



LIVING TRUST CHECKLIST AT APPLICATION

Living Trusts are generally REVOCABLE (able to be changed) or IRREVOCABLE (cannot be changed)

Living Trusts are often referred to as "*INTER VIVOS*" meaning established while alive.

- ☐ **GET A FULL COPY OF THE TRUST:** Obtain a full copy, including any amendments.
TML will accept Declaration of Trust (in Arizona and Missouri) or Reinstatement of Trust (Investor Guideline)
- ☐ **NO TEXAS TRUSTS:** This is a state where Trusts are restricted. Property must be taken out of the trust prior to counseling.
- ☐ **TITLE MUST BE VESTED IN NAME OF TRUST:** If not, borrower will need to seek outside legal counsel to transfer into the trust.
- ☐ **BORROWER MUST BE THE BENEFICIARY:** They must be the current lifetime beneficiary. It is OK to have contingent beneficiaries.
- ☐ **ATTORNEY OPINION LETTER:** The opinion must be issued by a trust attorney. It must state that, in the attorney's opinion, the trust conforms to FHA's trust guidelines as outlined in HUD Handbook 4235.1, Chapter 4 (4-5).

Other Things to Know:

- Testamentary Trusts (created in a WILL) are not allowed.
- All TRUSTEES must sign the deed and right to cancel at closing. Trustees may or may not be the borrower(s).
- The borrower may transfer the property into a trust after closing without the mortgage becoming due and payable. However, the servicer must find that it meets our requirements.
- LAND TRUSTS. These are only allowed in certain states. Please refer to the Land Trust section of Guidelines.