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Power of attorney and conservatorship for a reverse mortgage

QUICK ANSWER

Yes, an agent under a durable power of attorney can sign a reverse mortgage (HECM) for a parent, if the document gives them that authority and the agent completes HECM counseling. If your parent can no longer decide and there's no power of attorney, the usual path is a court-appointed conservator, and in California a conservator needs a court order to borrow against the home. The one thing I wish every family knew: set this up while your parent can still sign.

Key points

- **A durable power of attorney is the key document.** In California it's "durable" when it says it keeps working if your parent loses capacity. It must be signed while your parent can still understand it.
- **HUD allows it, with conditions.** The agent must have specific authority to obligate your parent and must complete HECM counseling. Your parent is still the borrower and must meet every borrower rule.
- **Without one, it may take a court.** A conservator of the estate is appointed by a judge, and borrowing against the home needs a separate court order.
- **The agent works for your parent.** The loan has to serve your parent, not the family. No one connected to the loan can act as the agent unless they're family (with one narrow HUD exception).
- **Talk to an attorney.** An elder law or estate planning attorney can set up the right documents for your family.

From Tom: Tom has seen people on title become unable to sign before their family set anything up. His point: families may not realize a living trust or a durable power of

attorney can let someone sign for a parent *before* that happens.

In his words: "I think everybody should have that. Even those that aren't considering a reverse mortgage, it's a good idea to have."

I'm a loan officer, not an attorney. This page is general information, not legal advice. Whether a lender accepts a particular power of attorney depends on the document and the loan's rules, and private (proprietary) reverse mortgages, such as HomeSafe, set their own rules.

Power of attorney, conservatorship and trusts at a glance

Tool	Who sets it up	When it works	Court involved?
Durable power of attorney for finances	Your parent, while they can still decide	Now, or when a set event happens (a "springing" power), and it keeps working after loss of capacity	No
Living trust	Your parent, while they can still decide	The trustee manages what's in the trust, including the home if it was moved in	No
Conservatorship of the estate	A judge, after a petition	After the court appoints the conservator	Yes, with ongoing oversight

California's power of attorney rules

California's Probate Code sets the basics:

- **Who can sign one.** A person "having the capacity to contract" may make a power of attorney (Probate Code 4120).
- **How it must be signed.** It must be dated, signed by your parent (or by another adult in their presence and at their direction), and either notarized or signed by two adult witnesses. The agent can't be a witness (Probate Code 4121 and 4122).
- **What makes it durable.** The document says it isn't affected by later incapacity, or that it starts upon incapacity, or similar words (Probate Code 4124). Without that language, it may stop working when it's needed most.

- **Springing powers.** A power that starts on a set event, such as incapacity, can name who declares in writing that the event has happened (Probate Code 4129).
- **Real estate.** A power of attorney used to sign a mortgage must be acknowledged and recorded the same way as one used for real estate deeds (Civil Code 2933). Ask the attorney to plan for that.

What HUD requires for a HECM

Here's how HUD's Handbook 4000.1 treats a power of attorney or conservator on a HECM:

- **Signing the application and closing papers.** The lender may accept documents signed by an agent holding a durable power of attorney "specifically designed to survive incapacity and avoid the need for court proceedings," if the agent has specific authority to obligate the borrower and has completed HECM counseling.
- **Counseling.** If an agent signs for a borrower who still has capacity, the agent must complete counseling. If a borrower lacks legal capacity, counseling must be completed by the agent under the power of attorney or by a court-appointed conservator.
- **A borrower who lacks capacity can't sign.** The lender may accept forms signed by a conservator with documented authority, or by an agent under a durable power of attorney as described above.
- **Conservators.** A court-appointed conservator may sign for a borrower who lacks legal capacity. The lender must get a copy of the court order giving that authority.
- **Who can't be the agent.** Unless they're a family member, the lender and its employees, the loan officer, the title company, and any real estate agent connected to the loan can't sign the note or mortgage as the agent (HUD allows one narrow exception with a recorded online confirmation from the borrower).

Your parent is still the borrower. A HECM has no required monthly mortgage payment, but the balance grows over time with interest, mortgage insurance and fees, and your parent keeps paying property taxes, homeowners insurance, HOA dues and upkeep.

