

Glossary For Real Estate

A

- absolute assignment of rents**182
A present transfer of all the owner's rights, title and interest in the rents generated by the real estate. Compare with conditional assignment of rents.
- acceleration** 162, 476
A demand for immediate payment of all amounts remaining unpaid on a mortgage or extension of credit by a lender or carryback seller.
- adhesion contract**.....154
An agreement in which one party has dramatically superior bargaining strength, forcing the weaker party to either accept or reject all the agreement's stated terms, a dynamic present to some degree in all lender/borrower relationships.
- adjustable rate mortgage (ARM)**76
A variable interest rate note, often starting out with an introductory teaser rate which resets in a few months or years based on a particular index.
- affirmative duty**..... 320
An agent's obligation to voluntarily undertake an advisory activity when in a fiduciary relationship.
- alienation clause** 161
A trust deed clause limiting the rights of the owner of the mortgaged property to freely transfer their interest in the property by sale, lease or further encumbrance.
- all-inclusive trust deed (AITD)**.....274, 303, 350, 572
A note entered into by a buyer in favor of the seller to evidence the amount remaining due on the purchase price after deducting the down payment, an amount inclusive of any specified mortgage debts remaining of record with the seller retaining responsibility for their payment. Also referred to as a wraparound mortgage or overriding mortgage. [See **RPI Form 421**]
- allonge**51, 94
An attachment to a note occurring between preparation of the note and closing the transaction providing information necessary to update entries on the note at the time it becomes effective. [See **RPI Form 250**]
- anti-deficiency**200, 244, 296, 465
A limitation placed on a mortgage lender's ability to recover losses on default when the secured property's value is insufficient to satisfy the mortgage debt.
- anti-deficiency law** 456
California legislation limiting a mortgage holder's ability to recover losses on a default when the mortgaged property's value is insufficient to satisfy the mortgage debt.
- Applicable Federal Rate (AFR)**583
Rates set by the Internal Revenue Service (IRS) and used by carryback sellers to impute and report as minimum interest income when the note rate on the carryback debt is a lesser rate.
- assignment**448
A transfer of rights held under a mortgage or other agreement from one person to another.
- assignment of rents provision**181
A trust deed clause which creates a lien on unpaid rents as additional security to the real estate described in the trust deed.

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A promise given by a buyer to the seller or an existing mortgage holder to perform all the terms of the mortgage taken over by the buyer on the sale. [See RPI Form 431 and 432]	
average prime offer rate	108
An annual percentage mortgage interest rate derived from average interest rates, points and other pricing terms offered by lenders on consumer mortgages which have low-risk pricing characteristics and are used to fund a higher-priced mortgage loan. These rates are published weekly by the Consumer Financial Protection Bureau (CFPB).	
balance sheet	386
An itemized, dollar-value presentation for setting an individual's net worth by subtracting debt obligations (liabilities) from asset values. [See RPI Form 209-3]	
balloon payment	31, 37, 67, 132, 140
Any final payment on a note which is greater than twice the amount of any one of the six regularly scheduled payments immediately preceding the date of the final/balloon payment. [See RPI Form 418-3 and 419]	
balloon-payment qualified mortgage	31, 138
A type of qualified mortgage which allows small lenders to include a balloon feature.	
beneficiary	149, 519
The holder of a note secured by a trust deed and entitled to the performance of the provisions in the trust deed.	
beneficiary statement	197, 360
A written disclosure made by a mortgage holder regarding the condition of a debt owed to them, usually evidenced by a trust deed note. [See RPI Form 415]	
bill of sale	264
A written instrument given to pass title of personal property from vendor to the vendee. Compare with a grant deed. [See RPI Form 408]	
blanket mortgage	296, 360
A single trust deed which describes more than one parcel of real estate as security for the referenced debt. [See RPI Form 450]	
bona fide purchaser (BFP)	512
A buyer other than the mortgage holder who purchases a property for value at a trustee's sale without notice of title or trustee's sale defects.	
business mortgage	20, 63
A debt incurred for other than personal, family or household (consumer) purposes and secured by any type of real estate.	
buyer mortgage capacity	391
A buyer's ability to make mortgage payments based on their debt-to-income ratios (DTI).	
buyer-seller assumption agreement	245
A promise given by the buyer to the seller to perform all the terms of a mortgage taken over by the buyer on the property purchased.	

