# *Common Mortgage and Foreclosure Terms*

Talking about mortgages can feel like speaking a foreign language and is even more confusing when you add foreclosure to the mix. Servicers and lenders often use words that borrowers do not understand, and some are better than others at explaining what these words mean. It's important that you are familiar with common mortgage and foreclosure terms, especially if you are having trouble making payments or are facing foreclosure. Below is a list of common words that lenders and servicers use on a regular basis.

**Accelerate** – When lenders "accelerate" a loan, it means they are requiring the borrower to pay the entire loan balance at once if he or she is in default.

**Acceleration Letter** – This is a letter from the lender that "calls in" the loan, or says that a borrower must pay the entire amount owed (by a particular date). If the borrower does not pay the entire amount by that date, the lender will begin foreclosure proceedings.

**Adjustable Rate Loan** – Adjustable rate loans are those that "adjust," or change, based on rules set by the lender as well as a national economic index. These loans often involve interest rate changes that take place at certain times.

**Arrears** – The amount of back payments (plus late fees and other charges) that the borrower owes the lender.

**Assessed Value** – The value placed on your home by a local tax assessor. This number is used to determine the cost of property taxes.

**Auction** – A public sale of foreclosed properties. Any individual can bid on a property at auction, and the property is sold to the highest bidder.

**Balloon Payment Loan** – Balloon payment loans have a regular monthly payment that is based on a long-term timeframe (such as 30 years), but the entire balance is due much earlier (after five or 10 years for example).

**Collateral** – Collateral is property that is used as security for a loan. This means that if a borrower cannot pay back the loan, the property that is used as security (collateral) can be taken by the lender.

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**Complaint** – A written document that is served to the borrower by the lender's attorney, which says that the lender has filed a foreclosure lawsuit. It also explains the reasons for this action against the borrower.

**Credit Report** – This is a record of your past and current debts that shows whether or not you have made your payments on time. Credit reports are used by lenders and other creditors to decide if a potential borrower is eligible for a loan.

**Credit Reporting Agency** – A credit reporting agency collects debt and payment information and sells it to creditors to determine whether or not borrowers are creditworthy.

**Credit Score** – A numerical score that is based on your credit report. Lenders and creditors use this score to predict if a potential borrower will repay a loan.

**Debt** – Money you owe.

**Deed-in-Lieu of Foreclosure** – This is when a borrower volunteers to turn his or her property deed over to a lender. If the lender accepts the deed-in-lieu of foreclosure, then the borrower does not owe any more on the home and can walk away without any deficiency judgments or a foreclosure on his or her record.

**Default** – If a borrower falls behind on his or her loan payments (usually more than three months) and does not respond to the complaint issued by the lender, the borrower is said to have defaulted in the foreclosure case. This means that the lender automatically prevails and does not need to provide the borrower with any further notices as the foreclosure case moves through the courts. Fees and costs may start accruing at this point and "snowball," making the financial situation worse.

**Defendant** – In foreclosure cases, the defendant is the borrower. A defendant is required to answer to charges in a court setting.

**Deferment** – When a lender provides a grace period for the borrower, during which time they do not need to make payments on the loan.

**Deficiency Judgment** – If a home sells at a foreclosure sale, the owner/borrower may be held responsible for any balance remaining on the loan as a personal judgment.

**Delinquent** – When a borrower is behind on his or her mortgage payment, usually by 2-3 months, but the mortgage has not officially defaulted, the borrower is said to be "delinquent" on the mortgage.

**Depreciation** – When the value of your property decreases because of wear and tear, changes in the surrounding neighborhood, or other reasons.

**Discovery** – The phase in a lawsuit before the trial begins in which each party can obtain evidence from the opposing party, including requests for documents.

**Equity** – Equity is the current market value of the property, minus any debts owed on the property. For example if your home is worth $100,000 and you owe $80,000 on your mortgage, you have $20,000 in equity. Equity can increase or decrease over time.

**Fair Market Value** – The amount that a buyer is willing to pay for a property, and the amount that a seller is willing to accept for the sale.

**Fannie Mae** – A private mortgage company that buys loans from lenders (loans that were made by the lender to a borrower). By purchasing these loans, Fannie Mae makes it so the lender has more money available to make new loans. This is called the secondary mortgage market.

**FHA Loan** – FHA, or Federal Housing Administration, loans are insured by the federal government. These loans are entitled to specific foreclosure remedies.

**Fixed Rate Loan** – The interest rates on fixed-rate loans do not change over the entire life of the loan — they stay "fixed."

**Forbearance** – This is an agreement between a lender and a borrower who is delinquent, where the borrower's payments are suspended for 1-3 months. The borrower then pays an amount toward the loan and begins a payment plan to cover the rest of the amount due (the amount in arrears).

**Foreclosure** – Foreclosure is a legal process in which a property is forced to be sold in order to pay the amount owed on the home. Foreclosure happens when a borrower does not make payments on the mortgage. Eventually the lender will force the sale to repay the debt.

**Freddie Mac** – A private mortgage company that buys loans from lenders (loans that were made by the lender to a borrower). By purchasing these loans, Freddie Mac makes it so the lender has more money available to make new loans. This is called the secondary mortgage market.

