

GLOSSARY

Let's get started. Most papers/books tuck the glossary in the back and we are encouraged to look up a few words when we get around to it.

The challenges associated with dealing with your mortgage company, especially if you are in default, hinge in large part on the fact that consumers frequently do not understand the language being used by the lender. I felt it was appropriate for us to **START with the glossary since language is the tool we use to communicate; I need to know what your words mean or we don't make much headway. I encourage you to first, simply study the glossary and then come back to it as a reference as often as you need.**



Glossary of Foreclosure Related Terms

Trying to talk to a lender about your mortgage or even read the communication from them is a lot like visiting a foreign country where you are the only one who is speaking English. Obviously the people are talking to you but you don't understand a word they are saying. When they repeat it, you understand the same amount you understood the first time---none of it. This would be less of a problem if the subject was lunch; you would eventually be given a menu so you could at least point to pictures and they would point to the limited number of pictures or perhaps point to some people who already had their food so you got the idea.

There is no equivalent opportunity when the subject is your mortgage and you are on the phone with someone in a distant city talking some strange language related to mortgage default. In the first place you don't even know why they sent you the default letter since you sent your payment. So it was late but you sent it and these crazy people are talking about foreclosure. Or you sent it and THEY SENT IT BACK! It is not possible without a face-to-face conversation about the particulars of your specific situation and a review of your paperwork to tell you what is going on in your particular case. What I can provide is an in-depth explanation of the meaning of those words they are using.

IT IS MY HOPE THAT WITH INCREASED UNDERSTANDING OF THE TERMS you will be in a better position to navigate your personal mortgage situation. I encourage you to share this website with others if it has been of help to you and you may email me: mildredwilkins@HomeOwnershipMatters.com with suggestions for other words you would like to see included in the Glossary.

Disclaimer:

The real estate field is constantly changing. Therefore the information and documents used on this site should only be used as a foundation for further study and investigation. While there is information relating to legal terms and legal implications HOM, LLC and Mildred Wilkins personally disclaim any and all responsibility and liability arising from reliance on this website for the decisions related to your housing issue. This is an educational website. Please engage an attorney to help with legal issues related to your mortgage or a tax accountant to unravel the tax implications. Best wishes.

GLOSSARY

Abandon-

to voluntarily leave your home thereby relinquishing your rights to the property (by failure to use the property). It is a serious misstep for a consumer who is in default to abandon. Lenders are usually less willing to engage in loss mitigation if you do not reside in the home. For government backed loans your RIGHT TO LOSS MITIGATION is tied to your continued residence in the house. The lender has the legal right to accelerate foreclosure by virtue of your abandonment, which is in violation of the mortgage note. DON'T DO IT. STAY AND WORK WITH LOSS MITIGATION.

Abbreviations—

ARM-

Adjustable Rate Mortgage

BAPCPA-

Bankruptcy Abuse Prevention and Consumer Protection Act of 2005

BPO-

(Broker Price Opinion)—is an evaluation of a property's value which a servicer uses as an alternative to getting a full appraisal after a loan has gone into default. The BPO is usually performed by a licensed REALTOR familiar with sales in that geographical location who typically will complete the BPO based on a drive-by exterior examination, data from public records (including recent sales and number of existing properties available for re-purchase. As more consumers slide into default, more lenders are using the BPO to help determine what is the most likely re-sale of the subject house is valuable information in determining what workout or loss mitigation options they are likely to offer to the consumer. The BPO is especially important tool when short sale is being considered.

CMA-

refers to a comparative market analysis which is prepared by a licensed real estate professional to help a consumer in determining what a likely resale price might be. The CMA is a good tool when prepared by an agent who is experienced in real estate sales in the area. Recent sales history on at least 3 comparables as well as checking prices on active comps will help to establish a range of value for the subject house.

ECOA-

Equal Credit Opportunity Act—is a Federal law, which prohibits lenders from denying mortgages to individuals on the basis of race, color, religion, national origin, age, sex or marital status.

FDC-

Fair Debt Collection law

FHA-

(Federal Housing Administration)—was established in 1934 to advance homeownership opportunities to all Americans. Lenders who make FHA loans are covered with mortgage insurance, which protects them from most losses when a borrower defaults. Lenders are more likely to make loans to borrowers who might not qualify for conventional mortgages since the liability has been dramatically reduced. Became a part of HUD when HUD was created in 1965.

FHLMC- (Freddie Mac)**FICO-**

See credit score below.

FIS-Foreclosure Intervention Specialist-

refers to an individual who has received specific training/certification to be qualified to help consumers with issues related to the default on their mortgage. For a specialist in your area, check this website for a list.

FTC—Federal Trade Commission

GFE—See Good Faith Estimate below.

