

Dictionary of Escrow Terms

ABSTRACT OF JUDGMENT: A condensation or summary of the essential provision of a court judgment.

ABSTRACT OF TITLE: A summary of the condition of title based on an examination of public records.

ACCELERATION CLAUSE: This clause in a note and trust deed permits the payee or beneficiary to declare the entire unpaid balance immediately due and payable when a given condition occurs. Such a condition can be the sale of the land. This clause is sometimes called an "alienation clause."

ACKNOWLEDGEMENT: A written declaration by a person executing an instrument, given before an officer authorized to give an oath (usually a notary public) stating that the execution is of his or her own volition.

AD VALOREM: Literally, "according to value." This term is usually used in reference to real property taxes which are assessed according to value, i.e., ad valorem.

ADJUSTABLE RATE MORTGAGE (ARM): A mortgage with an interest rate that changes over time in line with movements in the Index. (see index)

ADMINISTRATOR: A person appointed by a probate court as the representative of a decedent's estate where the decedent left no will.

AFFIANT: A person who makes an affidavit.

AFFIDAVIT: A sworn statement in writing, made before an authorized official.

ALL INCLUSIVE TRUST DEED (AITD/WRAP-AROUND): A junior Deed of Trust securing a promissory note, the face amount of which is the sum of the liability secured by prior Trust Deeds plus the cash or equity advanced by the AITD lender.

AMORTIZATION: Provision for the payment of a debt as to both principal and interest in equal installments over a period of time.

ANNUAL PERCENTAGE RATE (APR): The total finance charge (interest, loan fees, points expressed as percentage of the loan amount).

APPRAISAL: An opinion as to the fair market value of land and the improvements on it.

ASSESSED VALUE: The value placed on land and improvements as a basis for taxation. In California this is usually accomplished by the county assessor's office, and the assessed values for real estate taxes are usually one quarter of market value.

ASSESSMENTS: Special and local levies upon property in the immediate vicinity of an improvement. Assessments can be imposed by such entities as flood control districts, street lighting districts and air pollution control districts which serve an area.

ASSIGNEE: One to whom a transfer of interest is made. For example, the assignee of a Deed of Trust or contract.

ASSIGNMENT: The transfer, in writing, of a person's interest to another person or entity in an asset, such as an assignment of stock, a Deed of Trust and note or a lease.

ASSIGNOR: One who makes an assignment. For example, the assignor of a Deed of Trust or contract.

ASSUMPTION: An agreement by one party to pay an obligation previously owed by another. For example, the assumption of an existing Trust Deed by a new owner may occur when property is sold.

ATTORNEY IN FACT: One who holds a power of attorney from another allowing him to act on behalf of the grantor of the power.

BENEFICIARY: In a Trust Deed, the lender is designated as the beneficiary. He obtains the benefit of the security.

BENEFICIARY'S STATEMENT: A report from the lender, usually in writing, setting forth the terms and conditions of a loan already of record, such as amounts still owed, interest rate, monthly payments, etc.

BILL OF SALE: A document that attests to the transfer of ownership of personal property.

BORROWER: One who obtains a loan and owes money to a lender.

BUYER: One who purchases or acquires property.

CERTIFICATE OF REASONABLE VALUE (CRV): A document that establishes the maximum value and loan amount for a VA guaranteed loan.

CLOSING STATEMENT: The financial disclosure statement that accounts for all of the funds received and expected at the closing, including deposits for taxes, loan costs, title fees, escrow fees, etc.

COLLECTION SERVICE: A service performed by a neutral third party in receiving and disbursing loan payments as instructed by the parties concerned.

COMMUNITY PROPERTY: Property acquired during marriage by husband or wife, or both when not acquired as separate property.

CONDEMNATION: The exercise of the power of eminent domain by which property is taken for a public use upon payment of just compensation. Condemnation can also refer to the condemning of unsafe structures.

CONDOMINIUM: A multifamily or other structure in which units are individually owned and in which owners of individual units also have an undivided interest in common areas.

CONTINGENT: Dependent upon conditions or events specified but not yet accomplished. Property may be sold contingent upon the seller or buyer meeting a predetermined condition.