**Hardship Letter** – A letter written by a borrower (addressed to the lender) explaining the hardship that he or she is experiencing that has caused the delinquency or default. The letter provides a background on the issues and serves as a starting point for the lender to consider modifying the loan for the borrower.

**Index** – An index is a scale that compares and tracks the price or value of something to a base number or other item related to that same group. It is often used to predict economic trends.

**Interest Rate** – Interest is a dollar amount that a borrower pays on the money borrowed. The rate of the interest is the number at which that amount is calculated. It is essentially the cost of borrowing the money.

**Judgment** – A judgment is a legal decision requiring repayment for a debt. Some judgments include property liens as security.

**Lien** – A legal claim placed on a property as security for a debt. It may be listed on the borrower's credit report as a public record.

**Lis Pendens** – This is the formal beginning of the foreclosure process. It is a notice recorded with the county clerk regarding a pending lawsuit, indicating that the ownership rights to the property are in dispute. Lis pendens literally means "suit pending."

**Loan Fees** – Fees that a lender charges to a borrower for processing a loan.

**Loan Term** – The number of years a borrower has to pay off a loan.

**Loss Mitigation** – A negotiation process that takes place between a lender and a borrower who is behind on his or her mortgage. The goal is to reach a deal that they both agree on, in order to arrange repayment of the debt. There are a number of possibilities for loss mitigation, including a loan modification, forbearance, short sale or deed-in-lieu of foreclosure.

**Market Value** – See "Fair Market Value."

**Mortgage** – A mortgage is a written agreement between a borrower and a lender that uses the property as "security," or collateral, for the loan.

**Mortgage Modification** (also called Loan Modification, Restructure or Workout Plan) – When a lender works with a borrower who is having trouble making payments on time, to change the terms of the loan so it is more affordable, it's called a mortgage modification. The modification changes will vary depending on the lender, but may include a change in the interest rate, loan term or total amount due.

**Mortgagor** – The person who borrows the money.

**Motion** – A motion is a proposal made to a court or judge for their consideration in a case.

**Plaintiff** – The individual that brings a lawsuit against someone else. In foreclosure cases, the lender is the plaintiff.

**Predatory Lending** – Lending practices that are inappropriate and costly and sometimes fraudulent are considered predatory. Predatory lending practices may involve high interest rates, fees, loan terms or other dishonest practices.

**Principal** – The balance of the loan, not including interest. Generally the principal amount decreases over time as the monthly mortgage payments pay it off. When your loan is paid, the principal is $0.

**Pro Bono** – When attorneys offer their work "pro bono," it means they will do the work for free.

***Pro se*****:** When a defendant represents him- or herself in a court case instead of having an attorney represent him or her. *Pro se* is Latin for "for self."

**Public Record** – A public record is open for all to review; these records are not confidential.

**Real Estate Owned (REO)** – When a foreclosed property does not sell at auction, the lender takes title to the property, placing it in REO status. The lender then owns and is responsible for the property. The lender may try to evict the former homeowner if they are still living in the home.

**Real Property** – Also known as real estate, real property is property that involves land and whatever is attached to it, such as a house, garage, shed, etc.

**Refinancing** – Obtaining a new loan to pay off an old loan, where both loans are secured by the same property.

**Secondary Market** – The members of the lending industry that do not lend directly to homebuyers, but purchase loans from direct lenders. This means they are investors in mortgages. Examples include Fannie Mae and Freddie Mac.

**Security** – Security is something that provides protection against loss.

**Servicer** – A loan servicer is a company that handles collecting mortgage payments for the lender, which may include property tax and insurance escrows. The servicer also handles late payments, defaults and foreclosures.

**Servicing** – The process by which the servicer collects and records mortgage payments.

**Settlement** – An agreement between a lender and borrower who decide to resolve a foreclosure case outside of court**.**

**Settlement Conference** – A meeting that takes place in court between the two sides of the foreclosure lawsuit (the lender and the borrower) and in front of a judge or legal clerk to try and come to an agreeable resolution without going to trial.

**Short Sale** – When a servicer agrees to let a homeowner list and sell the home for its current fair market value**,** even if that amount does not cover what's due on the loan. The difference is then forgiven. It enables a sale so the borrower can avoid foreclosure, and saves the lender from having to take possession of the home.

**Stay** – A temporary stop to a foreclosure. Borrowers may file an emergency motion with a court to "stay" the foreclosure sale, but must show that they have good reason for it.

**Subprime Lending** – A type of lending that is available to borrowers who cannot obtain a regular or conventional loan because they are at higher risk of default. These loans use risk-based lending, which make the loans more costly for the buyer but more valuable to the lender.

**Summons** – The plaintiff in a legal case (in foreclosure cases this is the lender) files and serves a "summons" along with a complaint, which advises the defendant (the borrower) that they must appear in court on a specified date or answer the complaint within a specific period of time.

**Title** – A legal document that establishes a person as the rightful owner of the property.

**Underwriting** – This is the process in which a lender looks at a borrower's financial situation to determine if he or she will be approved or denied a loan.

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