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A mortgage holder's demand for the balance of the loan to be immediately paid in full.	
call provision	69, 138
A provision in a note giving the mortgage holder the right to demand full payment at any time or after a specified time or event, also called an acceleration clause. [See RPI Form 418-3]	
carryback financing	271
A note and trust deed executed by a buyer of real estate in favor of the seller for the unpaid portion of the sales price on closing, also known as an installment sale, credit sale or seller financing.	
cash collateral	191
In Chapter 11 Bankruptcy, cash or cash equivalents from the sale of property in which the lender has an interest.	
certificate of sale	494
A certificate issued to the successful bidder on the completion of a judicial foreclosure sale.	
Closing Disclosure	381
A disclosure of the buyer's final settlement charges and mortgage terms handed to the buyer on a standard form within three business days before mortgage closing.	
collateral assignment	298
An agreement providing additional, cumulative and concurrent security for a debt, in the form of personal property, to additionally secure the property owner's performance under the debt. [See RPI Form 437 & 446]	
comparative advantage	13
The advantage a person who produces a product at a greater margin of profit has over a competitor.	
compounding on default	62
An interest provision triggered by a delinquency in a payment causing interest to accrue on the amount of interest contained in the delinquent installment at the note rate until the delinquent payment is paid, a type of late charge. [See RPI Form 418-1]	
computation period	173
For impound account analysis, the 12-month period beginning on the date of the initial impound deposit during which monthly deposits, disbursements and any applicable interest occur.	
conditional assignment of rents	182
A trust deed provision which creates a lien on all rents in favor of the lender. The rents become additional security to the real estate which is also liened by the trust deed. Compare with absolute assignment of rents.	
conforming loan	63, 108, 378
A conventional mortgage with terms, conditions and a maximum principal amount set by Fannie Mae and Freddie Mac.	
constructive notice	267
To be charged with the knowledge of conditions existing on the property by recorded documents or an occupancy of the property at the time of a transaction.	
consumer mortgage	20, 48, 62, 94
A debt incurred primarily for personal, family, or household purposes and secured by a parcel of real estate containing one-to-four residential units.	

conventional mortgage	376
A mortgage that is not made, insured or guaranteed by the federal government.	
conversion adjustable rate mortgage (ARM)	83
An adjustable rate mortgage (ARM) which may be converted to a fixed rate mortgage (FRM) during the mortgage term.	
cost basis	111, 566, 582
The cost incurred to acquire and improve an asset subject to adjustments for destruction and depreciation, used primarily for tax reporting.	
cramdown	462
The reduction of the principal balance of a mortgage debt to the value of the mortgaged real estate.	
creditworthiness	391
An individual's ability to borrow money, determined by their present income and previous debt payment history.	
cross-collateralization	296, 325
The use of one trust deed to describe multiple parcels of real estate or a UCC-1 financing statement encumbering personal property together with a trust deed as additional security for payment of a debt. [See RPI Form 436]	
dealer property	567
Real estate held for sale to customers in the ordinary course of an owner's trade or business, where the earnings on the sales of the properties are taxed as business inventory at ordinary income rates.	
debt service	343
The amount of principal and interest paid on a debt periodically, also referred to as the loan payment amount.	
debt-to-income ratio (DTI)	391
The percentage of monthly gross income that goes towards paying debt.	
declaration of default and demand for sale	504
A document delivered to the trustee under a power of sale provision by the mortgage holder instructing the trustee to initiate foreclosure on the secured real estate by recording a notice of default (NOD).	
deed-in-lieu of foreclosure	151, 329, 532
A grant deed conveying the mortgaged real estate to a mortgage holder which is accepted from the property owner in exchange for cancelling the mortgage debt to avoid foreclosure. [See RPI Form 406]	
default rate provision	132
A note provision increasing the note rate on the remaining principal when the final/balloon payment becomes delinquent.	
deficiency	455
Losses experienced by a mortgage holder at a foreclosure sale due to insufficient value of the mortgaged property to satisfy the mortgage debt.	

D

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A money award obtained by a mortgage holder to recover money losses experienced when the value of the mortgaged property is less than the remaining mortgage debt at the time of the judicial foreclosure sale.	
discharge-of-indebtedness income	458
Reportable income resulting from a mortgage holder's discount on a payoff of a mortgage debt. Called a short pay.	
discount point	409
The amount of money the borrower or seller must pay the lender to get a mortgage at a stated interest rate.	
Dodd-Frank Wall Street Reform and Consumer Protection Act (Dodd-Frank)	20
A federal consumer protection law which created minimum standards and oversight for consumer mortgage origination.	
dragnet clause	154
A provision in a trust deed that purports to use the mortgaged real estate as security for all debts between the parties to the security agreement.	
due-on clause	3, 98, 110, 224, 574
A trust deed provision used by mortgage holders to call the debt due and immediately payable, a right triggered by the owner's transfer of any interest in the real estate, with intra-family exceptions; also called an alienation clause.	
 <i>E</i>	
eminent domain	160
The right of the government to take private property for public use. The government pays the owner the fair market value of the property taken.	
Energy Efficient Mortgage (EEM)	424
A Federal Housing Administration (FHA) mortgage which finances energy-efficient improvements.	
entitled person	198
The original borrower on a note and trust deed, their successor-in-interest or an authorized agent of either who may request, in writing, a beneficiary statement or payoff demand statement.	
equity purchase investor	213
A person who acquires title to a seller-occupied, one-to-four unit residential property in foreclosure for dealer, investment or security purposes.	
equity purchase transaction	214
A sales transaction in which a one-to-four unit residential property in foreclosure, occupied by the owner as their principal residence, is acquired for dealer, investment or security purposes by an investor. [See RPI Form 156]	
excluded debts	436
Extensions of credit by sellers of real estate creating a debt obligation in sales transactions which avoid usury laws.	
exculpatory clause	50, 71, 96, 459
A provision in a note secured by a trust deed which converts a recourse debt into nonrecourse debt to bar recovery by a money judgment against the borrower. [See RPI Form 418-5]	