CONVEYANCE: A written document that transfers title to an asset from one person to another. A deed and an assignment are both conveyances, as is a bill of sale.

COUNTY ASSESSOR: One who sets value of property for taxation purposes.

COVENANTS, CONDITIONS AND RESTRICTIONS (CC&R'S): A document that controls the use, requirements and restrictions of a property.

DECLARATION OF TRUST: A written acknowledgement by one holding title to property that the property is held in trust for the benefit of another.

DEED: A written document which conveys ownership of land from one person to another.

DEED OF TRUST: A document executed by the owner of land by which the land is given as security for the payment of a note or other performance of an obligation. In California and some other states the Deed of Trust is usually used in place of a mortgage.

DEFAULT: Failure to perform a duty or to pay an obligation.

DEFICIENCY JUDGEMENT: A personal judgement in a judicial foreclosure action for the remaining amount due after a sale of the security.

DEMAND/BENEFICIARY'S DEMAND: A statement from a lender showing the amount due on a loan.

DOMESTIC PARTNERSHIP: In 2005 the California legislature passed a new all-encompassing act which gave the registered partners of the same sex many of the same benefits previously only afforded to husband and wife. The law, which took effect on January 1, 2005, applies only to parties of the same sex or to a dif-

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ferent-sex couple if one of the parties is over age 62 and meets certain requirements under the federal Social Security Act.

EARNEST MONEY: An amount of money given as part of the purchase price of property to bind the agreement between buyer and seller.

EASEMENT: A right or interest in the land of another, such as a right to cross over another person's property to reach yours.

EMINENT DOMAIN: The right or power of a governmental body to take property for a public purpose upon payment of just compensation.

ENCUMBRANCE: A lien affecting the land and improvements, such as a mortgage or Trust Deed.

ENDORSEMENT: A writing on a negotiable instrument by which property mentioned therein is assigned and transferred. Also, a notation on an instrument to change, clarify, or enlarge its contents.

EQUITY: Market value of property, less any encumbrance or other liens on it.

ESCHEAT: The reverting of property to the State of California.

ESCROW: According to section 17003 of the State of California Financial Code: "...any transaction wherein one person, for the purpose of effecting the sale, transfer, encumbering, or leasing of real or personal property to another person, delivers any written instrument, money, evidence of title to real or personal property, or other thing of value to a third person to be held by such third person until the happening of a specified event or the performance of a prescribed condition, when it is then to be delivered by such third person to the grantee, grantor, promisee, promisor, obligee, obligor, bailee, bailor, or any agent or employee of any of the latter."

ESCROW ANALYSIS (IMPOUND ACCOUNT): The periodic examination of escrow accounts/impounds to determine if monthly deposits will provide sufficient funds to pay tax and insurance bills when due.

EXCEPTION: An interest in real property which is excluded from the conveyance and remains in the grantor or which had been excluded in a prior conveyance.

EXECUTOR: A person who is designated in a will as the representative of a decedent's estate.

EXECUTRIX: Feminine of executor.

FANNIE MAE (ONCE KNOWN AS FEDERAL NATIONAL MORTGAGE ASSOCIATION (FNMA)): A privately owned corporation created by Congress to support the secondary mortgage market. It purchases and sells residential mortgages insured by the FHA or guaranteed by VA, as well as conventional home mortgages.

FDIC: Abbreviation for Federal Deposit Insurance Corporation.

FEDERAL HOUSING ADMINISTRATION (FHA): A Federal agency, created by the National Housing Act of 1934, for the purpose of expanding and strengthening home ownership by making private mortgage financing possible on a long-term, low-downpayment basis. The vehicle is a mortgage insurance program, with premiums paid by the homeowner, to protect lenders against loss on these higher-risk loans. Since 1965, FHA has been part of the newly-created Department of Housing and Urban Development (HUD).

FIDUCIARY: One who holds a thing in trust for another.

FINANCE CHARGE: The total cost a borrower must pay, directly or indirectly, to obtain credit according to Regulation Z.

FIRE INSURANCE: Insurance against loss or damage by fire to specific property.

