

Definitions of Some Terms Commonly Used

Adjustable Rate Mortgage (ARM): A loan that provides for changes in interest rates at defined intervals based on increases or decreases in a specified published index. ARMs are the most commonly used loan product when the interest rate is not fixed (Fixed Rate Mortgage) during the term of the loan.

Assignee: A person (lender) who purchased the interests of the lender identified in the promissory note and deed of trust (the mortgage loan documents) and who becomes the holder of the promissory note. Recording the assignment from the lender to the assignee is typically required. The recorder of the county where the property described in the deed of trust is located will record the assignment.

Cash for Keys: Money received from the lender or its servicing agent to assist the former homeowner or tenant in moving from the home following the request of the lender in exchange for the agreement of the former homeowner or tenant to vacate after the foreclosure sale.



Civil suit for waste: An action brought in court by a lender against the homeowner for loss or damage to the home, whether caused or suffered by the homeowner (in which case the damage is referred to as “waste”) or damages that may arise from the alleged fraud of the homeowner.

Credit Bid: The ability of the lender to direct the trustee to bid at the foreclosure sale up to the total debt (the full balance due and payable) owed to the lender without advancing further money.

Debt Counseling Service: A properly certified or licensed independent consultant who assists homeowners to assess their financial situation without bias or emotional attachment.



Deed: A document (instrument) by which ownership of and title to a home is transferred from one person to another.

Deed-in-lieu of foreclosure: A document (instrument) executed by the homeowner conveying title to a lender in lieu of the lender proceeding with foreclosure on the home (the security property).

Deed of Trust: A deed conveying title to real property to a trustee as security until the grantor/trustor (borrower) repays the loan. This document identifies the homeowner as the trustor, the lender as the beneficiary, and a third person as the trustee authorized by the homeowner and the lender to perform defined activities/powers.

Equity: The estimated amount by which the then fair market value of your home (property) exceeds the total amount owing on account of mortgage loans and other liens recorded against the title of the home.

Equity Purchaser: An investor purchasing owner-occupied residential property to rent or re-sell when a home (property) is subject to an active Notice of Default (NOD).

Eviction: A court supervised procedure to remove persons and any others who are in possession of a home.

FHA: Federal Housing Administration.

FNMA: Federal National Mortgage Association (also known as Fannie Mae).

FHLMC: Federal Home Loan Mortgage Corporation (also known as Freddie Mac).

Fixed Rate Mortgage (FRM): A mortgage loan with interest fixed at a prescribed rate (e.g., 6%) for the duration of the loan.



Foreclosure Consultant: A person who, for compensation, offers to perform services to assist a homeowner of owner-occupied residential properties subject to an active NOD to (among others) stop or postpone the foreclosure sale, obtain a delay or forbearance from the lender, assist the homeowner when reinstating or curing delinquencies, help the homeowner to avoid damage to their credit rating, or assist the homeowner in obtaining any remaining surplus funds or net proceeds from a foreclosure sale in excess of the amounts owed in accordance with the terms of the mortgage loan. It is illegal to operate as a mortgage foreclosure consultant in California unless the foreclosure consultant has obtained a Certificate of Registration as a Mortgage Foreclosure Consultant from the Department of Justice.

Judicial Foreclosure: A foreclosure sale conducted under the supervision of a court.

Lender: The person that extends credit (loans money) to the borrower identified as the lender in the promissory note and as the beneficiary in the deed of trust (the mortgage loan). For the purposes of this booklet, the term lender includes the assignee of the lender. Lender is also sometimes referred to as mortgagee and borrower as mortgagor.

Loan Modification: Restructuring or amending the terms of a mortgage loan by an agreement among the lender, its servicing agent, and the homeowner.

Money Judgment: A court declaring the amount of money owed to the creditor and obligating the debtor to repay that amount (a judgment award of the court).

Non-Judicial Foreclosure: A non-judicial foreclosure is a privately conducted but publicly held sale of the property described in the deed of trust (mortgage loan) by the named trustee (or by a substituted trustee). A judicial foreclosure occurs under court supervision (a state action). A non-judicial foreclosure is a procedure followed by the trustee, as described in California law, which provides the lender with a



remedy for collecting the amounts owed by a defaulting homeowner in accordance with the terms of the mortgage loan (including the costs of foreclosure). A non-judicial foreclosure arises from a procedural law, the terms of which the homeowner and lender have contractually agreed to follow and is not a state action. The term “foreclosure” as used in this booklet means either a judicial or non-judicial foreclosure, depending on the context.

Notice of Default (NOD): A document known as the NOD prepared by the trustee at the direction of the lender or its servicing agent that, upon recording with the office of the county recorder in which the property is located, begins the initial three-month reinstatement or cure period during which no Notice of Sale may be recorded.

Notice of Sale (NOS): Following the expiration of the initial three-month reinstatement or cure period, the trustee - at the direction of the lender or its servicing agent - prepares the NOS, which is posted on the security property and recorded with the county recorder where the property is located. The NOS, when posted and recorded, begins a minimum 20-day period before the date of the sale can be scheduled at a specific time in an identified public place within the county or the judicial district in which the sale is to take place.

Promissory Note: A written agreement obligating the homeowner to repay the amounts loaned by the lender/investor (the holder of the promissory note). It is also the evidence of the amount of loan (debt) owed by the homeowner to the lender/investor.

Purchase Money Loan: A mortgage on a dwelling for not more than four families given to a lender to secure repayment of a loan that was used to pay all or part of the purchase price of the home, occupied entirely or in part by the purchaser. A non-purchase money loan is a mortgage loan obtained to refinance or to add additional loans to the home and not for the purchase of the home.

Real Estate Owned (REO): A property owned by a lender acquired through a foreclosure sale.



Redemption Period: The period of time beginning five days before and continuing to the date of the scheduled foreclosure sale, or the postponed date of the sale, during which time the homeowner is entitled to stop the foreclosure by paying in full the balance owing to the lender in accordance with the terms of the mortgage loan.

Reinstatement or Cure Period: The time provided to the homeowner to pay the delinquent sums owing to the lender as well as any curable non-monetary defaults to stop the foreclosure sale (to cure the defaults and reinstate the mortgage loan). The reinstatement or cure period begins with the recording of the NOD and continues for a minimum of three months prior to and includes the time following the recording of the NOS up to five days before the date of the scheduled foreclosure sale or the properly postponed date of the sale. Upon reinstatement or cure, the lender is to record a notice rescinding the NOD.

Servicing Agent: The lender or its authorized and licensed agent (unless exempt from licensure) retaining loan servicing (the right and obligation to continue to collect the mortgage loan payments). The lender, either the original or assignee of the lender (the holder of the promissory note), following the sale of the mortgage loan. For the purposes of this booklet, the phrase lender or its servicing agent includes the assignee of the lender and the authorized representative or agent servicing the loan.

Short Sale: A sale of a home where the purchase price is less than the total amount of the balances due and owing on mortgage loans and other liens recorded against the title of the home (the security property).

Trustee: A person initially named or substituted in the place of the person identified in the deed of trust. The trustee is the person authorized by the lender and the homeowner to proceed with the privately-held but publicly-conducted non-judicial foreclosure sale (in the event of the failure to timely make the mortgage loan payments or to otherwise comply with the terms of the mortgage loan).

