behalf of an incompetent borrower or NBS.

Summary

	Age Requirement	On Mortgage	On Title	Counseling Required* <i>*State laws may vary</i>
Borrower	62 + with SS #	Yes	Yes	Yes
Co-borrower	62 + with SS #	Yes	Yes	Yes
Non-Borrowing Spouse (must have SS #)				
• Eligible	18+	No	Yes/No	Yes
• Ineligible	N/A	No	Yes/No	Yes
Remainderman	None	No	No	Required
Beneficiary	62 +	N/A	N/A	Yes
Trustee	None	N/A	N/A	Recommended
Grantor/Trustor	None	N/A	N/A	Yes
Attorney-In-Fact				
• Competent Borrower/NBS	None	No	No	Yes - If POA signs both App and Closing docs No – If borrower signed app and counseling cert.
• Incompetent Borrower/NBS	None	No	No	Yes
Guardian/Conservator	None	No	No	Yes

Other Loan Parties

- **Blind Borrowers** - The borrower will sign and date the closing documents in the presence of a notary. Two additional signature lines will be added to the 1st & 2nd mortgages and the loan agreement. The two witnesses will execute all 5 loan documents along with the borrower. The notary will notarize these signatures with the five original notary acknowledgement pages.
- **Signing with a Mark or X** - Borrower must only sign and date the initial application package in the presence of a notary. Witnesses should sign acknowledgement confirming they witnessed the signing of the application package.
 - The borrower must attend closing in person and two disinterested witnesses must also be present. Provide a LOE explaining the why they're signing with an "X."
 - The borrower must provide letter from doctor confirming the physical impairment.
 - The borrower must sign and date the closing documents in the presence of a notary and two disinterested witnesses.
 - Witnesses are not required to be counseled.
 - Title company to confirm signing closing documents with an "X" is acceptable.
 - The notary cannot be a witness, but an employee of the escrow / title company may act as a witness provided s/he is not involved in the borrower's loan process. The witnesses cannot be a family member.
 - Two additional signature lines will be added to the 1st & 2nd mortgages and the loan agreement. The two witnesses will execute all 5 loan documents along with the borrower. The notary will notarize these signatures with the five original notary acknowledgement pages.