

# ESCROW TERMS

## Words & Definitions



### Acceleration Clause

This is a clause in a note and trust deed which 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”.

### Adjustment Rate Mortgage (ARM):

A mortgage with an interest rate that changes over time in line with movements in the Index.

### Adjustment Period

The length of time between interest rate changes on an ARM. For example, a loan with an adjustment period of one year is called a one year ARM, which means that the interest rate can change once a year.

### 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 the Deed of Trust or contract.

### Assignor

One who makes an assignment. For example, the assignor 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 a stock, a Deed of Trust, and note or a lease.

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### 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/her to act on behalf of the grantor of the power .

### Beneficiary

In a Trust Deed, the lender is designated as the beneficiary, the beneficiary 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.

### Cap

The limit on how much an interest rate or monthly payment can change, either at each adjustment or over the life of the mortgage.

### CC&R's

Covenants, Conditions and restrictions. A document that controls the use, requirements and restrictions of a 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, hazard insurance and mortgage insurance.

### Collection Service

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

### Condemnation

The exercise of the power of eminent domain by which property is taken for public use and 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 own undivided interest in common areas.

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### 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 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 Demand

A statement from a lender showing the amount due on a loan.

### Due on Sale Clause

An acceleration clause that requires full payment of a mortgage or deed of trust when the secured property changes ownership.

### Earnest Money

An amount of money given as part of the purchase price of property to bind the agreement between the 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.

### Equity

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

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### Escrow

According to section 17003 of the State of California Financial Code: "...any transaction wherein one person, for the purposes 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 party 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 ."

### 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.

### 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 FHA or guaranteed by VA as well as conventional home mortgages.

### Fee Simple

An estate in which the owner has unrestricted power to dispose of the property as he wishes including leaving by will or inheritance. It is the greatest interest a person can have in real estate.

### Finance Charge

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

### Fire Insurance

Insurance for coverage 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.

### Graduate Payment Mortgage

A residential mortgage with monthly payments that start at a low level and increase at a predetermined rate.

### Grantee

The buyer on a deed.

### Grantor

The seller on a deed.

### Home Inspection Report

A qualified inspector's report on a property's overall condition. The report usually includes an evaluation of both the structure and mechanical systems.

### Home Warranty Plan

Protection against failure of mechanical systems with the property. Usually includes plumbing, electrical, heating systems and installed appliances.

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### 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.

### Index

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

### Joint Tenancy

An equal, undivided ownership of property by two or more persons. Upon death of any owner, the survivors take the decedent's interest in the property.

### 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 the 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 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, mechanic liens, taxes, etc.

### 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 Commitment

A written promise to make a loan for a specified amount on specific terms.

### Loan to Value Ratio

The relationship between the amount of the loan on property expressed as a percentage of the appraisal value.

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### Margin

The number of percentage points the lender adds to the index rate to calculate the ARM interest rate at each adjustment.

### 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.

### 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 means that even after several payments you could owe more than you 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 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. This is 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.

### Origination Fee

A fee or charge for establishing a new 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.

### PITI

Principal, interest, taxes and insurance.

### 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.

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### 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.

### Private Mortgage Insurance (PMI)

Insurance written by a private company protecting the lender against loss if the borrower defaults on the mortgage.

### 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 a quitclaim deed.

### REALTOR

A real estate broker or associate active in a local real estate board affiliated with the National Association of Realtors.

### 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 recording, an executed document, 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.

### Restrictions

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

### Seller

One who sells property to another.

### 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.

### Subordination Agreement

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

### Tax Collector

One who collects taxes on property.

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### Tenancy in Common

A type of joint ownership of property by two or more persons with no rights of survivorship.

### 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.

### Title Insurance Policy

A policy that protects the buyers, mortgagee or other party against losses.

### Trust Deed

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. The Trustee is the entity which issues a Full Reconveyance upon satisfaction of the debt secured by the

### Trustor (in a Deed of Trust)

The borrower under a Deed of Trust.

### VA Loan

A loan that is guaranteed by the Veterans' Administration and made by a private lender.

### 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 Doe, a single man.