

Common Foreclosure Terminology

Accelerate

An option given to lenders through an "acceleration" clause in the mortgage or deed of trust requiring the borrower to pay the entire balance of the loan all at once if their loan is in default.

Affidavit

A sworn statement in writing usually given while under oath or in the presence of a notary.

Appraisal

The process in which a licensed appraiser gives an estimate of property value.

Appreciation

The difference between the increased value of the property and the original value.

Assignment

The transfer of property to be held in trust or to be used for the benefit of the creditors (lenders).

Bid

The offered amount for a property for sale at auction.

Clear Title

A title that is not burdened with defects in the chain of title.

Credit Bid

A bid on behalf of the lender at a foreclosure sale that is equal to the balance of the loan in default.

Decree

A judicial decision.

Deed

A signed document that transfers ownership of property from one party to another.

Deed-in-lieu of Foreclosure

An instance where borrowers voluntarily convey their rights in a property to the lender rather than going all the way through the foreclosure process.

Deed of Trust

A three party security instrument conveying the legal title to real property as security for the repayment of a loan. The three parties included in a deed of trust are the borrower, lender and trustee.

Default

A mortgage or deed of trust is said to be in default when the borrower fails to make the payments as agreed to in the original promissory note.

Deferred Payments

Payments that are authorized to be postponed as part of the work-out process.

Deficiency Judgment

A personal judgment against the borrower for the remaining balance on the loan after a foreclosure sale.

Equitable Title

The present right to possession with the right to acquire legal title once a preceding condition has been met.

Equity

The net value of an asset. In the case of real estate, it would be the difference between the present value of the property and the mortgage amount on that property.

Escrow

An item of value, money, or documents deposited with a third party to be delivered upon the fulfillment of a condition. For example, the deposit by a borrower with the lender of funds to pay taxes and insurance premiums when they become due, or the deposit of funds or documents with an attorney or escrow agent to be disbursed upon the closing of a sale of real estate. In some parts of the country, escrows of taxes and insurance premiums are called impounds or reserves.

Escrow Accounts

A segregated trust account in which escrow funds are held.

Escrow Analysis

The periodic examination of escrow accounts to determine if current monthly deposits will provide sufficient funds to pay taxes, insurance and other bills when due.

Fair Market Value

The price a property would sell for on the open market.

Forbearance

The act of refraining from taking legal action despite the fact that the mortgage is in arrears. It's usually granted only when a mortgagor makes satisfactory arrangements to pay the amount owed at a future date.

Foreclosure

The forced sale of property pledged as security for a debt that is in default.

Free & Clear

Ownership of property free of all indebtedness.

Hazard Insurance

Insurance coverage which provides compensation to the insured in case of property loss or damage.

Investment Property

A property purchased to generate rental income, tax benefits, or profitable resale rather than to serve as the borrower's primary residence.

Investor

Any person or institution that invests in mortgages or mortgage-backed securities.

Judicial Foreclosure

A foreclosure that is processed by a court action.

Landlord is the owner of a house, apartment, condominium, or real estate which is rented or leased to an individual or business, who is called a tenant (also a lessee or renter).

Lien

A charge upon real or personal property for the satisfaction of a debt.

Legal Description

A formal description of real property sufficient to locate it by reference to government surveys or approved recorded maps.

Lender

A person who lends money for temporary use on condition of repayment with interest (i.e., the bank, mortgage company, etc.).

Lender Placed Insurance

Insurance placed on a property by a lender to protect their insurable interest on collateral securing a loan.

Lis Pendens

A recorded notice of pending lawsuit.

Loan Servicer

A mortgage bank function which includes the receipt of payments, customer service, escrow administration, investor accounting, collections and foreclosures. Also called "loan administration".

Mortgage

A written pledge of property that is used as security for the repayment of a loan.

Non-judicial Foreclosure

The non-judicial process of foreclosure is used when a power of sale clause exists in a deed of trust. A "power of sale" clause is the clause in a deed of trust, in which the borrower pre-authorizes the sale of property to pay off the balance on a loan in the event of their default.

Notary

A public officer licensed by the state to attest to and certify the validity of signatures of others. A notary is often referred to as a notary public.

Notice of Trustee Sale

A notice giving specific information about the loan in default and the foreclosure proceedings about to take place. This notice must be recorded with the county where property is located and advertised as stated in the security document and as dictated by state law.

Partial Claim or Partial Release

If your mortgage is insured, you may qualify for a low interest or interest-free loan to bring your loan current through the insurer (usually Federal Housing Administration). This loan would be repaid at a later date, usually when you pay off your first mortgage or sell your home.

Personal Property

Property other than real property consisting of things temporary or movable.

Posting

To publish, announce or advertise by physically attaching a notice to an object.

Postponement

Postponement means to put off to a later time. In the case of a foreclosure sale, this is generally done by announcement at the original sale.

Pre-Foreclosure Sale or Short Sale

If you can no longer afford your home, this option involves selling your house to prevent foreclosure. If you owe more on the home than its value, your lender may agree to accept less than what is owed on the mortgage. There may be income tax consequences with a short sale, so please talk to a tax preparer to find out more information.

Right of Redemption

A borrower's right to reacquire property lost due to a judicial foreclosure.

Reinstatement

A reinstatement is when you pay the full amount you owe (total of past due monthly payments plus all fees) in a lump sum by a specific date.

Repayment Plan

An arrangement by which a borrower agrees to make additional payments to pay down past due amounts while still making regularly scheduled payments.

Request for Notice

A recorded document requiring a trustee send a copy of a Notice of Default or Notice of Sale concerning a specific deed of trust in foreclosure to the person who filed the document.

Subject To

The purchase of a property with an existing lien against the title without assuming any personal liability for the liens payment.

Title

A person's right in real property.

Trustee

A neutral party who advertises the foreclosure property for sale and conducts the auction to sell said property to the highest bidder.

Trustee Sale

An auction of real property conducted by a trustee.

Work-Out

An alternative action to foreclosure for the benefit of the lender and the borrower. Alternative options include; loan modification, short sales and various forms of forbearance. Also called "restructure".

Writ

An order or mandatory process in writing issued in the name of a court or judicial officer commanding the person to whom it is directed to perform or refrain from performing a specified act.

For additional foreclosure terminology, please go to the U.S. Department of Housing and Urban Development web link below.

<http://www.hud.gov/offices/hsg/sfh/buying/glossary.cfm>