HOEPA-Home Owner Equity Protection Act--**HUD-**

Housing and Urban Development-the Federal Department that has responsibility for all the major housing programs in the United States. Visit www.hudclips.org.

MERS—Mortgage Electronic Registration System-

Does not typically qualify as the “real party in interest”. MERS is NOT an assignee. If MERS is not named in your note and the loan has not been PROPERLY ASSIGNED to them, they are not legally able to bring foreclosure action. MERS operates as a nominal party; a lender may register (transfer) a defaulted loan to this entity. Currently many

consumers who are in default may find MERS shown as the party bringing foreclosure action. Please carefully review the section on Defenses to Foreclosure for details.

MIC- (Mortgage Insurance Case Number)

NAR- (National Association of REALTORS)-

Is America's largest trade association, representing more than 1 million members involved in all aspects of the residential and commercial real estate industries. For more information, visit their website at www.REALTORS.org.

PITI-

Stands for principal, interest, taxes and insurance—the 4 components of your mortgage payment. Payments of principal and interest go directly toward repaying the loan while the portion that covers taxes and insurance (homeowner's and mortgage, if applicable) goes into an escrow account to cover fees when they are due. See expanded definitions for each of these terms elsewhere in this section.

PMI- (Private Mortgage Insurance)-

Companies are a standard part of the real estate business. They exist to provide insurance coverage to lenders so that their risk is reduced when consumers pay less than 20% down on their home purchase. The lender selects the particular PMI company they wish to use and the fee is passed on to the buyer as a part of their regularly scheduled monthly payment.

P.O.C. -(Paid outside of closing)-

Means expenses related to the closing on your home, which will be paid BEFORE you go to the actual closing. These expenses typically include: your credit report, the appraisal, the inspection and a 1-year homeowners' insurance policy.

RESPA- (Real Estate Settlement Procedures Act)-

Is a federal Statute, which became effective on June 20, 1975. The Act requires lenders to disclose to borrowers costs, which are being financed when they take out a mortgage on a 1-4 unit building. RESPA requires that consumers receive disclosures at various times during the transaction and prohibits kickbacks, which can increase the costs to the consumer. RESPA is enforced by the Department of Housing and Urban Development.

REO-

Stands for real estate owned by a lending institution. An institution becomes the owner by foreclosure or by accepting a deed-in-lieu. A lender

may also receive property through an insurance settlement. The disposition of the property will be handled by their REO Disposition Department.

TILA-Truth-in-Lending Act

QWR-Qualified Written Request-

Is a wonderful tool to help you if you are in default on your loan. Under Federal regulations a lender must respond to a request from the borrower to give specific details about how the payments, which have been made, have been applied. It is not necessary that the request is in a specific format or that it contains specific language.

It must however: 1) be written 2) include the correct name for borrower(s) 3) include account number. It should be sent certified mail and should be sent to any assignee and /or attorney who have been affiliated with your account. You may simply ask for an accounting of all payments/disbursements, which have ever been made, or you may choose to use the detailed request provided. Or anywhere in between.

VA loan-

Is a loan guaranteed by the U. S. Department of Veterans Affairs. There are significant benefits for active or honorably discharged and retired veterans. A VA loan does not require a down payment as well as the flexibility of negotiating a rate. The note will be assumable, subject to VA approving the application of the new buyer.



2-1 Buydown-

Means the interest rate is reduced by 2% points for the 1st year of the mortgage and reduced by 1% point for the 2nd year of the mortgage. After that the mortgage levels out for the remaining 28 years of the note. The initial lower rate helps to qualify consumers for a mortgage higher than they might otherwise qualify for and is especially helpful to builders as a financing tool to help to move homes.

Acceleration clause-

Allows the lender to demand payment of the entire amount owed on the mortgage. This clause is included in either an installment note or mortgage (or a deed of trust) and allows the lender to demand full payment when a certain event occurs. Events which might trigger the activation of the clause include: a) failure of the consumer to make payments as scheduled b) vacating the property c) change of the ownership without the lenders

approval, such as a contract sale; Any event which endangers the security of the loan.

Acquired property-

See REO under abbreviations.

Adjustable rate-

Is a mortgage loan, which gives the lender the right to adjust its interest rate at regularly scheduled intervals on the basis of changes in a specified index. The borrower mortgage must state how often the rate can change as well as set a cap for how high the rate may be increased. You should avoid an adjustable rate mortgage unless you feel certain your income is going to increase sufficiently to allow you to make higher mortgage payments at a later date.

Agency-

Any relationship where one party (the agent) works on behalf of another (called the principal). Agency relationship which involves real estate should always be in writing; i.e. Listings, trusts, help with loss mitigation.

