

Foreclosure Glossary

Accelerate

An "acceleration" clause in a mortgage or deed of trust states that borrower is required 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 or authorized person 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.

Certificate of Sale

A document given to the winning bidder at a foreclosure sale, stating their rights to the property once the borrowers redemption period has expired.

Clear Title

A title that is not burdened with defects.

Credit Bid

A bid on behalf of the lender at a foreclosure sale. The bid amount must be less than or equal to the balance of the loan in default.

Decree

A decision by a judge.

Deed

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

Deed-in-lieu-of-Foreclosure

An instance where a borrower voluntarily conveys their rights in a property to the lender.

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 a trustee.

Default

When a 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.

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 mortgage or deed of trust. A "power of sale" clause is the clause in a deed of trust or mortgage, 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 Sale

A notice giving specific information about the loan in default and the 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 or 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 or by posting notices establishing the new date and time the foreclosure sale will take place.

Right of Redemption

A borrower's right to reacquire property lost due to a 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

Evidence of a person's right in real property (i.e., a deed).

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. Also known as a Sheriff's Sale.

Upset Bid

A recorded bid placed after a foreclosure sale has ended that is higher than the highest bid received at the actual foreclosure sale.

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.