

Policies on Communication and Loan Mods for Successors in Interest

Updated 12/11/14

Agency Name <i>Source</i>	Communicating	Documenting ownership	Allow assumption after death?	Allow assumption after divorce or separation?	Timing of assumption and modification	Absent Co-borrowers
Best practice	Servicers should immediately communicate with the successor homeowner (and any authorized third party assisting the homeowner) after receiving proof of ownership.	Servicers should accept a standard list of documents sufficient to prove ownership, and should not request documents that don't exist (such as a probate order or estate paperwork if a property passed outside of an estate, through right of survivorship).	Servicers should allow a successor to assume the loan and pursue loss mitigation after the death of a borrower. Fannie, Freddie, FHA, and HAMP rules are all consistently allowing this now.	Servicers should allow a successor to assume the loan and pursue loss mitigation after a divorce, legal separation, or other separation involving family violence.	Servicers should not require a successor to assume the loan before evaluating whether he/she will be approved for a loan modification that makes the payment affordable.	Servicers should not require an absent co-borrower to participate in cases of death, divorce, or recorded a quit-claim deed relinquishing all rights in the property. Servicers should also exercise discretion in circumstances such as contested divorce, domestic violence, and military deployment.
Freddie Mac <i>Freddie Mac's Single-Family Seller/Servicer Guide Ch. B65.28, C65.7(b); Bulletin 2013-3; Bulletin 2014-10</i>	"Servicers must provide loan information to transferees that the Servicer has confirmed have a legal or beneficial interest in the Mortgage..."	No policy on what forms of documentation are acceptable. Refer to Freddie Mac any case "where the servicer is unsure as to whether a purported transferee has a legal or beneficial interest in the property, but that person is willing to assume the Mortgage obligation." Bulletin 2013-3.	Yes	Not clear; Bulletin and Servicing Guide both say servicer must evaluate non-Borrower for simultaneous loan mod and assumption "where all Borrowers are deceased." Other language in the Guide provides that servicers may not accelerate after any Garn-exempt transfer; but agencies should make it clear that a successor after any Garn-exempt transfer may be considered for assumption and modification.	Simultaneous mod and assumption.	Absent co-borrower need not participate upon proof of death, divorce or legal separation. If co-borrowers were unmarried, an occupying co-borrower may be considered for HAMP alone if provide a recorded quitclaim deed signed by non-occupying co-borrower. Servicer may exercise discretion in other circumstances such as incapacity or military deployment.
Fannie Mae <i>Fannie Mae Single Family 2014 Servicing Guide D1-4.1-01, D2-2-05, F-1-18; Lender Letter LL-2013-04; Servicing Guide Announcement SVC-2013-17</i>	Servicers must promptly identify and communicate with the new owner after any exempt transfer.	No policy on what forms of documentation are acceptable.	Yes	Yes Allows assumption and modification after any "exempt transaction"; Fannie list of exempt transactions includes all Garn-exempt transfers and some additional.	Simultaneous mod and assumption.	Unless co-borrower is deceased or divorced, all parties who signed the note must provide proof of income and sign mod docs. Servicers may encounter circumstances where co-borrower signature is not obtainable, such as mental

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						incapacity, military deployment, or contested divorce. [2012 Guide provided that if co-borrowers were unmarried, a recorded quitclaim deed from absent co-borrower allowed the application to proceed. (609-03-06)]
HAMP <i>MHA Handbook, Version 4.4 (March 3, 2014) Ch. II, Sec. 1.2, 5.7, 8.8, 8.9.1, 8.9.2; Supplemental Directive 13-06 (Aug. 30, 2013)</i>	No specific policy on this issue.	No policy on what forms of documentation are acceptable.	Yes. But suggests that investor guidelines or applicable law might restrict assumption.	Yes; following death or divorce, any non-borrower who inherits or is awarded sole title may apply for HAMP. But suggests that investor guidelines or applicable law might restrict assumption.	Simultaneous per Ch. 2, Sec. 8.8, but other section 8.9.2 re death during an existing TPP makes it sound like assumption first, then reevaluation for HAMP. Should be clarified.	Unless a borrower is deceased or divorced, all parties who signed the original loan docs must sign HAMP docs. An occupying co-borrower may be considered for HAMP alone if provide a recorded quitclaim deed signed by non-occupying co-borrower. Servicers should use good business judgment in cases where co-borrower signature may not be obtainable, such as incapacity, military deployment, or contested divorce.
FHA <i>HUD Handbook 4330.1 Rev-5 Chapter 6</i>	No policy on this issue.	No policy on what forms of documentation are acceptable.	Yes	Not clear; Handbook provides for assumption without any creditworthiness review after transfer by “devise or descent.”	No written policy; servicers tell successors that the loan mod happens first, followed by assumption.	No written policy.