exempt debts	436
Private party transactions exempt from usury laws involving the origination of a loan secured by real estate and made or arranged by a real estate broker. See non-exempt lender.	
fair market value (FMV)	561
The price a reasonable, unpressured buyer would pay for property on the open market.	
fair value hearing	495
The court proceeding at which a money judgment is awarded for any deficiency in the secured property's fair market value (FMV) at the time of the judicial foreclosure sale to fully satisfy all debt obligations owed the mortgage holder.	
Federal Home Loan Bank Board (FHLBB)	10
The Depression-era regulatory body established to fund savings and loan associations (S&Ls) and provide mortgage market liquidity. The FHLBB became the Office of Thrift Supervision in 1989, and then dissolved in 2011 shifting its duties to the Consumer Financial Protection Bureau (CFPB) and other federal agencies.	
Federal Housing Administration (FHA)-insured mortgage	252, 418
A mortgage originated by a lender and insured by the FHA, characterized by a small down payment requirement, high loan-to-value (LTV) ratio and high mortgage insurance premiums (MIPs), typically made to first-time homebuyers.	
federally related mortgage	400
A consumer mortgage made, insured, guaranteed, assisted or otherwise connected to the federal government, controlled by the Real Estate Settlement Procedures Act (RESPA).	
Financial Institutions Reform, Recovery, and Enforcement Act (FIRREA)	11
Federal legislation enacted in 1989 in the wake of the savings and loan (S&L) crisis to strengthen regulations on lenders and appraisers and improve the availability of mortgage funds.	
fixed payment ratio	423
A debt-to-income ratio (DTI) used to determine eligibility for an FHA-insured mortgage limiting the buyer's total fixed payment on all debts to 43% of the buyer's gross income, also called the DTI back-end ratio.	
forbearance	446
An agreement by a mortgage holder to temporarily forego exercise of their rights on a default while the property owner takes steps to bring the mortgage payments current.	
foreclosure decree	490, 540
Decree by a court ordering the sale of mortgaged property and the payment of the debt owing to the lender out of the proceeds.	
formal assumption	9, 240
A buyer's promise to perform all the terms of the mortgage, given to the mortgage holder on the buyer's takeover of an existing mortgage, typically involving a modification of the interest rate and payments and an assessment of points and fees. Compare with a subject-to transaction.	
full credit bid	511
The maximum amount the foreclosing mortgage holder may bid at a trustee's sale without adding cash, equal to the debt secured by the property being sold, plus trustee's fees and foreclosure expenses.	

fully indexed rate	80
The highest rate possible on the adjustable rate mortgage (ARM) during the first five years of its term.	
further encumbrance	5
A claim or lien on a parcel of real estate, such as junior trust deeds, CC&Rs, easements, taxes or assessments.	
further-approval contingency	313, 324, 336
A provision in an agreement calling for the further approval of an event or activity as a condition precedent to the further performance or cancellation of the transaction by the persons benefiting from the provision. [See RPI Form 185 §9]	
future advances clause	481
A trust deed provision authorizing a mortgage holder to advance funds for payment of conditions impairing the mortgage holder's security interest in the mortgaged property, such as delinquent property taxes, assessments, improvement bonds, mortgage insurance premiums or elimination of waste. [See RPI Form 450 §2.5]	
 G	
Garn-St. Germain Federal Depository Institutions Act of 1982	10
A federal law which preempts state-level limitations on a mortgage holder's enforcement of the due-on clause contained in mortgages.	
general ability-to-repay (ATR) rules	26
A consumer mortgage conforming to the federal ability-to-repay (ATR) rules, without a qualified mortgage (QM) safe harbor or rebuttable presumption status.	
general qualified mortgage	29
A type of qualified mortgage (QM) which meets the definition of a qualified mortgage under Regulation Z (Reg Z) and has a debt-to-income ratio (DTI) of 43% or less, other than a balloon-payment QM, small lender QM and temporary QM.	
government-related mortgage	376
A mortgage that is made, insured or guaranteed by the federal government.	
grace period	54, 67, 126
The time period for the mortgage holder's receipt of a payment following its due date after which the missed payment is delinquent and subject to a late charge. [See RPI Form 550 §4.3 and 552 §4.7]	
graduated payment mortgage	40
A mortgage providing for installment payments to be periodically increased by predetermined amounts to accelerate the payoff of principal.	
guarantee agreement	71, 459
An agreement to be obligated to pay the debt or perform on a contract of another person if that person defaults or does not perform. [See RPI Form 439]	
guarantor	146, 325
A person who agrees to pay a money obligation owed by another to a mortgage holder or a landlord under a lease agreement on a default in the obligation and demand for the sums remaining unpaid. [See RPI Form 439 and 553-1]	

