

Power of Attorney

Overview

It is the published and enacted Policy that in a hardship or emergency situation, and not merely as a matter of convenience, Union Home Mortgage Corp. (UHM) may permit, in its sole discretion, the use of a person acting as Attorney-in-Fact pursuant to authority granted by a borrower under a written Power of Attorney (POA). The person acting as Attorney-in-Fact should have a familial, personal or fiduciary relationship with the borrower.

The Power of Attorney may be utilized at closing for execution of the loan documents in accordance with Investor guidelines, programs and restrictions and in compliance with applicable state and/or federal laws.

Types of POA Documents Acceptable to Union Home Mortgage

Durable Power of Attorney

- Must survive the disability or incapacity of the principal.
- Must contain language stating that the authority given remains in effect if the principal/grantor becomes incapacitated.

Military Power of Attorney

- Must survive the disability or incapacity of the principal.

Specific, Special or Limited Power of Attorney

A specific, special or limited Power of Attorney is required on Conventional DU loans and Jumbo loans. See immediate next.

- **FNMA Selling Guide B8-5-06** requires that: “Except as provided below, an attorney-in-fact or agent under a power of attorney may sign the security instrument and/or note, as long as the lender obtains a copy of the applicable power of attorney. In jurisdictions where a power of attorney used for a signature on a security instrument must be recorded with the security instrument, the lender must ensure that recordation has been effected. The name(s) on the power of attorney must match the name(s) of the person on the affected loan document, and the power of attorney must be dated such that it was valid at the time the affected loan document was executed. The power of attorney must be notarized and, unless otherwise required by applicable law, must reference the address of the subject property. If applicable law requires an original power of attorney for enforcement or foreclosure purposes, an original (rather than a copy) must be forwarded to the document custodian.”

Allowable Attorneys-in-Fact or Agents Under a Power of Attorney



Except as otherwise required by applicable law, or unless they are the borrower's relative, none of the following persons connected to the transaction shall sign the security instrument or note as the attorney-in-fact or agent under a power of attorney:

- the lender;
- any affiliate of the lender;
- any employee of the lender or any other affiliate of the lender;
- the loan originator;
- the employer of the loan originator;
- any employee of the employer of the loan originator;
- the title insurance company providing the title insurance policy or any affiliate of such title insurance company (including, but not limited to, the title agency closing the loan), or any employee of either such title insurance company or any such affiliate; or
- any real estate agent with a financial interest in the transaction or any person affiliated with such real estate agent.

As used herein, the borrower's relative includes any person defined as a relative in this Guide, or a person who is a fiancé, fiancée, or domestic partner of the borrower.

For refinance transactions, an individual who would otherwise be prohibited from serving as an attorney-in-fact or agent under the restrictions above may execute the required loan documents on behalf of the borrower(s), provided all of the following conditions are met:

- The attorney-in-fact or agent is not an employee of the lender.
- The power of attorney expressly states an intention to secure a loan not to exceed a stated amount from a named lender on a specific property.
- The power of attorney expressly authorizes the attorney-in-fact or agent to execute the required loan documents on behalf of a borrower only if the borrower has, to the satisfaction of the attorney-in fact or agent in a recorded, interactive session conducted via the Internet, both:
 - Confirmed his or her identity; and
 - Reaffirmed, after an opportunity to review the required loan documents, his or her agreement to the terms and conditions of the required loan documents evidencing such transaction and to the execution of such required loan by such attorney-in-fact or agent.
- The lender must produce at Fannie Mae's request at any time during the term of the related loan, within a commercially reasonable time following such request and without additional expense to Fannie Mae, a recording and other documentary media memorializing the entirety of the interactive session.