Agent-

Any person who is authorized to act for or represent another (principal). Such authority may be expressed or implied. It is always recommended that such authority be in writing. In issues related to defaulted loans a housing counselor is working as an 'agent' for the consumer. An attorney or real estate person who is helping is also acting as an 'agent'. It is important to note that a lender is prohibited from sharing details of your mortgage situation with any one other than the mortgage holder without WRITTEN notice that such person is in fact, acting as your agent and has given WRITTEN, SIGNED authorization for the lender to discuss your personal finances.

Alienation clause-

Is a specific type of acceleration clause under a mortgage or deed of trust, which demands the entire amount has become due because of a transfer of title on the secured property. This is commonly called a 'due on sale clause'. While many consumers who have fallen behind may see the use of a contract sale as a possible solution to their financial woes it would almost always trigger the "due on sale clause" were the lender to become aware of such a sale. Frequently a consumer will be told there is no need to record the deed with contract purchases (NOT TRUE). Most likely the party who is recommending the contract does not wish to trigger the due on sale clause.

Alternatives to Foreclosure-

Forbearance—See below.
Modification—See below.
Pre-foreclosure Sale—See below.
Assumption—See below.
Deed-in-lieu—See below.

Amortization-

Is the schedule of payments which is calculated so that at the end of the term (usually 30 years) all the money, which you borrowed, plus the interest which has all been repaid. You may get a schedule of payments from your lender, which shows you each month, how much of your payment goes to interest and how much goes to principal.

Appraisal-

Is a document, which is used to give an estimate of a property's fair market value based on its condition. An appraisal is usually requested by the lender as part of the loan process and one purpose is to determine if the value of the house is at least as much as the loan being requested. Since the house will be the security for the loan it is reasonable for the lender to need this assurance. Lenders also use the appraisal to determine the loan-to-value ratio, which will let them tell you how much of a down payment is need consumer pays for the loan and is entitled to see a copy. The appraisal is seldom provided to consumer; instead you will be given a disclosure at closing which tells you how you can get a copy my mailing in a request at a later date. You will only be able to do so for a limited period of time and seldom do consumers discover that they need the appraisal until AFTER the time frame to make the request has expired. YOU SHOULD KNOW THAT YOU ARE ENTITLED TO HAVE A COPY PRIOR TO CLOSING. THE APPRAISAL HAS BEEN COMPLETED BEFORE CLOSING, YOU PAID FOR IT AND IT IS IN YOUR BEST INTEREST TO GET A COPY AT OR BEFORE THE CLOSING.

Appraisal fee-

Is the fee, which is charged in order to perform an appraisal. The check will be written to the lender but the fee will actually be paid to the appraiser who does the actual appraisal.

Appraisal report-

Is the written document, prepared by the appraiser, which shows the documentation for the value, which the appraiser has assigned to the property. The report should include information about the neighborhood of the subject property, recent sales as well as data on homes currently on the market. All properties selected should be within fairly close proximity

to the subject and be similar in age and design. Price adjustments should have been made for any major differences in each comp as compared to the subject.

Appraised value-

Is the value assigned to the subject property based comparing it to similar homes in the immediate vicinity.

Appraiser-

Is a qualified person who uses their experience and knowledge to prepare the appraisal report showing an estimate of value.

Appreciation-

Is an increase in the value of a property due to changes in market conditions or other causes.

"As is" condition-

Means that the property is being sold in its current condition, including all defects, latent and otherwise, no repairs will be made. The consumer who is purchasing may still have an inspection but they should not expect any concessions from the seller based on the outcome of that inspection. They will typically be allowed to withdraw from the transaction (by mutual release) if the report shows significant repairs. Their earnest money would usually be returned.

Assumable mortgage-

Is a mortgage, which has a clause, which means the lender is willing to let a new borrower assume the loan. If the lender approves the assumption then the old borrower has no more liability for the payments. However, if the mortgage holder and the new buyer make an agreement WITHOUT THE APPROVAL OF THE LENDER and the assumption has not been recorded then the original borrower still has the responsibility for the payment. A release of liability would have protected the original borrower in case the new buyer does not continue to make payments in a timely fashion. Protect yourself; get a release signed.

a. *Assumable-no approval-*

Means the lender will not do a credit check on the purchaser and the two parties may make the agreement between themselves.

b. *Assumable-with approval-*

Means the lender will require that the new buyer apply for a mortgage and go through the regular application process before the lender allows the assumption to be processed.

Assumption of mortgage-

Refers to an agreement by a new buyer to take over, or assume, an existing note, which is secured by a mortgage or deed of trust. It is also called simply 'an assumption'. The transaction usually requires lender approval of the new borrower in order to release the seller from further liability.

Assumption disclosure-

Is required to allow a person buying a home to know whether or not the mortgage can be assumed. This disclosure should be provided at closing and will not only tell you if the loan can be assumed but also will state whether the assumption is assumption with or without approval.

Assumption fee-

Is the fee, which is charged for the privilege of allowing the assumption.