high-cost consumer mortgage (Section 32 mortgage)	129
A class of Regulation Z (Reg Z) consumer mortgage characterized by an annual percentage rate (APR) charge which exceeds the average prime offer rate for a comparable mortgage by various percentage spreads set by the mortgage's priority on title and principal balance, and subject to consumer protection rules.	
holdover tenant	219
A tenant who retains possession of the rented premises after their right of possession has been terminated, called a tenant-at-sufferance.	
home equity mortgage	558
A junior mortgage encumbering the value in a home remaining after deducting the principal on the senior mortgage from the market value of the home.	
hybrid adjustable rate mortgage (ARM)	86
A type of adjustable rate mortgage (ARM) which features a fixed rate for an introductory period and thereafter a periodically adjusted interest rate based on a predetermined formula.	
hypothecation	50
The pledging of something as security without the necessity of giving up possession to it. [See RPI Form 242]	
impairment	339
The act of injuring or diminishing the value of an interest held by another in real estate.	
implicit rent	342
The value of the use of a property by the owner.	
impound account provision	169
A trust deed provision establishing a reserve of the owner's funds for the payment of annually recurring ownership expenses.	
impound account	133, 167, 277
A money reserve funded monthly by the property owner and maintained by the mortgage holder to pay annual recurring ownership obligations.	
imputed interest rate	53, 583
The applicable federal rate (AFR) set by the Internal Revenue Service (IRS) for carryback sellers to impute and report as minimum interest income a portion of principal when the note rate on a carryback debt is a lesser rate.	
index	80
A regularly issued composite market interest rate for an investment such as Treasury Securities or inter-bank loans used to set the basis for periodic interest rate adjustments.	
initial interest rate cap	82
A limit on the amount the interest rate may change on the first adjustment of an adjustable rate mortgage (ARM).	
installment note	36
A note calling for periodic payments of principal and interest, or interest only, until the principal is paid in full by amortization or a balloon payment. [See RPI Form 420-422]	

installment sale	314
Financing provided by a seller who extends credit to the buyer for future periodic payments of a portion of the price paid for real estate, also known as carryback financing.	
institutional lender	377
A lender which pools deposits and invests them by making mortgages, e.g. a bank, credit union or insurance company.	
inter vivos trust	234
A title holding arrangement used as a vesting by a property owner for probate avoidance on death. Also known as a living trust. [See RPI Form 463]	
interest-only adjustable rate mortgage (ARM)	86
A type of adjustable rate mortgage (ARM) which features an initial period of interest-only payments.	
interlineation	49
The process of modifying an instrument or document by inserting additional language between the lines to clarify a particular provision, usually adding something that was omitted.	
introductory interest rate	80
The initial rate of interest on an adjustable rate mortgage (ARM), typically lower than the fully-indexed note rate and lasting for a set introductory period, allowing for a greater loan amount to be borrowed. Also known as a teaser rate.	
itemized deductions	560
Deductions taken by a taxpayer for allowable personal expenditures which, to the extent allowed, are subtracted from adjusted gross income (AGI) to set the taxable income for determining the income tax due, called Schedule A.	

J

judicial foreclosure	488
The court-ordered sale by public auction of the secured property. Also known as a sheriff's sale.	
jumbo mortgage	378
A conventional mortgage with a principal amount exceeding the conforming or super-conforming loan limits set by Fannie Mae and Freddie Mac.	

K

kickback	401
A fee improperly paid to a transaction agent (TA) who renders no service beyond the act of referring when the TA is already providing another service in the transaction for a fee.	