Restrictions on the Use of a Power of Attorney

Except as required by applicable law, a power of attorney may not be utilized to sign a security instrument or note if either (or both) of the following applies:



- No other borrower executes such loan document in person in the presence of a notary public. Exceptions: A power of attorney may be utilized to sign such loan document for each borrower:
 - As permitted in connection with a refinance transaction conducted in a recorded, interactive session on the Internet as described above in Allowable Attorneys-in-Fact or Agents Under a Power of Attorney; or
 - As long as the attorney-in-fact or agent under the power of attorney is either the borrower's attorney-at-law or the borrower's relative.
- The transaction is a cash-out refinance.

Additional Requirements

If a power of attorney is used because the lender determines such use is required by applicable law, the lender must include in the mortgage loan file a written statement that explains the circumstances. Such statement must be provided to the document custodian with the power of attorney.

Contains authorization for the attorney-in-fact to perform specific functions related to the real estate financing and is specific to the subject property (references the subject via property address or legal description) and the UHM loan number and loan amount (may state "in an amount not to exceed").

General Power of Attorney

A general Power of Attorney is only acceptable on Conventional LP loans, USDA loans, FHA loans, and VA loans. A General Power of Attorney must:

- Contain powers to enter in real-estate transactions with specific ability to mortgage, pledge, hypothecate, encumber and execute loan documents;
- Survive the disability or incapacity of the principal; and
- Contain language stating that the authority given remains in effect if the principal/grantor becomes incapacitated.

Additionally, the VA Program requires:

VA Pamphlet 26-7 Chapter 9 Topic 7(b and e) requires that "To complete the loan transaction using an attorney-in-fact, VA also requires the veteran's written consent to the specifics of the transaction. This requirement can be satisfied by either:

- The veteran's signature on both the sales contract and the Uniform Residential Loan Application, as long as the veteran's intention to obtain a VA loan on the particular property is expressed somewhere in those documents, or
- A specific power of attorney or other document(s) signed by the veteran, which encompasses the following elements:
 - Entitlement—A clear intention to use all or a specified amount of entitlement;
 - Purpose—A clear intention to obtain a loan for purchase, construction, repair, alteration, improvement, or refinancing;
 - Property Identification—Identification of the specific property;



- Price and Terms—The sales price, if applicable, and other relevant terms of the transaction; and
- Occupancy—The veteran’s intention to use the property as a home to be occupied by the veteran (or other applicable VA occupancy requirement).

VA may relax the requirements in an exceptional case if serious hardship may result due to the time or other pertinent factors involved in obtaining the veteran’s consent to the specific transaction.

General Requirements

The following specifications must be met:

- Indicate clearly that the mortgagor is appointing an attorney in fact;
- Prepared by a licensed attorney, title company and/or be in recordable format;
- Precisely identify who is being appointed;
- The appointed attorney in fact must be the same person signing the note and/or security instrument on behalf of the Principal;
- The Principal’s name must match the name on the note and/or security instrument;
- Be signed and dated by the borrower;
- Be witnessed, if the State requires a witness or witnesses;
- Be notarized (if executed outside the U.S. see Power of Attorney Executed Abroad section);
- Be effective prior to the date of the closing and remain in effect for a minimum of thirty (30) days following the consummation date;
- The Attorney in Fact may not be the lender, affiliate of the lender, employee of the lender or the lender's affiliates, originator, employer or employee of the employer of the originator, title company or any affiliate of such title company, real estate agent with a financial interest in the transaction or any person affiliated with such real estate agent;
- Contain a statement of the grantor’s (borrower’s) name exactly as it will appear on all closing documents;
- Contain a recorder’s stamp if previously recorded;
- A separate, executed POA must exist for each borrower not present at closing. An Attorney in An Attorney in Fact may not sign on behalf of multiple borrowers.