FIRPTA (Foreign Investment Real Property Tax Act): A form 8288 (U.S. withholding return for disposition by foreign persons of real property interests) is required to be filed by the Transferee (buyer or designated agent). The amount of tax required to be withheld and paid to the IRS by the buyer is 10% of the amount realized on the transfer.

FORECLOSURE: A proceeding to enforce a lien by the sale of the property in order to satisfy the debt.

FUNDING: When a lender funds a loan. The date at which the lender releases the funds borrowed by the buyer/borrower to the title company or escrow holder for disbursement in accordance with their instructions.

GRANT: A transfer of real property.

GRANTEE: The buyer on a deed.

GRANTOR: The seller on a deed.

HOME WARRANTY PLAN: Private insurance insuring a buyer against defects (usually in plumbing, heating and electrical) in the home being purchased. The period of insurance varies and both new and used homes may be insured.

IMPOUND ACCOUNT: An account held in trust by the lender in which the borrower is required to place monthly deposits for taxes, insurance and other purposes.

INDEPENDENT ESCROW COMPANY: See Licensed Escrow Company.

INDEX: A measure of interest rate changes used to determine changes in a ARM's interest rate over the term of the loan.

LAND SALE CONTRACT: An agreement to sell and purchase wherein legal title is withheld from the purchaser until such time as the required payments to the seller have been completed.

LEASE OPTION (LEASE WITH OPTION TO PURCHASE): A lease containing an option giving the lessee the right to purchase the property. The price and terms of the purchase must be set forth for the option to be valid. The option may run for the length of the lease or only for a portion of the lease period.

LENDER: One who lends money to borrowers.

LESSEE: The tenant under a lease.

LESSOR: The landlord under a lease.

LEGAL DESCRIPTION: Description of real property, as used in legal documents in contrast to a street address by which the property is commonly known. Legal descriptions usually refer to the recorded maps, surveys, or other public documents.

LICENSED ESCROW COMPANY: Licensed escrow companies are independent businesses licensed by the California Department of Corporations. This license regulates procedures and practices of the companies and subjects them to stringent requirements designed to protect consumers.

LIEN: A security interest in real or personal property which places the holder in a position prior to the rights of the general creditors of the owner. Examples include Trust Deeds, mortgages, special assessments, recorded judgements, mechanic's liens, taxes, etc.

LIFE ESTATE: An estate measured by the life of a natural person.

LIS PENDENS: A notice recorded in the official records of a county to indicate that a lawsuit is pending affecting the lands described in the notice.

LOAN-TIE-IN FEE: A fee charged by an Escrow Holder for complying with the lenders instructions, including but not limited to sending escrow instructions, preparing estimates, performing the loan document signing service with the borrowers/buyers, packaging the loan documents for final funding, making sure the lenders requirements and conditions are met prior to the closing, etc.

MARKET VALUE: The price that real property would reasonably be expected to bring were it to be offered for sale with a reasonable sales effort over a reasonable period of time.

METES AND BOUNDS: A term used in describing the boundary lines of land setting forth all the boundary lines together with their terminal points and angles.

MINOR: A person under 21 years of age (although a married person 18 years or older is deemed an adult for purposes of property transactions).

MORTGAGE: A written document executed by the owner of land by which the land is given as security for the payment of a debt or performance of an obligation (rarely used in California).

NEGATIVE AMORTIZATION: Negative amortization occurs when monthly payments fail to cover the interest cost. The interest that isn't covered is added to the unpaid principal balance, which mean that even after several payments the borrower could owe more than he/she did at the beginning of the loan. Negative amortization can occur when an ARM has a payment cap that results in monthly payments that aren't high enough to cover the interest.

NOTE: Written evidence of a debt by a borrower that includes a promise of payment in accordance with specified terms. A valuable document which must

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not be lost even when paid in full. In real property transactions, a note is usually secured by a Deed of Trust.

NOTICE OF COMPLETION: A notice which should be recorded to indicate completion of a work of improvement to real property. A valid notice of completion limits the time for filing valid mechanic's liens.

NOTICE OF DEFAULT: Recorded notice that a default has occurred under a Deed of Trust and/or Note.