L

land sales contract	366
A contract used in a sale of real estate when the seller retains title to the property until all or a prescribed part of the purchase price has been paid. [See RPI Form 168]	
late charge provision	125
A provision in a promissory note which calls for an additional charge if payments are not received when due or during a grace period.	

lender overlay	376
Lender-imposed standards on consumer mortgages to be met by applicants in addition to standards set by mortgage insurers and investors.	
lender-paid mortgage insurance (LPMI)	428
Default mortgage insurance provided by private insurers in which the lender pays the mortgage insurance premium and recovers the cost through a higher interest rate.	
letter of credit	462
A commitment made by a bank to a mortgage holder assuring payment of a stated amount on presentation to the bank, used by mortgage holders as a supplemental security device to avoid anti-deficiency laws.	
lifetime interest rate cap	82
A limit on the amount the interest rate can increase over the life of an adjustable rate mortgage (ARM).	
liquidated damages provision	113
A provision stating the maximum money losses a buyer owes a seller in the event the seller incurs losses on a buyer's breach.	
lis pendens	489, 512
A notice recorded for the purpose of warning all persons that the title or right to possession of the described real property is in litigation.	
listing agreement	282
An employment agreement used by brokers and agents when a client retains a broker to render real estate transactional services as the agent of the client. [See RPI Form 102 and 103]	
litigation guarantee	489
A title insurance policy which lists all parties with a recorded interest in a property and their addresses of record, ensuring that all persons with a recorded interest in a property are named and served in litigation.	
Loan Estimate	380, 411
An estimate of a buyer's settlement charges and mortgage terms handed to the buyer on a standard form within three business days following the lender's receipt of the mortgage application. [See RPI Form 204-5]	
loan level price adjustment	376
Adjusted interest rates or fees based on the risk of default a mortgage poses.	
loan-to-value ratio (LTV)	390, 421
A ratio stating the outstanding mortgage balance as a percentage of the mortgaged property's fair market value (FMV).	
lock-in clause	112, 117
A promissory note provision limiting repayment to no more than the regularly scheduled installment amount, in contrast to an "or more" clause.	
margin	81
The interest points added to an index by a lender as profit on the adjustment of an adjustable rate mortgage (ARM).	

masked security device	314, 364
Alternative documentation for a carryback sale, substituted for a note and trust deed in a deceptive attempt to avoid due-on enforcement, Regulation Z (Reg Z), reassessment for property taxes, profit reporting and the buyer's right of reinstatement or redemption on default. [See RPI Form 300-1 and 300-2]	
material breach	126
Failure to perform significant obligations called for in an agreement, such as a promissory note.	
mixed collateral transaction	264
A transaction which is evidenced by one note and secured by both real estate (using a trust deed) and personal property (using a UCC-1 Form).	
money judgment (on foreclosure)	488
An award for any unpaid balance remaining after a judicial foreclosure sale due to the secured property's insufficient fair market value (FMV) on the date of the sale to satisfy the debt owed, also called a deficiency.	
mortgage commitment	394
A lender's commitment to make a mortgage, enforceable only when written, unconditional and signed by the lender for consideration.	
mortgage insurance premium (MIP)	419
Default insurance premiums required on a Federal Housing Administration (FHA)-insured mortgage, paid both up-front and annually.	
mortgage interest deduction (MID)	559
An itemized deduction for income tax reporting allowing homeowners to deduct interest and related charges they pay on a mortgage encumbering their primary or second homes.	
mortgage loan originator (MLO)	21
An individual who receives fees to arrange a consumer mortgage.	
mortgage payment ratio	422
A debt-to-income ratio (DTI) used to determine eligibility for an FHAinsured mortgage limiting the buyer's mortgage payment to 31% of the buyer's gross effective income.	
mortgage shopping worksheet	381
A worksheet designed for use by buyers when submitting applications for a consumer mortgage to compare mortgages offered by different lenders based on a list of all the variables commonly occurring as costs at the time of origination and over the life of the mortgage. [See RPI Form 312]	
mortgage steering	408
A mortgage loan originator (MLO) practice of directing a homebuyer to a consumer mortgage with less favorable terms in order to obtain greater compensation.	
mortgage-backed bond (MBB)	13
An asset-backed security representing a claim on the cash flows from payments received on a mortgage.	
mortgagee-in-possession	185
A lender who possesses a property, receiving any income it produces, and is obligated to operate or manage the property.	
mortgage-in-fact	216, 329, 532
A grant deed given by an owner for the sole purpose of securing the performance of an obligation owed a creditor, such as payment of a debt.	