Bankrupt-

Is a person who has been declared to be insolvent by a court having proper jurisdiction. Either the bankruptcy was voluntary (started at the request of the consumer) or involuntary (started at the request of the consumer's creditors).



Bankruptcy-

Is a court proceeding under federal bankruptcy statutes to give a consumer relief when their debts are overwhelming with no real expectation that they will be able to repay them. The consumer's property is distributed by the court to their creditors to satisfy their obligations in full, using a standard to set priorities as to who get what. Again, voluntary bankruptcy will be initiated by the consumer; involuntary bankruptcy will be initiated by the creditors who demand the consumer assets be liquidated.

a. Chapter 13 Bankruptcy-

(Re-organization) is the equivalent of court ordered 3-year budget to repay your debts. When the court determines that the consumer has assets sufficient to repay their creditors; if there is a structured budget with mandatory payments directly to the courts. The trustee of the court acts as a go-between with creditors and can frequently 1) STOP LATE FEES FROM CONTINUING TO ACCRUE, or otherwise help to stabilize the consumer's financial situation.

b. Chapter 7 Bankruptcy-

(Discharge) is a release from liability for all of one's debts when the courts have determined that there are insufficient assets to distribute.

**Re-visit this section for updated information; after 11/05

Bankruptcy fee-

Is an amount charged to the consumer by the lender or the servicer when the consumer has filed a Chapter 13 bankruptcy. The fee is usually a flat fee and will be added to the account (without consumer permission). The lender does not have to get permission from the bankruptcy court since this is considered a recoverable expense or corporate advance.

Broom clean-

Is the term used to mean that all debris has been removed from a home and it has been swept clean after a foreclosure and before it is sold as an REO. It is now becoming more common for lenders to request/require that the property be left 'broom clean' when they agree to accept a deed-in-lieu of foreclosure and as a condition of the consumer receiving 'cash for keys'.



Buy-down-

Is a sum of money paid to the lender at closing to reduce the borrower's out-of-pocket monthly mortgage payment. Buy-downs are usually temporary. In the last several years it has been common for the amount of the buy-down to added to the purchase price for the house so that in effect the buyer is borrowing the reduction. This is a dangerous practice for several reasons: it adds to the indebtedness by inflating the mortgage/appraisal and causes the borrower to be upside down. See the section on causes for foreclosure.

Cash-for-keys-

Is a common practice utilized by representatives of lenders or guarantors who are attempting to facilitate the vacating of a recently foreclosed property. A sum of money (\$500-1000 is common) may be offered to the former owner of the home or a tenant who has not left the property by the date of the sheriff's sale. They will usually be asked to sign an agreement to leave the home totally empty, state a specific date and is binding only if signed by both parties.

Cash-out refinance-

Has become a very popular way for consumers to get money for any number of things by refinancing their home and getting cash back at closing. Also commonly called "taking out your equity" this is not a bad idea IF you actually have equity. It is a problem if you borrow to the extend that you either owe as much as you the home is worth OR borrow in EXCESS of the value of the home. You will have created an upside down situation making it difficult or impossible to sell your home.

Clear title-

A title that is free of liens or any legal questions as to the ownership of property.

Closing-

Is a meeting at which the sale of a property is finalized by the deed being delivered to the buyer from the seller. Both the buyer and seller must sign all the appropriate documents to legally transfer title. This is also called the settlement.

Closing agent-

Is the individual at the title company who actually handles the closing by explaining all the forms, getting the correct signatures and dispensing funds. The closing agent does not represent ANY of the parties but rather acts as a facilitator, for a fee, for all parties.

Commitment letter-

Is dramatically different from a pre-approval or a pre-qualification letter. Once a lender has verified all the documentation needed to make a loan they will issue a commitment letter, which is their commitment to make a loan to the borrower. It will detail what kind of loan, under what terms, state the interest rate and state the length of time for which the commitment is valid, frequently 60-90 days. Basically it states that the lender will make the loan once you find your house as long as you do not change you job or any other important details related to your finances.

Counselor-

An individual who helps others by providing guidance in personal issues. It is best to choose a counselor who has received training and/or certification.

Counseling center-

Is set up to provide counseling and



assistance to individuals on a variety of issues. Nationally, HUD provides certification that centers and the counselors there are qualified to help the consumers whom they serve.

a. Bankruptcy counseling-

Will be required within the 6 months prior to filing under the new law, which goes into effect on October 17, 2005.

b. Budget counseling-

Could be helpful in helping you to get a handle on your finances. Frequently consumers who have had no training in financial literacy do not know how to establish priorities and start the process of budgeting.

c. Credit counseling-

Is related to budget counseling but is not the same thing. It helps to get a clear understanding of the different kinds of credit-- revolving credit, open-end credit, the impact of fixed rate interest as opposed to variable rate interest and many other details which impact your finances.

d. Default counseling

e. Pre-foreclosure counseling-

Is required by FHA (only on FHA loans) since borrowers who will be losing their homes and face some important tax consequences from this transaction. Pre-foreclosure counseling is not the same as default counseling and while it is required, in real life, seldom is it actually performed.

f. HUD approved housing counseling agency-

*For a HUD-approved agency near you call 1-800-569-4287 or TDD 1-800-877-8339. These services are usually free of charge.

