

# Title

## FREQUENTLY ASKED ^ QUESTIONS

December 2010

**Title to the principal matrimonial residence is vested in one spouse. He/she is refinancing (or selling) and has provided a pre-nuptial (ante-nuptial, pre-marital) agreement as proof that the non-title holding spouse does not have to sign the new mortgage (or deed). Is this acceptable?**

Not without written confirmation from the non-title holding spouse of their awareness of the specific transaction and of the continuing validity of the pre-nuptial agreement.

While New Jersey law recognizes that a person can legally release or extinguish his/her right of joint possession to the principal matrimonial residence by pre-marital agreement (N.J.S.A. 3B:28-3(b)), the Uniform Pre-Marital and Pre-Civil Union Act (N.J.S.A. 37:2-1 et seq.) provides a number of bases upon which a party may have such an agreement ruled unenforceable.

While our first preference is always to have the non-title holding spouse sign the mortgage on or deed to the principal matrimonial residence as applicable, a simple, notarized statement including the following information from the non-title holding spouse may also allow us to insure without exception to their right of joint possession:

I am the husband/wife of (title holding spouse). (Title holding spouse) is the owner of (address of property in question) which is my principal matrimonial residence. I waived all of my rights to and interests in this property including my right of joint possession under N.J.S.A. 3B:28-3 by a pre-marital agreement dated (date of agreement) which has been previously provided to you. I am aware that (title holding spouse) is now (selling the property to (buyer) for (purchase price)) or (refinancing/financing the property with (lender) for (amount of mortgage)).

As always, feel free to contact a member of our underwriting staff with any questions you may have.