

## What is the HUD definition of a Non-Borrowing Spouse?

**Non-Borrowing Spouse** means the spouse, as determined by the law of the state in which the spouse and Borrower reside or the state of celebration, of the Borrower at the time of closing and who is not a Borrower of the HECM loan.

**Eligible Non-Borrowing Spouse** means a Non-Borrowing Spouse who meets, and continues to meet, the Qualifying Attributes requirements established by the Secretary of HUD, or authorized representatives, that the Non-Borrowing Spouse must satisfy to be eligible for deferral of the due and payable status.

**Ineligible Non-Borrowing Spouse** means a Non-Borrowing Spouse who does not meet the Qualifying Attributes requirements established by the Secretary of HUD, or authorized representatives, that the Non-Borrowing Spouse must satisfy to be eligible for deferral of the due and payable status.

## What happens to the NBS when the last borrower dies?

An Eligible Surviving, Non-Borrowing Spouse may continue to live in the mortgaged property after the death of the last surviving HECM borrower, if the following conditions are met, and continue to be met:

- A. The Non-Borrowing Spouse is named in the loan documents as a Non-Borrowing Spouse.
- B. The HECM cannot be in default (eligible to be called due and payable) for any reason other than the last borrower's death or because the last surviving borrower has moved into a healthcare facility for more than 12 consecutive months **and**
- C. The borrower and his or her spouse were either:
  1. Legally married at the time the HECM closed and remained married until the HECM borrower's death.
  2. Engaged in a committed relationship akin to marriage but were legally prohibited from marrying before the closing of the HECM because of the gender of the borrower and Non-Borrowing Spouse, if the spouses legally married before the death of the borrower and remained married until the death of the borrowing spouse; **and**
- D. The Non-Borrowing Spouse lived in the property at loan closing and continues to live in the property as his or her principal residence.

## Is the Principal Limit based upon the age of the Borrower or the NBS?

At origination, mortgagees must base the Principal Limit on the age of the youngest borrower or Eligible Non-Borrowing Spouse.

## What happens to the NBS if the Borrower Dies?

In the event the last surviving borrower predeceases the NBS, the due and payable status will be **deferred** for as long as the NBS continues to meet the following:

- Have been the borrower's spouse at the time of loan closing and remained the spouse for the borrower's lifetime
- Have been properly disclosed to the lender at origination and specifically named as the NBS in the HECM documents
- Have occupied, and continue to occupy, the property as the principal residence
- In addition, the NBS must satisfy and continue to satisfy the following:
  - After the death of the borrower, the NBS must ensure all other obligations of the borrower contained in the loan documents continue to be satisfied
  - After the death of the borrower, the NBS must ensure the HECM does not become eligible to be called due and payable for any other reason

## What happens if the Borrower has to permanently go into a care facility, but the NBS still resides at the property?

The same deferral period applies as with the death of the Borrower. The NBS must satisfy the same requirements as required when the Borrower dies.

### **What if the NBS has to temporarily go into a health care facility after the death of the borrower?**

During a Deferral Period, the Property shall continue to be considered the Principal Residence of any NBS, who is temporarily in a health care institution, provided the NBS physically occupied the property immediately prior to entering the health care institution and the NBS' residency in a health care institution does not exceed twelve consecutive months.

### **Are civil partnerships excluded from the definition of an NBS?**

The NBS must be legally married, as determined by state law, to the borrower; or they must be engaged in a committed relationship akin to marriage but are prohibited from legally marrying based on the gender of both the borrower and the NBS.

### **After the Borrower passes, will the NBS be able to access any remaining LOC or monthly disbursements?**

The proceeds of the HECM will not be used on behalf of or be available for disbursement to any NBS during the deferral period.

### **If the borrower passes away while required repairs are being completed as stated in the repair set-aside, what happens to the NBS?**

If a Repair Set-Aside was established as a condition of the HECM, which was evidenced by the execution of a Repair Rider, funds may be disbursed from the Repair Set-Aside during a Deferral Period for the sole purpose of paying the cost of those repairs that were specifically identified prior to origination as necessary to the insurance of the HECM. Additionally, such repairs may only be paid for using funds from the Repair Set-Aside if the repairs are satisfactorily completed during the time period established in the Rider. No unused funds may be disbursed.

### **If a couple is legally separated and maintain separate primary residences, with provable occupancy for each, can the husband and wife each do a reverse mortgage on their home and be an NBS on the other?**

No, they must occupy the same residence in order to qualify.

### **Does the NBS have any contractual responsibilities under the loan?**

Yes, the NBS must continue to meet the following contractual obligations:

- Have been the borrower's spouse at the time of loan closing and remained the spouse for the borrower's lifetime
- Have been properly disclosed to the lender at origination and specifically named as the NBS in the HECM documents
- Have occupied, and continue to occupy, the property as the principal residence

In addition, the NBS must satisfy and continue to satisfy the following:

- After the death of the borrower, the NBS must ensure all other obligations of the borrower contained in the loan documents continue to be satisfied
- After the death of the borrower, the NBS must ensure the HECM does not become eligible to be called due and payable for any other reason

**For assistance, contact Lender Support:  
866-871-1353**