N

negative amortization87, 356
The addition of unpaid interest to the principal balance of a mortgage due to insufficient monthly interest payments.

nominal interest rate 549
The interest rate agreed to between the homebuyer and the lender as stated on the promissory note.

non-exempt lender 435
A lender subject to usury limitations when making a loan.

nonjudicial foreclosure488, 500
When property is sold at a public auction by a trustee as authorized under the power-of-sale provision in a trust deed.

nonrecourse debt 50, 99, 202, 243, 293, 456, 466, 481
A debt recoverable on default solely through the value of the security interest in the secured property.

note.....48
A document given as evidence of a debt owed by one person to another, sometimes called a promissory note. [See RPI Form 421 and 424]

notice of default (NOD)501, 516
The notice filed to begin the nonjudicial foreclosure process. Generally, it is filed following three or more months of delinquent mortgage payments.

notice of delinquency (NODq) 516
The notice sent by a mortgage holder to a person who requested the notice within 15 calendar days after four consecutive months of unpaid and delinquent monthly installments on their mortgage.

notice of trustee’s sale (NOTS) 503
The notice recorded, posted and mailed to evidence an impending trustee’s sale to the property owner and potential bidders.

novation99, 203, 246
An agreement entered into by a mortgage holder, buyer and seller to shift responsibility for a mortgage obligation to the buyer by an assumption and release the seller of liability.

O

one-action rule 184
The prohibition of more than one action to recover a mortgage debt, requiring the mortgage holder to first resort to foreclosure on the real estate before pursuing other collection remedies. The enforcement of the assignment of rents provision by collecting rents does not bar a mortgage holder from later foreclosing on the real estate and, if a recourse mortgage, seeking a deficiency judgment.

option adjustable rate mortgage (ARM)87
An adjustable rate mortgage (ARM) giving the borrower the choice of a full monthly payment, an interest-only payment, and a minimum payment typically less than the interest due.

P

passive category income 569
Profits and losses from rental real estate, operations and sales, and from non-owner-operated businesses.

pass-through provisions	357
An all-inclusive trust deed (AITD) provision used by a carryback seller which provides for the payment of any demands made by the underlying mortgage holder, other than regular principal and interest payments, to be passed through to the buyer when triggered by the buyer's conduct. [See RPI Form 442 and 443]	
payment cap	83
A limit on the amount of increase in the borrower's monthly principal and interest at the payment adjustment date on an adjustable rate mortgage (ARM).	
payoff demand	196
A written demand, prepared by a mortgage holder, for the total dollar amount required on the date of preparation to pay off the mortgage as a requisite for recording a reconveyance of their trust deed lien on a property.	
perfecting the lien	260
The preparation and filing of a UCC-1 Financing Statement (UCC-1) to put the public on notice of the lien created by a security agreement.	
periodic interest rate cap	82
A limit on the amount the interest rate can increase with each future adjustment of an adjustable rate mortgage (ARM).	
personal use loan	548
A mortgage origination which funds a personal use, such as a loan that funds the purchase or improvement of an owner's principal residence or second home.	
pledge	576
To offer an asset (such as an existing carryback note) as collateral or security for another, unrelated debt. Also known as hypothecation. [See RPI Form 242]	
portfolio category income	273, 569, 582
Unearned income from interest on investments in bonds, savings, income property, stocks and trust deed notes.	
portfolio lender	377
A lender who both funds and holds a mortgage to collect the interest income.	
power-of-sale provision	331, 476, 500
A trust deed provision authorizing the trustee to initiate a non-judicial foreclosure sale of the described property on instructions from the beneficiary.	
pre-foreclosure workout	502
Negotiations between a mortgage holder and defaulting property owner with the purpose of exploring options to avoid foreclosure.	
prepayment penalty	63, 84, 97 104, 118
A levy charged by a mortgage holder to a borrower who pays off the outstanding principal balance on a mortgage prior to its maturity.	
prime offer rate	63
A base rate used by banks to price short-term business loans and home equity lines of credit, set 3% above the federal funds rate.	
private mortgage insurance (PMI)	273, 324, 428
Default mortgage insurance coverage provided to a mortgage holder by private insurers on conventional mortgages with loan-to-value (LTV) ratios higher than 80%.	

