

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.
- **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.
- **Fair Market Value:** The price a property would sell for on the open market.
- **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.
- **Judicial Foreclosure:** A foreclosure that is processed by a court action.
- **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.).
- **Lis Pendens:** A recorded notice of pending lawsuit.
- **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.
- **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.
- **Right of Redemption:** A borrower's right to reacquire property lost due to a judicial foreclosure.
- **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.
- **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.