

## Vesting Title in a Limited Liability Company

At least one natural person member of the LLC, holding a membership interest of at least ten percent (10%), must be a borrower and must be qualified and approved for the loan in his/her individual capacity using his/her social security number. **The LLC will not be a borrower or co-borrower.** The promissory note will be in the name of an individual and all interest statements, payment coupons, etc., will be issued in the individual's name.<sup>1</sup>

- A. Execution of closing documents when title will vest in an LLC:
  - a. The Mortgage/Deed of Trust and related Riders are executed by the LLC, acting through its duly authorized agent;
  - b. The Accommodation Rider is recorded with the Mortgage/Deed of Trust and executed by the LLC, acting through its duly authorized agent;
  - c. The Note, related Addendums and all remaining loan documents, including all disclosures, are executed by the natural person borrower(s), individually.
- B. The list of LLC documents that must be submitted to Axos Bank for review is outlined below. Once collected, all documents should be imaged into the loan file.
- C. Axos Bank charges a fee of \$350 for its review of each LLC's governing documents.
- D. Axos Bank reserves the right to request additional documents and due diligence materials, including but not limited to (i) an opinion letter from the LLC's attorney addressing formation and authority; and (ii) documents concerning any entity that is a member or manager of the vesting LLC.
- E. Axos Bank retains the right to invoice Broker for any fees or costs, both third party and internal, related to the review of all loans and entity vesting requests.

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<sup>1</sup> Any request for the LLC to serve as borrower must be made under the DSCR Entity program at the outset of the application. Such requests will be considered on a case-by-case basis, subject to Axos Bank's discretion, and cannot be approved on any file involving individual co-borrower(s) or collateral outside California.

# Limited Liability Company Document Requirement Outline

For approval of vesting in an LLC, Broker should provide the following documentation to Axos Bank for review:

1. Filed Articles of Organization/Certificate of Formation, including all amendments (or equivalent document required by the state of formation to register the LLC).
2. Certificate of Good Standing/Existence (or equivalent document) issued from the state in which the LLC is organized. The certificate cannot be dated more than 60 days prior to closing. A Certificate of Good Standing/Existence is required for every LLC, including newly formed LLCs.
3. Operating Agreement, signed by all members and managers, including all amendments, exhibits, attachments and schedules. The Operating Agreement must authorize the mortgaging of the LLC's assets as security for the loan being made to the natural person borrower.
4. Resolutions, signed by all of the member(s) and Manager(s) of the LLC in accordance with the LLC's governing documents. The resolutions must (a) identify the loan transaction and the collateral property, (b) approve the mortgaging of the collateral as security for the loan; and (c) designate a signatory to execute loan documents on behalf of the LLC. Please see template provided with these materials (which may also be requested in a Microsoft Word template to facilitate editing by the LLC's members/managers). If the LLCs governing documents provided that it is manager-managed, the Manager(s) should be appointed as signatory within the resolutions. If the LLC's governing documents provided that the LLC is member-managed, one or more of the members should be appointed as signatory.
5. A complete list of all members and Managers, also showing each member's respective ownership interest.
6. If the LLC is owned or managed by another entity (i.e., non-natural person), documents concerning that entity must also be submitted for review.

Additionally, if the collateral property is located in a state other than the state in which the LLC is organized, the following documents issued from the state in which the collateral property is located must be provided:

7. A filed Certificate of Authority (or equivalent document) showing the LLC is properly registered in that state.
8. A Certificate of Good Standing (or equivalent document) dated within 60 days of the loan closing.

Following its review of the foregoing documents, Axos Bank, reserves the right to request additional documents, certificates, and due diligence materials, including but not limited to, an opinion letter from the LLC's counsel.

If the LLC is approved to hold title, the LLC will sign the Mortgage/Deed of Trust and related Riders and will be required to sign an Accommodation Rider. The Note, related Addendums, and all other closing documents, including all disclosures, will be signed by the qualifying natural person borrower(s) in his/her/their individual names.

Axos Bank's approval of an LLC for vesting is limited to the specific loan transaction identified in the resolutions (discussed in item 4 above). Such approval will be valid for six (6) months from issuance and is limited to that specific loan transaction. All supporting opinion letters, certificates, and resolutions must be dated no more than sixty (60) days prior to closing. For supporting documents dated more than sixty (60) days prior to closing, Axos Bank may, in its discretion, require a more current version, and/or a certification from an authorized representative that no changes have occurred since the document's original date.