privity of estate	164
A mutual or successive relationship to the same rights in property; a connection between persons to the same estate in property.	
probate referee (on foreclosure)	495
An appraiser appointed by the court in a judicial foreclosure action to advise the court on a property's fair market value (FMV) on the date of the judicial foreclosure sale.	
promissory note	36, 62, 145
A document given as evidence of a debt owed by one person to another. [See RPI Form 421 and 424]	
property profile	285
A report from a title company providing information about a property's ownership, encumbrances, use restrictions and comparable sales data.	
purchase-assist funding	243, 454
The use of proceeds from a mortgage to fund the price paid by the borrower to acquire real estate.	
put option	325, 454
A provision in all trust deeds which, in tandem with anti-deficiency laws, grants the owner of mortgaged real estate the right to default and force the mortgage holder to first sell the property through foreclosure.	
pyramiding	130
The practice of assessing a late charge for the delinquent payment of a previously assessed late charge.	
qualified interest	562
Interest on a mortgage which has accrued and been paid and is an allowable interest deduction for ownership of a first and second home.	
qualified mortgage (QM)	63
A consumer mortgage granted safe harbor status under Regulation Z (Reg Z) ability-to-repay (ATR) rules under one of four definitions.	
rate lock	397
A lender's conditional, unsigned commitment to fund a mortgage at a quoted interest rate, origination fee and points, regardless of whether interest rates rise or fall prior to funding.	
real estate fixture	261
Personal property attached to the real estate as an improvement, which becomes part of the conveyable real estate.	
Real Estate Settlement Procedures Act (RESPA)	388
A federal law governing the behavior of service providers on a federally related mortgage which prohibits them from giving or receiving unlawful kickbacks.	
real rate of return	123
The nominal interest rate on a mortgage minus the rate of inflation.	

Q

R

recast	4, 303
A mortgage holder's demand to modify the note terms and receive payment of additional fees in exchange for waiving the due-on clause in their mortgage.	
reconveyance	44, 150, 196,466
A document executed by a trustee named in a trust deed to release the trust deed lien from title to real estate, used when the secured debt is fully paid. [See RPI Form 472]	
recourse debt	95, 202, 295, 325, 467, 482, 488
A debt for which a debtor may be personally liable if a sale of the secured property does not fully satisfy the debt on a default.	
redeem	460, 518
The clearing of title to a parcel of real estate of a monetary lien, such as a mortgage, through payment of the debt in full as is required during a redemption period to avoid loss of the property either at a trustee's foreclosure sale or following a judicial foreclosure sale.	
redemption	209, 477
A property owner or junior lienholder's right to clear title to property of a mortgage lien prior to the completion of a trustee's sale or following a judicial foreclosure sale by paying all amounts due on the mortgage debt, including foreclosure charges.	
reinstatement	56, 217, 476, 518, 527
A property owner or junior lienholder's right to reinstate a mortgage and cure any default prior to five business days before the trustee's sale by paying delinquent amounts due on the note and trust deed, plus foreclosure charges.	
rent skimming	253
When an investor receives rents from a parcel of residential rental property during their first year of ownership and does not apply the rents (or an equivalent amount) to the payments due on all mortgages secured by the property.	
residential mortgage	21
A consumer mortgage other than a carryback mortgage requiring the licensee arranging the mortgage to be mortgage loan origination (MLO)-endorsed by the Department of Real Estate (DRE).	
restraint on alienation	3, 118
A limit placed on a property owner's ability to sell, lease for a period exceeding three years or further encumber a property, as permitted by federal mortgage policy.	
restricted real estate mortgages	436
All mortgages made by private party lenders which are neither made nor arranged by a real estate broker.	
retroactive interest differential (RID)	243
The mortgage holder's losses, calculated based on the interest differential between the note rate and the market rate on the date of a third party's unlawful interference with the mortgage holder's right to call a mortgage.	
reverse lease-option	219
A sale-leaseback agreement with the option to purchase as an addendum.	
right of rescission	215
The right to cancel a completed transaction such as a sale or letting of property, including restoration, after the transaction has been closed.	

sale-leaseback and purchase option arrangement	206
A disguised mortgage arrangement created when a seller conveys title to an investor/lender and retains possession under a lease agreement with the right to repurchase title and redeem the property for a fixed dollar sum.	
secondary mortgage market	107
A market where mortgages are sold by originators to bundlers who aggregate them into pools which become collateral for bonds sold to investors, called mortgage backed securities (MBS).	
secular stagnation	15
An abnormally lengthy period of sluggish economic growth.	
Secure and Fair Enforcement for Mortgage Licensing Act (SAFE Act)	20
A federal consumer protection law which created a uniform national licensing and registration scheme for mortgage loan originators (MLOs).	
secured loan transaction	206
A mortgage transaction which places a lien on the owner's interest in a property for the amount of the debt owed the mortgage holder, including financial transactions documented by sellers as sale-leaseback and purchase lease-option arrangements.	
security agreement	260
An agreement entered into between a mortgage holder and buyer to grant the mortgage holder additional security in the form of a lien on personal property described in the agreement. [See RPI Form 436]	
security interest	326
A generic term designating the interest held in real estate or personal property by a lender, carryback seller or judgment creditor which is evidenced by either a trust deed, UCC-1 financing statement or abstract of judgment. [See RPI Form 450 and 436-1]	
self-help	183
One of several enforcement steps taken by a lender when an owner defaults on a post-1996 trust deed, in which the lender takes possession of the property and collects rents nonjudicially.	
service provider	399
An individual or company which offers services connected with a prospective or actual consumer mortgage origination.	
shared appreciation mortgage	40
A type of split-rate note calling for the property owner to periodically pay interim interest at a fixed rate, and when the balance is due, to further pay the holder of the note as additional interest an agreed fraction of the property's increased value. [See RPI Form 430]	
small lender qualified mortgage	30
A type of qualified mortgage (QM) under Regulation Z (Reg Z) which allows small community mortgage lenders to include features otherwise prohibited in consumer mortgages.	
small lender	30
A lender with assets of \$2.202 billion or less which made 2,000 or fewer first-lien consumer mortgages in the preceding calendar year (two years, for applications received before April 1).	
specific performance action	540
An action to compel performance of an agreement, such as a purchase agreement or assignment of rents.	