OFFICIAL CHECKS VERSUS CASHIERS CHECKS: Official checks, also known as Teller's Checks, are not the same as Cashiers Checks, although they may clear as fast IF they are drawn on a local institution or, perhaps, a holding company of that bank. The institution on which the official check is drawn is a significant factor in determining when the funds are actually collected and deposited into the escrow trust account.

OFFSET STATEMENT: A statement furnished to an escrow from an owner of land subject to an encumbrance (note) as to the balance due. Not to be confused with a beneficiary's statement. This can also be provided by a tenant regarding his rights of possession.

OPEN END DEED OF TRUST: A Deed of Trust which secures additional notes for the funds that a lender may advance to a trustor, subsequent to the execution of the original loan.

PAYEE: One who receives payments.

PAYOR: One who makes payments.

PERSONAL PROPERTY: All property which is not land or improvements permanently affixed to land. Example: stocks, bonds, furniture, automobiles, clothing, promissory notes, etc. Items of tangible personal property are often referred to as chattels.

POINTS: A charge made by a lender. One point equals one percent of the loan.

POWER OF ATTORNEY: A written authorization to an agent to perform specified acts on behalf of his principal. This may be granted as either a general or a limited power.

PRELIMINARY REPORT: A report issued by a title company or title insurance company on a specific property; at a certain date and time; it will list everything in date sequence that affects a property; it is issued preliminary to issuing a policy of title insurance a the close of a transaction.

PREPAYMENT PENALTY: An agreement to pay a penalty for the payment of a note before it actually becomes due.

PRORATION: The allocation of property taxes, interest, insurance premiums, rental income, etc...between buyer and seller proportionate to time of use.

QUITCLAIM DEED: A deed which conveys whatever right, title or interest the grantor may have in property at the time of conveyance. There is no guarantee implied in quitclaim deed.

REAL PROPERTY: Land or improvements permanently affixed to land.

RECONVEYANCE: The document that is evidence that the Deed of Trust affecting real property has been paid in full and that the lender and the trustee no longer have any interest in the property.

RECORDATION/RECORDING: Filing for record in the office of the county recorder, a very necessary process in dealing with real property.

REQUEST FOR NOTICE OF DEFAULT: A recorded request for notification of a recorded notice of default on a Deed of Trust.

RESERVATION: Right reserved by the grantor in conveying property, or a right which had previously been reserved.

RESTRICTIONS: This is often referred to as covenants, conditions and restrictions (CC&R) in regard to a piece of property, setting limitations on its use.

RIGHT OF WAY: The right of another to cross over, under or through a parcel of land.

SATISFIED: Paid in full.

SELLER: One who sells property to another.

SPECIFIC PERFORMANCE: An action to compel performance of an agreement for the sale of land.

SPOUSE: A husband or wife.

SUB-ESCROW FEE: A fee charged by the title company for receiving the new

lenders funds; making payoffs, if necessary and then sending the funds to the escrow holder for disbursement in accordance with escrow instructions.

SUBJECT TO: Usually referred to as the condition of title that exists at the time of acquisition by the buyer, such as subject to a Deed of Trust of record.

SUBORDINATION AGREEMENT: An agreement by which a prior lien is made inferior to an otherwise junior lien.

TAX COLLECTOR: One who collects the taxes on property.

TAX SERVICE CONTRACT: A service for notification when taxes, bonds or assessments on the real property become delinquent, due to be assessed, etc.

TITLE: Evidence of a person's right to or the extent of his interest in property.

TITLE INSURANCE: Insurance against loss or damage resulting from defects in title to a particular parcel of real property.

TRANSFER TAX: County tax on the transfer of real property. It is based on the purchase price or money changing hands and is also called documentary transfer tax.

TRUST DEED: A Deed of Trust. (See Deed of Trust.)

TRUSTEE (IN A DEED OF TRUST): The entity to which property is conveyed in trust, not to be confused with the beneficiary.

TRUSTOR (IN A DEED OF TRUST): The borrower under a Deed of Trust.

VENDEE: One who is purchasing property under a land sale contract.

VENDOR: One who is selling property under a land sale contract.

VESTING: The manner in which the owner of real property holds title. For example, John Jones, a single man.

ZONING: Local government regulations relating to the use of property.

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