

Thank you for choosing New Penn to be your lending partner.

We hope the following information will kick start your ability to work with us successfully!

If you have any questions, please don't hesitate to call your Account Executive.

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### **302.1 Trusts (inter vivos or living trusts)**

#### **302.1.1 General Overview**

- All trust requests must be approved in writing by the NewRez Compliance Group ([NewRezcompliance@newrez.com](mailto:NewRezcompliance@newrez.com)) 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

#### **302.1.2 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 signed written statement in the borrower's handwriting 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.

### 302.1.3 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 Compliance group 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.

### 302.1.4 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,) to the NewRez Compliance group.
  - In the event NewRez Compliance 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 Compliance Group will create a draft Final Trust Certification and return to requestor for borrower review and approval.
- Provide NEWREZ Compliance Group with borrower approval (email preferable) of draft Final Certification. Compliance Group will email Approval to submitter and upload Final Trust Certification to XDoc
- The Final Trust Certification must be executed at closing.

### 302.1.5 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

## 302.2 Non-Intervivos Trust Estates

### 302.2.1 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.

### 302.2.2 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.

**302.2.3 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 Compliance group for trust approval:

- Title Commitment
- Any Existing Trust Certification
- Entire Trust Agreement
- All Amendments to the Trust

Compliance 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.)
- The Grantor/Settlor occupies the property as a primary residence

**CERTIFICATION OF TRUST**  
(California Preliminary)

STATE OF \_\_\_\_\_ )

: SS

COUNTY OF \_\_\_\_\_ )

\_\_\_\_\_ being first duly sworn upon oath, deposes and says as follows, pursuant to the laws of the State of \_\_\_\_\_:

- (1) I/we am/are all of the currently acting Trustee(s), duly appointed and serving in accordance with the terms and provisions of that certain Trust known as the \_\_\_\_\_ dated \_\_\_\_\_ (hereinafter referred to as "Trust").
- (2) The Trust is in existence and the trust instrument was created on \_\_\_\_\_ (Month / date / year).
- (3) The Trust was established under the laws of the State of \_\_\_\_\_
- (4) The identity of the Settlers/Trustor(s) and each currently acting Trustee of the Trust are set forth below:
  - A. Trustor(s) Name(s): \_\_\_\_\_
  - B. Trustee(s) Name(s): \_\_\_\_\_
  - C. Trustee(s) Address(es): \_\_\_\_\_
- (5) The above named trustee(s) is/are fully empowered to act for said Trust and is/are properly exercising the trustee's authority under this Trust. No other trustee or other individual or entity is required to execute any document for the Trust
- (6) The Trust is (  ) Revocable or (  ) Irrevocable (select one). If revocable, the name of the person(s) holding the power to revoke it is/are: \_\_\_\_\_
- (7) The power of the trustee(s) includes:
  - (a) The powers to sell, convey, mortgage and exchange  Yes  No
  - (b) The power to borrow money and encumber the trust property with a mortgage or deed of trust  Yes  No
- (8) (Provide a response to paragraph 8A or 8B, not both)
  - A. There is only one trustee required to act in order to exercise the enumerated powers of the Trustee  Yes  No (if the response is "yes", go to Paragraph 9)

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:** \_\_\_\_\_

# Trust Trust Policy & Procedures

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For Approved Clients: Contact 877-930-PENN  
or email [portalsupport@newrez.com](mailto:portalsupport@newrez.com)

Interested in becoming approved?

Contact us at 888-852-5631 or visit our [Get Approved Page](#)



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