

ABSTRACT OF JUDGMENT: A summary of the essential provisions of a court judgment, which when recorded in the county recorder's office, creates a lien upon the property of the defendant in that county, both presently owned or after acquired.

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."

AGENCY: Any relationship in which one party (agent) acts for or represents another (principal) under the authority of the later. Agency involving real property should be in writing, such as listings, trusts, powers of attorney, etc.

ALL INCLUSIVE TRUST DEED (AITD/WRAPAROUND): 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.

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

ASSESSED VALUE: The value placed on land and improvement 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 owned 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.

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

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 individual units are individually owned and in which owners of individual units also own 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.

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 JUDGMENT: A personal judgment 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 to be paid.

DISCLOSURE: In real estate, revealing all the known facts which may affect the decision of a buyer or tenant. A broker must disclose known defects in the property for sale or lease. A builder must give to a potential buyer the facts of his new development (are there adequate school facilities?; an airport nearby?; etc.). A broker cannot charge a commission to buyer and seller unless both know (disclosure) and agree.

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's property to reach yours.

EMINENT DOMAIN: A right or power of a government 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.

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

ESCROW: According to section 17003 of the State of California Financial Code: "...any transactions wherein one person, for the purpose of effecting the sale, transfer, encumbering, or leasing of real property 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, promise, promisor obligee, obligor, bailee, bailer, or any agent or employee of any of the latter."

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.

EXCHANGE: A reciprocal transfer of real property which has certain tax advantages over a sale. Definite procedures must be followed in order to qualify the transfer as an exchange.

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

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

GRANTEE: The buyer of a deed.

GRANTOR: The seller of a deed.

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.

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 leases 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 recorded maps, surveys, or other public documents.

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 judgments, mechanics liens, taxes, 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.

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).

NOTE: Written evidence of a debt by a borrower that included a promise of payment in accordance with specified terms. A valuable document which must 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: A recorded notice that a default has occurred under a Deed of Trust and/or note.

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 funds that a lender may advance to a trustor, subsequent to the execution of the original loan.

OWNER CARRY BACK: A term used to indicate that the seller is willing to take back a purchase money mortgage.

PAYEE: One who receives payments.

PAYER: 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.

PMI (PRIVATE MORTGAGE INSURANCE): Insurance against a loss by a lender in the event of a default by a borrower (mortgagor). The insurance is similar to insurance by a governmental agency such as FHA, except that it is issued by a private insurance company. The premium is paid by the borrower and is included in the mortgage payment.

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 TITLE REPORT: A report from a title company of the present condition of title made prior to the issuance of a title policy.

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.

QUALIFIED INTERMEDIARY: A party to an IRC S1031 exchange transaction who satisfies the "safe harbor" requirements of Reg. S1.1031 (k)-1g(4); A Qualified Intermediary is not the agent of the Exchanger; Money actually or constructively received by a Qualified Intermediary will not be attributed to the Exchanger.

QUIT CLAIM 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 a quit claim 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: 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.

SELLER: One who sells property to another.

SHORT PAY (SHORT SALE): A short sale is the sale of real property where the fair market sale price is less than the loan balance.

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 or 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 the property.

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.

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 or real property holds title. For example, John Jones, a single man.

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