Credit score-

Is a number, which represents the possibility a borrower may default. It is based upon your credit history and is used to determine your ability to qualify for a mortgage loan.

Credit report-

Is a report prepared by a credit bureau, which reflects an individual or an organizations credit history. The report is used by a lender to determine the loan applicant's credit worthiness.

Debt ratio-

The percentage of total debt payments to gross income.

Deed-in-lieu-

Is an option for avoiding foreclosure. The consumer is allowed to voluntarily relinquish the home when they have not been able to make payments as a last ditch effort to avoid foreclosure. While the consumer will not be able to stay in the house this is still a better option for them than a foreclosure. When the lender eventually resells the home, if the amount they net is less than the amount of the mortgage the lender is very likely to file for a deficiency judgment against the consumer.

Default-

When a person does not have the ability to make their mortgage payment as scheduled. A default begins on the date when the mortgage payment should have been made. This date should not be confused with grace period. Once the consumer has gone into default the lender has the option of accelerating payments, demanding payment in full and/other action leading to foreclosure. If the lender fails to declare the existence of default, in keeping with the terms of the note and mortgage they may be deprived of the right to accelerate repayment of the debt.

Default judgment-

Will be entered against a consumer who does not appear in court to challenge the lender's right to foreclose. Of course the consumer must have some valid reason to protest the processing of the foreclosure; otherwise the lender will be granted a judgment by default.

Deficiency-

In real estate is a shortage in the amount of proceeds a lender receives AFTER they have disposed of an acquired property. When a lender sells a home they have acquired, whether by foreclosure or deed-in-lieu or insurance claim, the deficiency is the amount still unpaid after the sale. This represents the amount of loss to the lender(s) or other entities, which may have a claim against the property.

Deficiency judgment-

Is a possible court judgment against a borrower, which can be requested by the lender who has not received full payment of the amount, owed.

Demand letter-

Is a letter from the lender to the borrower to inform them that: you are in default since you have not made the payment(s) as scheduled, that we are

accelerating the payment (s) and may also indicate that the lender is preparing to seek foreclosure.

Demand letter assessment-

Is the fee, which may be charged as a result of the demand letter, being sent to the consumer.

Disability insurance-

A type of credit insurance.

Disbursement-

Is the payment of funds to cover costs associated with the servicing of a consumer's loan. The lender has the responsibility of holding funds in an escrow account so they can make timely payments for taxes and insurance.

Disposable Income-

Is the income that a family or consumer has available to spend in any way that they wish after they have paid all of their necessary expenses.

Due Date-

The date stated in the mortgage note, which is the date when the consumer is scheduled to make their mortgage payment.

Escrow account-

Is an account established by the lender at the time of the closing on your home so they will have the funds needed to pay your insurance and taxes when they come due. You can see this as a "forced" savings account with an amount in each of your mortgage payments added for insurance and taxes. This is common practice and many people (including me) see it as a good thing since it avoids the likelihood that you will not have saved enough money when these expenses come due if they were not included in escrow.

Equity-

Is the current market value of the property MINUS any and all liens against it (mortgage, etc or any other legally enforceable liens). Example: You have a home, which cost you \$150,000. You have an outstanding 1st mortgage of \$120,000, a 2nd mortgage of \$10,000 and no other applicable liens. The current market value of the home is \$160,000 with total debt of \$130,000 the homeowner's equity is \$30,000. If property values have declined in the area and the current market value of the above mentioned home is only \$125,000 the house is what is being called 'upside down'.

There is NO EQUITY and instead the owner owes \$5,000 more than the market will bear.

Equity skimming-

Frequently occurs when a buyer (usually an investor) who approaches the consumer and offers to pay off the mortgage for you or sell the property if you sign over your deed and move out. If there is any equity in the home you have given it to the buyer. The problem can be even more troublesome if the home turns out to worth less than the buyer thought. You have given up the ownership of your home and the new owner does not make payments since there is no benefit to them in doing so. The lender will be forced to file for foreclosure—AGAINST YOU.

Eviction-

A court action to remove someone from a property, which is owned by another. Eviction is frequently required after a lender has been forced to foreclose against a homeowner who has become unable to make the house payments and then refuses to vacate the property after notification of the pending sheriff's sale.



Fair Credit Reporting Act-

Is a consumer protection law, which regulates the disclosure of consumer credit reports.

