



Mike Porter &lt;mporter@rdhloans.com&gt;

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**Fwd: Signing question**

1 message

**Mike Rogers** <mrogers@rdhloans.com>

Thu, Feb 7, 2019 at 12:19 PM

To: Mike Porter &lt;mporter@rdhloans.com&gt;, Rachel Porter &lt;rachel@rdhloans.com&gt;

Below is the information I received from Shawn Black concerning the spouse signing the DOT and CD.

Thanks,



Mike Rogers | Operations Manager | NMLS # 854259

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Southlake TX 76092

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NMLS Company #1325498

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----- Forwarded message -----

From: **Shawn Black** <[sblack@bmandg.com](mailto:sblack@bmandg.com)>

Date: Tue, Dec 11, 2018 at 1:52 PM

Subject: RE: Signing question

To: Mike Rogers <[mrogers@rdhloans.com](mailto:mrogers@rdhloans.com)>

Mike - The general requirement for each spouse to join on a DOT encumbering the homestead is set forth below. Texas common law recognizes the priority of a vendor's lien over homestead rights on a purchase transaction, but it is relied upon by lenders only in limited cases. Unless; (1) there are extenuating circumstances (such as a pending divorce), (2) The non-borrowing spouse is not shown as a grantee on the warranty deed from the seller, (3) you have investor approval, and (4) the title policy will not contain an exception for the non-joinder of the other spouse, or require a judicial foreclosure of the vendor's lien as a condition to insuring, both spouses should join in signing the DOT.

You are correct that TRID only requires that the CD be provided to the NBS on a refinance of primary residence in cases where the spouse has an interest in the property.

FAMILY CODE

TITLE 1. THE MARRIAGE RELATIONSHIP

SUBTITLE B. PROPERTY RIGHTS AND LIABILITIES

CHAPTER 5. HOMESTEAD RIGHTS

SUBCHAPTER A. SALE OF HOMESTEAD; GENERAL RULE

Sec. 5.001. SALE, CONVEYANCE, OR ENCUMBRANCE OF HOMESTEAD. Whether the homestead is the separate property of either spouse or community property, neither spouse may sell, convey, or encumber the homestead without the joinder of the other spouse except as provided in this chapter or by other rules of law.

Regards,

Shawn P. Black, Esq.

Black, Mann & Graham, LLP

2905 Corporate Circle

Flower Mound, TX 75028

972 353 4174 (phone)

972 221 9316 (fax)

[sblack@bmandg.com](mailto:sblack@bmandg.com)

**From:** Mike Rogers <[mrogers@rdhloans.com](mailto:mrogers@rdhloans.com)>

**Sent:** Tuesday, December 11, 2018 12:01 PM

**To:** Shawn Black <[sblack@bmandg.com](mailto:sblack@bmandg.com)>

**Subject:** Signing question

Hi Shawn-

I have a borrower that is separated from his wife. She lives in Maryland and he moved to Texas in February of this year. His is going to purchase a house but his wife will not sign the CD or Deed of Trust. Is it correct that TRID only requires the spouse to sign the CD and Deed of Trust on a refinance transaction in community property states? If you can confirm the spouse is not required to sign on a purchase transaction I will work to confirm with my investor that they do not have an overlay.

Thanks,



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