Loan Application Requirements

Initial loan applications must be signed by the borrower unless:

- The borrower is on military service with the United States armed forces serving outside the United States or deployed aboard a United States vessel, as long as the power of attorney expressly states an intention to secure a loan on a specific property, or complies with the requirements under the VA Lender’s Handbook relating to the powers of attorney for VA-insured mortgage loans; or



- Such use is required of lender by applicable law.
Note: If a Power of Attorney is used because UHM determines that such use is required by applicable law, UHM must include in the mortgage file, a written statement that explains the circumstances and will also independently verify and obtain supporting documentation. Such statement is generally to be provided to the document custodian with the Power of Attorney.

Restrictions on the use of Power of Attorney's

A power of Attorney may not be utilized to sign a security instrument or note if no other borrower executed such loan documents in person and in the presence of a notary unless;

- The attorney in fact is the borrowers attorney at law; or
- The attorney in fact is the borrower's relative.
Note: Relative is defined in the FNMA Selling Guide to include the borrower's spouse, child, fiancé, fiancée, domestic partner, or other dependent or any other individual who is related to the borrower by blood, marriage, adoption, or legal guardianship.

Title Company Approval

If the loan documents are scheduled to be signed by an attorney in fact, the executed and notarized Power of Attorney must be pre-approved by the title company issuing the title policy with express affirmation that the POA is in recordable format. The title company must ensure the lien priority without exception to the POA.

UHM Underwriter and Compliance Approval

The executed and notarized POA must be reviewed and approved by the UHM Underwriter prior to the preparation of the UHM closing documents. Any questions by the UHM Underwriter should be directed to Chris Carkhuff of UHM's Compliance Dept.

Program Requirements

Ineligible Transactions

Powers of Attorneys are not acceptable for the following types of transactions:

- Jumbo Cash-out Refinance transactions
- FNMA Conventional Cash-out Refinance transactions
- Inter-vivos Revocable Trust loans

VA Program Requirements

Union Home Mortgage Corp. will allow a veteran to use an attorney in fact to execute any document necessary to obtain a VA-guaranteed loan. All Union Home Mortgage Corp. general requirements must be met in addition to:

- Obtaining the veteran's written consent to the specifics of the transaction (see VA Lender Handbook for specifics);



- At the time of closing, the lender must verify that the veteran is alive, and, if on active military duty, not missing in action (MIA) and make the following certification:
- “The undersigned lender certifies that written evidence in the form of correspondence from the veteran or, if on active military duty, statement of his or her commanding officer (including statement of person authorized to act for said officer), affirmatively indicating that the veteran was alive and, if the veteran is on active military duty, not missing in action status on (date), was examined by the undersigned and that the said date is subsequent to the date the note and security instruments were executed on the veteran’s behalf by the attorney in fact.”

Signature Requirements

Documents executed by the attorney in fact must be signed according to the following:

Acceptable Signature Format	
<u>*****</u>	<u>Jane Mac by John Mac, as her Attorney-in-Fact</u> Jane Mac by John Mac, as her Attorney-in-Fact
	<u>John Mac as AIF for Jane Mac pursuant to POA dated XX-XX-XX</u> Jane Mac by John Mac, as her Attorney-in-Fact
	<u>Jane Mac by John Mac AIF</u> Jane Mac by John Mac, as her Attorney-in-Fact
	<u>Jane Mac by John Mac POA</u> Jane Mac by John Mac, as her Attorney-in-Fact
	<u>John Mac, Attorney in Fact for Jane Mac</u> Jane Mac by John Mac, as her Attorney-in-Fact

- To promote consistency and uniformity, UHM requires that the signature line be typed exactly as above. The preferred method of signature is the 1st example above identified by the 5 underlined red stars.

Power of Attorney Executed Abroad

A POA may be executed and notarized in an Embassy, Consulate, or on a Military Base. All requirements set forth by the State Department for overseas Citizens Services and the Uniform Code of Military Justice must be met.



Delivery Requirements

A certified true copy of the POA must be returned by the settlement agent with the original closing package. The original recorded POA must be provided to UHM's Post-Closing Dept. not later than forty-five (45) days following disbursement of UHM's loan proceeds.