Fair Housing Act-

Is a law, which prohibits discrimination in all facets of the home, buying process on the basis of race, color, national origin, religion, sex, familial status or disability.



Fair market value-

The amount that a willing buyer and a willing seller would agree upon for a piece of real estate in a reasonable market time (say 3 months). This amount can usually be estimated based on the recent sales prices of similar properties in the immediate vicinity.

Federal tax lien-

Is a lien attached to a piece of real estate for non-payment of federal taxes. Federal tax liens differ from estate, income and any other lien in that they are not wiped out by the act of foreclosure unless it is a judicial foreclosure.

FHA Loss Mitigation Center-

Can be reached at (888) 297-8685. If you have questions or concerns about the servicing on an FHA loan this is the correct number to call. You may also make contact to get the name and number for a HUD approved housing counseling center in your area.

Financial analysis-

Is a tool used by all lenders or servicers to determine what loss mitigation options will work for this particular situation. Servicers report that two of the biggest hurdles are getting borrowers to provide the financial information needed to assess what is a match as well as overcoming the limitations of low income and wealth. Borrowers must be able to provide documentation of their financial situation in order for the lender to offer any loss mitigation options. *See the Hardship package section. A consumer could frequently benefit from working with a housing professional such as a REALTOR, attorney or housing counselor in being sure that the analysis is completed, thoroughly and accurately in order to enhance the possibility of a positive outcome from the loss mitigation department. **See FIS list.

First mortgage-

Is the mortgage for the largest percentage of the amount owed on your home. In the event you default on the mortgage then the first mortgage has priority in being satisfied with funds available after an ultimate sale.

Fixed rate-

Is an interest rate, which has been set from the time you first take out the loan, which will stay the same for the entire amount of time you are repaying the debt. While there are many rate options available a fixed rate is the ONLY rate, which gives you the ability to know with certainty what your housing payment is going to be each month. Principal and interest will always be the same; taxes and insurance changes can result in small fluctuations in the payment.

Forbearance-

Is a possible option where the lender gives the borrower time to catch up their while foreclosure is delayed.

a. Informal forbearance-

Is a verbal repayment agreement for a short period of time, usually no more than 3 months. On FHA loans lenders are required to set up payments, which are consistent with the borrowers ability to pay, based on documentation provided by the consumer. Lenders are to AVOID use of payments set at 1 ½ times the regular payments. While this is common practice it is prohibited by Mortgagee Letter 00-05, page 3.

b. Special forbearance

Force placed insurance-

Is insurance, which has been placed on a home by the lender. A provision in the mortgage give the lender authority to do this in the event the home becomes uninsured at any time and the borrower does not get it re-insured within a timely fashion. Frequently force-placed insurance is at a premium higher than the consumer could have gotten on the home. Unfortunately, there are times when lenders abuse this option and place the insurance when in fact the borrower had insurance already. This is sometimes associated with predatory lending.

Forceful eviction-

Means the use of legal recourse by the lender to gain possession of the residence. If the property is occupied by the owner of record in a fee simple title, then the owner has the right to continue to live in the home, rent free, until the foreclosure sale. Once the sale has occurred, the lender is entitled to possession and may then take steps to force the consumer out.

Foreclosure-

The legal process by which a lender reclaims a property when the consumer has not been able to make payment process varies from state to state as far as how long it takes as well as whether or not the foreclosure can be accomplished with or without judicial (legal) process. Most states require judicial process, which take longer but allow the most protection and the most time for consumers to try to correct the situation, which led to the inability to make timely payments.

Gift-

In real estate, typically means an amount of money provided to a buyer to help them cover their down payment and/or closing costs. A gift is supposed to be a gift—an amount of money, which the buyer is not expected to pay back. For many years the gift almost always was provided by a family member but might also be provided by a non-profit such as a

community development corporation (CDC), occasionally a church or sometimes a state agency committed to helping consumers to attain home ownership.



In modern times, since 1994 with the creation of the Nehemiah Corporation, a new kind of gift program became a part of the real estate industry. Unfortunately, with the gifts provided from this agency and many similar agencies, which are set as non-profits by IRS guidelines, the funds provided to the consumer ARE NOT IN FACT GIFTS but have been added to the consumer's loan so that in fact they are borrowing the down payment. This is almost always true when the consumer is building and using this "gift"; less frequently used when they buy an existing house. The reasons are discussed at length on this website in the sections on down payment. Also in that section is a direct link to a HUD Audit report, which sheds light on the use and fallout of these programs as well as a number of other studies, which are extremely enlightening. A class action lawsuit in Indiana against Arbor Homes cited the down payment, which was financed, and not a gift as represented. For details on that lawsuit, see the related section on this site.