They must be 62 or older, live in the home as their main home, and meet the financial assessment. The loan comes due when the last borrower dies, sells, moves out for good (or is away more than 12 months in a row for illness), or doesn't meet the loan terms.

FHA insurance on a HECM protects the lender, not you. New American Funding is not acting for HUD, FHA or any government agency.

When there's no power of attorney: conservatorship

If your parent can no longer manage money and never signed a durable power of attorney, a family member may need to ask the court to appoint a conservator of the estate.

- **Who qualifies.** A conservator of the estate may be appointed for someone who is "substantially unable to manage" their own money or resist fraud or undue influence (Probate Code 1801(b)).
- **Least restrictive first.** A judge must find that a conservatorship is the least restrictive way to protect the person, and must consider options such as powers of attorney and supported decision-making (Probate Code 1800.3). The California courts' self-help guide says you must show the less restrictive options won't work.
- **Borrowing against the home.** A conservator may borrow money secured by a deed of trust on the conservatee's real estate only after a court order. The petition must state the purpose, the amount, the interest rate and the property (Probate Code 2551).
- **Selling the home.** Before selling a conservatee's home, the conservator must tell the court, discuss it with the conservatee, and explain whether they agree (Probate Code 2540).

Conservatorship takes time, money and court oversight. That oversight protects your parent, and it's also why planning ahead is easier on everyone.

If your parent already has a reverse mortgage

A power of attorney helps after closing too. The agent can work with the servicer, answer the yearly occupancy letter, and keep taxes and insurance paid. Ask the servicer what it needs to accept the agent, and have your parent sign the servicer's third-party authorization form while they can.

If a parent may need to move into care, call the servicer early: the loan can come due if your parent is away more than 12 months in a row for illness and no other borrower lives

there. See if your parent has a reverse mortgage.

Protecting your parent

A power of attorney is a lot of trust. The CFPB has free guides for people named as agents, trustees and conservators. The core idea: the agent acts for your parent, keeps your parent's money separate, and keeps records.

Signs that something is wrong include someone pushing your parent to sign quickly, keeping family out, or talking about putting loan money into annuities or investments. No one involved in a California reverse mortgage may require your parent to buy another financial or insurance product. See protecting a parent.

A made-up example to show how it works. Your situation will be different.

Example: Esteban helps his mother plan

Esteban, 56, lives near his mother, 81, in Pomona. She's sharp but has started forgetting bills, and she's curious about a reverse mortgage. Before anything else, they visit an elder law attorney together.

His mother signs a durable power of attorney for finances in front of a notary, naming Esteban as her agent, with authority over her home. Her attorney tells them about recording it if it's used for the house.

When she decides to look at a HECM, she attends counseling, and Esteban attends too, since he may sign some papers for her. She waits the 7 days California requires. The lender explains that his mother is still the borrower, and that she'll keep paying property taxes, insurance and upkeep. Esteban keeps copies of everything and a log of each call.

Do and don't

My advice: don't wait for a crisis.

Do

- **Do** set up a durable power of attorney with an attorney while your parent can still decide.
- **Do** make sure it gives authority over real estate and borrowing, and ask about recording.
- **Do** have the agent attend HECM counseling with your parent.
- **Do** keep records and keep your parent's money separate from yours.

Don’t

- **Don't** wait for a crisis. Once a parent can't sign, the options narrow and often involve a court.
- **Don't** let anyone connected to the loan act as your parent's agent unless they're family (HUD allows one narrow exception).
- **Don't** use a power of attorney to get a loan your parent wouldn't want, or for someone else's benefit.

Questions families ask

Can a power of attorney get a reverse mortgage for my parent?

Yes, under HUD's rules, if it's a durable power of attorney that gives the agent specific authority to obligate your parent, and the agent completes HECM counseling. Your parent must still meet every borrower rule, and in California there's a 7-day wait after counseling before a final application.

What happens if my parent has dementia and no power of attorney?

If your parent can no longer understand and sign, a power of attorney can't be made. A conservator of the estate may be needed. In California, a conservator needs a court order to borrow against the home. Talk to an elder law attorney. The court's self-help center also explains the options.