stepped-up basis	579
The readjustment of an appreciated asset's cost basis to fair market value for future tax purposes when transferred by inheritance.	
straight note	36, 315
A note calling for payment of the entire amount of principal and accrued interest in a single lump sum when the principal is due. [See RPI Form 423]	
subject-to transaction	8, 241
A sale of mortgaged property calling for the buyer to take title subject to the mortgage, the principal balance being credited toward the purchase price paid. Compare with formal assumption. [See RPI Form 156 §5]	
subordination	97, 467
The rearrangement of mortgage lien priorities on title in which a mortgage lien takes a lesser or junior position to another mortgage lien on a property.	
subordination agreement	285, 467
An agreement entered into by a mortgage holder to permit their security interest in title to the mortgaged property to take an inferior position to another encumbrance. [See RPI Form 281]	
super-conforming loan	378
A conforming loan with a maximum principal amount adjusted for a high-cost area.	
surplus funds	512
Funds remaining when the price paid for property by the successful bidder at a trustee's sale exceeds the amount of debt and costs due the foreclosing mortgage holder.	
 <i>T</i>	
temporary qualified mortgage	30
A transitional qualified mortgage (QM) under Regulation Z (Reg Z) for lenders originating mortgages insured or guaranteed by the federal government or sold to Fannie Mae or Freddie Mac.	
title insurance	534
A form of indemnity insurance by which a title insurance company holds harmless a person who acquires an interest in real estate against a monetary loss caused by an encumbrance on title that is not listed in the policy and the insured was unaware of when the policy was issued.	
trade fixture	261
A fixture used to render services or make products for the trade or business of a tenant.	
transaction agent (TA)	384
The term lenders use to identify the buyer's agent in a sales transaction.	
treble damages	438
A usury penalty computed at three times the total interest paid by the borrower during the one year period immediately preceding their filing of an action on a nonexempt private lender mortgage.	
trustee (on a mortgage)	146, 501, 518
A party to a mortgage who, as a legal fiction, holds title to property as security for the performance of an obligation with the authority to sell the property or reconvey the trust deed on instructions from the mortgage holder.	

trustee's sale guarantee	505
A policy issued by a title insurance company to a trustee before or at the time the notice of default (NOD) is recorded providing coverage for the trustee should they fail to serve notices on any party of record due to an omission in the guarantee.	
Truth in Lending Act (TILA)	391
A federal consumer mortgage law which controls the terms of a consumer mortgage and requires lenders to disclose mortgage rates and charges.	

U

U.S. Department of Veterans Affairs (VA) mortgage guarantee	252
A program that assists qualified veterans or their surviving spouses to buy a home with zero down payment. [See RPI Form 153]	
unconscionable advantage	450
When an equity purchase investor or a mortgage holder exploits an element of oppression, helplessness or surprise to exact unreasonably favorable terms from a property owner or tenant.	
Uniform Residential Loan Application (URLA)	38
4	
A standardized mortgage application prepared by the buyer with the assistance of the transaction agent (TA) and the lender's representative. [See RPI Form 202]	
unsecured note	336
A document evidencing a debt owed by one person to another where the debt is not secured by collateral, also called an unsecured promissory note. [See RPI Form 424]	
upcharging	407
The practice of marking up the price of a third-party service and keeping the difference.	
usury	43, 433, 445
A limit on the lender's interest rate yield on non-exempt real estate mortgages.	

W

waiver agreement	235, 303
An agreement in which a mortgage holder consents to the owner's present or future transfer of an interest in the mortgaged property as a waiver of the mortgage holder's due-on rights. Also known as an assumption agreement. [See RPI Form 431 and 432]	
warehouse lender	377
A lender who funds a mortgage under an agreement to immediately resell the mortgage in the secondary mortgage market.	
waste	244
The intentional destruction or neglect of property which diminishes its value. [See RPI Form 550 §6.8 and 552 §7.4]	