Gift Letter-

Is a letter, which is usually required by the lender, which states who provided the gift, who is receiving the gift and what is the relationship between the two parties. This gift letter further states that the funds provided will be used a. for the purchase of a personal residence and b. that no repayment is required.

Good Faith-

In relationship to a default situation generally means that you have: remained in the house, contacted the lender promptly about your situation, sought help from a local housing counseling agency and/or otherwise cooperated with efforts to find some kind of solution to your current financial difficulty.

Guarantor-

Is a party or entity who guarantees payment on the loan if the borrower cannot make the payment. FHA and VA are the government guarantors. Fannie Mae and Freddie Mac are the quasi-government guarantors. Also, private Mortgage insurance companies are guarantors.

Hardship package-

Is a very comprehensive package of information used by the lender to determine which loss mitigation option is warranted based on the borrower's circumstances. It will (at a minimum) include a request for a) bank statements, b) last year's tax records, c) a letter of explanation of the cause for the current hardship, d) a budget and e) recent pay stubs. **Click here for a sample hardship package.

Hazard insurance-

Is a casualty policy, which covers real estate against multiple perils.

Hazard premium-

Is the insurance premium paid for hazard or homeowners' insurance on a property. The borrower is usually required to pay for a full year's coverage prior to the closing and provide proof that insurance is in force at the time of the closing. Thereafter, 1/12 of the annual premium will be included in the monthly payment and added to the escrow account.

Housing counseling agency-See counseling center, above***Housing and Urban Development-
see HUD under abbreviations******How to Avoid Foreclosure-***

Refer to HUD publication PA 426-H below as well as the section "I Missed My Payment—What Shall I do Now?"

HUD housing center in Oklahoma-

National Servicing Center in Oklahoma City, Oklahoma toll-free (888) 297-8685.

You may write to them at the following address:

U.S. Department of Housing and Urban Development

National Servicing Center

500 West Main Street, Suite 400

Oklahoma City, OK 73102

HUD -1 Settlement Statement-

Is required under RESPA guidelines and is the form at closing which details all the expenses associated with the transfer of the property. ALL the costs of the deal are to be included for both the borrower and the lender's sake. A borrower should receive a signed copy of the HUD-1 before they leave the closing.

HUD publication PA-426-H, May 19, 1997, How to Avoid Foreclosure-

Is a pamphlet which lenders are required to send to borrowers who have an FHA backed loan no later than the end of the 2nd month or 60 days of default. The pamphlet includes the phone number for the HUD's national referral system to HUD approved counseling agencies that can provide default counseling and covers the options, which are available when a loan is in default. If the consumer has filed bankruptcy then the lender is exempted from sending this brochure.

Judgment-

Is a legal decision; when requiring debt repayment a judgment may include a property lien that secures the creditor's claim by providing a collateral source.

Judgment lien-See lien below

Lien-

A legal claim against property that must be satisfied when the property is sold.

Loan modification-

Is a loss mitigation tool, which involves a permanent change in one, or more of the terms of the loans, which results in a loan payment the consumer, is able to afford. It might accurately be called an 'in-house refinance' meaning that the consumer's current lender (NOT A NEW LENDER) would be the entity to provide such a modification. A loan modification is a permanent change in one or more of the loan factors, which might include term, interest rate or loan type. If the loan is an FHA loan, it must first be purchased out of the Ginnie Mae pool and then re-pooled after it has been modified. See Mortgagee Letter 00-05 and/or Mortgagee Letters in a Nutshell.

Loan types-

See fixed rate and variable rate

Marketable title-

Means a title, which can be readily sold to a reasonably prudent purchaser aware of the facts and their legal meaning concerning liens and encumbrances. Marketable does not mean the same as CLEAR title. Many bank owned properties are sold with the use of a marketable title (which is disclosed) but if the buyer does not understand the risks associated with such a purchase and does not conduct a title search there could be unpleasant consequences.

Mechanic's lien-

Refers to a lien, which is created by statute for the purpose of establishing priority for the payment of either the price owed or the value of materials and/or labor furnished while constructing or repairing a dwelling. A mechanic's lien attaches to the land as well as the dwelling (house).

Modification-see loan modification.

Moratorium-

A period of time when legal rights and remedies are suspended. The application of a moratorium in real estate is most commonly used by government agencies (usually on the local level) to suspend construction in designated areas for a period of time until studies show whether or not continued growth is in fact needed in that specific area. Valid questions include whether or not there has been sufficient population growth and/or job growth to support the new housing. The question of infrastructure would also likely be addressed. There is evidence in several areas of the mid-west where growth appears to exceed demand with a corresponding drop in re-sale values. Moratorium discussions might be in order.

Mortgage banker-

Look at the picture with this description; it doesn't look any different from the picture with the mortgage broker does it? The message is that there may no difference in how lending professionals LOOK so you need to understand the differences in what services are being provided and what you are paying for those services. Is this the best deal for you, with your credit situations?