Why would someone with a POA choose an adjustable-rate HECM?

Usually for the same reasons a borrower would: an adjustable-rate HECM can offer a line of credit or monthly payments, while a fixed-rate HECM is paid as one lump sum. The choice should fit your parent's needs. A counselor can explain the trade-offs. See ways to receive the money.

My mom has a reverse mortgage and is showing cognitive decline. What should we do now?

Talk with her about a durable power of attorney while she can still decide. Ask her to sign the servicer's third-party authorization form. Put the property tax, insurance and occupancy-letter dates on a family calendar.

Can a family challenge a reverse mortgage signed by someone who wasn't in their right mind?

That's a question for an attorney. HUD's rules say a borrower who lacks legal capacity can't sign the application, and someone with authority, such as a conservator or an agent under a durable power of attorney, must sign instead. If you suspect pressure or fraud, call Adult Protective Services. See protecting a parent.

Does the agent owe the reverse mortgage?

No. The borrower is your parent, and the loan is repaid from the home. Being the agent doesn't make you personally responsible for the loan.

Sources (read November 3, 2026)

- HUD Handbook 4000.1, Part II.B.1.c (who must be counseled, counseling by an agent or conservator), II.B.2 (signature requirements for borrowers with and without legal capacity), II.B.6.a.xxii-xxiii (use of power of attorney at closing; court-appointed conservator), last revised Aug. 12, 2026: https://www.hud.gov/hud-partners/single-family-handbook-4000-1 (full text: https://www.hud.gov/sites/default/files/Housing/documents/40001-hsgh-Update-18-Redline.pdf)
- 24 CFR Part 206 (sections 206.27, 206.41), eCFR: https://www.ecfr.gov/current/title-24/subtitle-B/chapter-II/subchapter-B/part-206
- California Probate Code 4120: https://leginfo.legislature.ca.gov/faces/codes_displaySection.xhtml?lawCode=PROB&sectionNum=4120
- California Probate Code 4121: https://leginfo.legislature.ca.gov/faces/codes_displaySection.xhtml?lawCode=PROB&sectionNum=4121
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- California Probate Code 4124: https://leginfo.legislature.ca.gov/faces/codes_displaySection.xhtml?lawCode=PROB&sectionNum=4124
- California Probate Code 4129: https://leginfo.legislature.ca.gov/faces/codes_displaySection.xhtml?lawCode=PROB&sectionNum=4129
- California Civil Code 2933: https://leginfo.legislature.ca.gov/faces/codes_displaySection.xhtml?lawCode=CIV&sectionNum=2933
- California Probate Code 1800.3: https://leginfo.legislature.ca.gov/faces/codes_displaySection.xhtml?lawCode=PROB&sectionNum=1800.3
- California Probate Code 1801: https://leginfo.legislature.ca.gov/faces/codes_displaySection.xhtml?lawCode=PROB&sectionNum=1801
- California Probate Code 2540: https://leginfo.legislature.ca.gov/faces/codes_displaySection.xhtml?lawCode=PROB&sectionNum=2540
- California Probate Code 2551: https://leginfo.legislature.ca.gov/faces/codes_displaySection.xhtml?lawCode=PROB&sectionNum=2551
- California Civil Code 1923.2 (counseling, 7-day wait, no required purchase of other products): https://leginfo.legislature.ca.gov/faces/codes_displaySection.xhtml?lawCode=CIV&sectionNum=1923.2
- California Courts Self-Help, Conservatorships: https://selfhelp.courts.ca.gov/conservatorships and Options to help someone: https://selfhelp.courts.ca.gov/options-help-someone-impairment-or-disability
- CFPB, Managing someone else's money: https://www.consumerfinance.gov/consumer-tools/managing-someone-elses-money/
- HUD housing counselor search: https://answers.hud.gov/housingcounseling/s/?language=en_US



Talk with me first

I'll answer your questions and tell you plainly if a reverse mortgage isn't the right fit. No pressure.

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Personal estimate and more free guides: thereverseguide.com. Before you can apply, you'll meet with an independent HUD-approved counselor; it's required.

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