**Resolutions of Unanimous Consent of the Member(s) and Manager(s)  
and Certificate of Authority for the Authorized Representative of  
\_\_\_\_\_ LLC**

The undersigned, being all of the member(s) and Manager(s) of \_\_\_\_\_, LLC, a \_\_\_\_\_ limited liability company (hereafter the “Company”), acting by unanimous written consent in lieu of a meeting, and pursuant to the Articles of Organization and the Operating Agreement, do/does hereby consent to and adopt the following recitals and resolutions and waive/waives any notices required with respect thereto:

WHEREAS: the Company acknowledges the borrowing by \_\_\_\_\_ [list natural person borrower(s)] of a loan in the principal amount of \$ \_\_\_\_\_ from Axos Bank®, a federal savings association (hereafter “Lender”), subject to the terms of certain loan documents issued pursuant to Lender loan number \_\_\_\_\_ (hereafter the “Loan”).

WHEREAS: the Loan transaction is in the best interests of the Company and its member(s).

BE IT RESOLVED: the Company acknowledges that the principal amount of the Loan is subject to change by the Lender and/or borrower(s) following execution of these resolutions.

BE IT FURTHER RESOLVED: that it is hereby approved that the Company secure the Loan by a deed of trust or mortgage by the Company recorded against the real property commonly known as \_\_\_\_\_ [list collateral address].

BE IT FURTHER RESOLVED: the Company shall and does hereby appoint \_\_\_\_\_ [name of designee], as \_\_\_\_\_ [specify Member or Manager], to execute and deliver on behalf of the Company a deed of trust or mortgage, security agreement, and any and all other instruments, certificates, consents, affidavits, or other documents required or appropriate to effectuate the secured transaction contemplated by said Loan.

BE IT FURTHER RESOLVED: that \_\_\_\_\_ [name of designee], is hereby empowered to take such actions as may be necessary to carry out the intents and purposes of the forgoing resolutions and shall have the power and authority to bind the Company.

BE IT FURTHER RESOLVED: that the undersigned and the Company certify to Lender that the following individuals are all of the Members of the Company:

\_\_\_\_\_.

BE IT FURTHER RESOLVED: that the undersigned and the Company certify to Lender that the following individuals are all of the Managers of the Company:

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BE IT FURTHER RESOLVED: that the undersigned and the Company certify to Lender that the Company's organizational documents, including its Articles of Organization and the Operating Agreement, authorize the Company and its member(s) and/or Manager(s), as applicable in each case, to pledge, encumber and hypothecate assets of the Company as security for a loan made to \_\_\_\_\_ [name of natural person borrower] in his/her/their individual/personal capacity(ies).

BE IT FURTHER RESOLVED: that the undersigned and the Company represent, warrant and certify that if any statement made in these resolutions is incorrect, but could be made correct by an amendment to the Company's organizational documents by the individuals signing below (whether in their capacities as members, managers, or otherwise), the organizational documents, including but not limited to the Company's Operating Agreement, is/are and shall hereby be amended so as to make such statement true and correct in all respects.

BE IT FURTHER RESOLVED: The undersigned, on behalf of the Company, authorize(s) these resolutions to be maintained in Lender's files and used and relied upon by Lender in connection with any accounts the Company may seek to establish for the Company or in the name of the Company with Lender in the future (hereafter "Company Accounts"). In connection with any Company Accounts, the undersigned is/are duly qualified, and without the consent of any other person, have power by his/her/their signature(s) below, on behalf of the Company, to authorize, and hereby expressly authorize(s): (i) the opening and closing of any deposit and investment accounts, including without limitation, mutual funds, annuities, non-deposit investment products, and other uninsured vehicles; (ii) the depositing of funds into, signing checks, drawing upon, and withdrawing funds from the Company Accounts; (iii) holding title to assets in the name of the Company; (iv) executing and delivering contracts on behalf of the Company; (v) consenting to pay fees on behalf of the Company; (vi) binding the Company's assets to agreements; and (vii) taking any additional appropriate actions in furtherance of these resolutions and the documentation executed with Lender to open the Company Accounts.

BE IT FURTHER RESOLVED: These resolutions may be executed in one or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same document, and a signature on these resolutions, delivered by facsimile, e-mail, PDF, or other means of electronic transmission, shall have the same effect as an original signature.

BE IT FURTHER RESOLVED: Each individual executing these resolutions on behalf of an entity hereby represents and warrants to Lender and its successors and assigns that such individual has been duly and validly authorized to execute and deliver these resolutions and any and all other documents contemplated by the Loan transaction on behalf of such entity.

These resolutions are made and entered into this \_\_\_\_ day of \_\_\_\_\_, 202\_\_ and delivered to the Lender, with the intent and understanding that Lender and its successors and assigns rely on these resolutions in consummating the Loan transaction.

\_\_\_\_\_  
[NAME & TITLE Member/Manager]

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[NAME & TITLE Member/Manager]