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Mortgagee-

Is the lender in a mortgage agreement

Mortgage insurance-

Is a policy that protects lenders against some or most of the losses that can occur when a borrower defaults on a mortgage loan. This insurance is also called private mortgage insurance and the premium is paid by the consumer as a part of their monthly mortgage payment. This insurance is required by lenders when a borrower pays less than 20% down on their home loan.

Multiple offers-

Are likely to be submitted when the property is either listed as a pre-foreclosure sale or is already foreclosed. Lenders encourage multiple offers since they are looking to get the highest amount they can for the property and pitting potential purchasers against each other is a way to accomplish that. It is perfectly legal. A buyer in such a situation should request written notice that the lender is holding multiple offers and if there is a designated time when all offers will be read and considered.

Notice of acceleration-

Is written notification to the borrower that the lender is requesting payment of the mortgage balance in full due to a default. The amount demanded will typically include principal, interest, late fees and all acceptable charges including attorney fees.

Notice of default-

Is a formal, written notice to a borrower that a default has occurred and that the lender may move forward with foreclosure proceedings.

Owner-occupant-

Means a borrower who is occupying the property as their primary residence. Mortgage exemptions apply for the owner-occupant and most lenders offer loss mitigation to owner-occupant but not to investors.

Owner-occupied-

Means that the borrower who owns the house is still in the house.

Owner of record-

Is the name of the person who is legally entitled to the real estate.

Partial claim-

Is an excellent loss mitigation tool offered by HUD for helping a consumer with an FHA loan to retain homeownership. When a consumer has recovered from the hardship causing them to be in default AND can afford the payment but cannot catch up the past due amount this might be an excellent option. A partial claim is added to the loan as a junior lien. There is NO charge for interest, no payments are expected until after the consumer has paid off the first mortgage or moved from the property.

Pre-foreclosure sale-

Is also frequently called a short sale.

Private mortgage insurance-

see PMI under abbreviations

Qualified written request-

Is a very important tool for anyone who is in default. Under RESPA (Real Estate Settlement Procedures Act, codified as Title we USC & 2605 and Regulation X. 24 CFR & (TILA) 15 U.S.C. & 1601, et seq. The statutes provide penalties and fines for non-compliance or failure to answer your questions. You have the right to ask the lender to conduct an examination of your loan, perform an audit and provide complete and accurate documentation of everything related to payments you have made and how all payments have been applied. Lender must respond within 60 days, in writing to your request. Also called QWR.

Real Estate Owned--see REO under abbreviations

Real Estate Procedures Settlement Procedures Act-see RESPA under Abbreviations

Reinstatement-

Means the consumer has CURED the default and the loan has been reactivated or reinstated. In order to reinstate the consumer must usually pay all the past-due amounts owed, plus accumulated costs and fees. Costs may include attorney fees incurred for the filing of any paperwork associated with the loan including impending foreclosure.



Short sale-

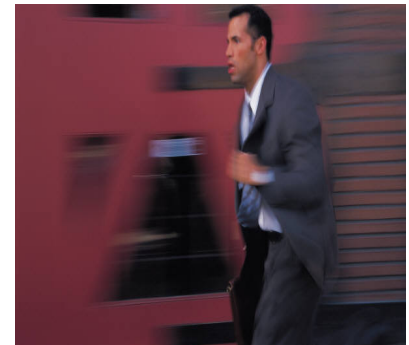
Also known as pre-foreclosure; see pre-foreclosure

Soldier's and Sailor's Act-for default intervention

Special forbearance-see forbearance

"Time is of the essence"-

Is a clause in the mortgage note, which allows the mortgage holder to insist on strict compliance with the terms of repayment, and therefore allows them to refuse partial or late payments. As a practical matter, lenders will frequently refuse or return such payments in order to avoid violating that clause. IF a lender does accept a late or partial payment they must give written notice that that it will no longer accept such payments but will insist on full compliance with the note terms. If they do not do so, they have left open the door for possible defense to foreclosure.



Trigger events-

Are events, which are likely to cause a consumer to fall into default on their mortgage payments. There are many different trigger events—but they may include job loss, income reduction, health crisis, divorce, disrepair, unexpected tax increase or other property related expense, increase in interest rate due to expiration of buydown, elder care, curtailment of hours or any number of other things. In reality, almost anything can be a trigger if it reduces the consumer's income or increases their expenses. The outcome will frequently be determined by the consumer's response to the trigger. If they bury their head in the sand and avoid the lender, refuse to answer calls or letters and make no effort

to do a workout, they are likely to lose their home to foreclosure. On the other hand, there is a strong likelihood of a positive outcome, even if the consumer ultimately must move from the home if they cooperate fully with the lender's loss mitigation department.

Veteran's Administration-also known as VA, see abbreviations