

## FORECLOSURE TERMS DEFINITIONS

**Adjourn or Adjournment.** To put off a court session, such as a hearing or trial, until a later time.

**Amortization.** The process of paying off the loan, such as a mortgage, gradually, usually by periodic payments of principal and interest.

**Answer.** A document filed by the defendant in response to the complaint filed by the plaintiff. The answer admits to the statements in plaintiff's complaint that are true and denies the statements that are false. An answer may also include a counterclaim. In answer may also include defenses.

**Answer to counterclaim.** The document filed by the plaintiff in response to the defendant's counterclaim.

**Appraisal.** A report prepared by a licensed appraiser that establishes the current market value of the property by comparing it to similar properties that have been sold recently. An appraisal is often required by courts to establish value.

**Arrears.** A legal term for a type of debt which is overdue after missing an expected payment. It is also used for payments that occur at the end of a period. Arrears are often added to the principal in a loan modification.

**Bankruptcy.** A Federal law which protects creditors from creditors and allows the debtor to use the courts to either discharge debts or to make an affordable repayment plan. Bankruptcy is usually used to stop a foreclosure and/or make repayments arrangements when a loan modification has been denied.

**Collateral.** The borrower's asset that is forfeited to the lender if the borrower is unable to pay alone. In a home loan, the property is the collateral. If the borrower does not pay the debt, the lender can bring a foreclosure case in court in the property may be sold to satisfy the debt.

**Competitive Market Analysis (CMA).** A report prepared by a Realtor that establishes the current market value of a property by comparing it to similar properties that have been sold recently. A CMA is less authoritative than an appraisal prepared by a licensed appraiser but can be equally useful.

**Complaint.** The document that begins a lawsuit in the civil division of the New Jersey Superior Court. The complaint must set forth claims that give the party being sued a general idea about what is being sued for. The party who files the complaint is known as the plaintiff. The party who is being sued is known as the defendant.

**Consolidate debt.** To replace multiple loans with a single loan, which often has a lower monthly payment and a longer repayment period. Also called a consolidation loan.

**Cure (or to cure).** To pay the amount that you owe and reinstate mortgage on the property. The amount you owe is usually the amount of the missed payments and any property taxes paid by the lender on your behalf.

**Counterclaim.** A complaint filed by the defendant against the plaintiff as part of the defendant's response to the plaintiff's complaint. Usually filed with the defendant's answer.

**Defendant.** The parties sued by the plaintiff in a civil lawsuit or by the state in a criminal lawsuit.

**Defense.** The defendant stated reason why the plaintiff has no valid case.

**Equity.** the amount of money left over after you subtract the amount owed to others (such as to mortgage lenders and judgment holders) from the property value.

**Escrow.** Money in escrow is money placed into an account held by a lender into which the homeowner puts money so that the lender can pay for taxes and insurance.

**Foreclose/Foreclosure.** The process by which a home loan lender proceeds in the Court to prove that the borrower is in default and to force the sale of the property to satisfy the loan made to the borrower.

**Hearing.** A public proceeding in a court in which witnesses are heard, evidence is presented, and the parties to the lawsuit are present and have a right to be heard. Is proceeding is formal, but somewhat less formal than a trial.

**Interests.** The cost of the money borrowed from a lender. Usually expressed in a percentage of the amount borrowed.

**Judgment.** The court order that represents the court's written decision in the lawsuit. A judgment should be signed and dated on the date that the case is decided.

**Market value.** The price or amount that your property can be sold for today.

**Mediation.** The act of attempting to resolve the dispute with the help of a neutral third party before a trial or hearing.

**Mortgage.** Homeowners refer to the money they borrowed to purchase their property as a mortgage. Lawyers use the word mortgage to mean the document that is recorded in the public record to reflect the fact that your home loan lender has a

lien on the property until the loan is paid in full. Without a valid mortgage filed against the property, a lender cannot foreclose.

**Mortgage Service.** The company who you are making mortgage payments to.

**Motion.** The formal name for an application to the court for some kind of legal relief. Motions are usually filed after an order has been entered in a lawsuit, although sometimes they can be filed at the beginning of a lawsuit in place of an answer to a complaint or with an answer to a complaint.

**Negotiate.** To communicate with another party for the purpose of reaching an understanding or informally resolving issues.

**Notice.** The word for the legal notification required by law or in agreements.

**Note.** A legal document that is a written promise by one party to repay a loan or other sum of money to another party at a specific rate of interest during a specific period of time.

**Order.** The courts written decision in a lawsuit, signed and dated on the date that the case is decided. See also judgment.

**Plaintiff.** The party who begins a lawsuit by filing a complaint.

**Qualified written request.** A written request for mortgage documents made to the company collecting mortgage payments from you.

**Real estate closing.** The formal act and the last step in the process of transferring ownership of real estate property from seller to buyer. The word closing is also used to describe the formal act of signing all documents for a loan. These two acts typically occur on the same day.

**Reinstatement.** To reinstate the mortgage and stop the foreclosure proceeding, the homeowner must pay the lender the total amount past-due, plus interest, attorney's fees, and any other costs incurred by the lender in connection with the foreclosure proceedings.

**Rescind.** To unmake or undo a contract between two parties.

**Rescission.** The active unmaking of a contract between parties (the undoing of a transaction).

**Redeem/Redemption.** The statutory right of the defaulting mortgager to recover property, within a specific period of time after foreclosure or tax sale, by paying the outstanding debt or charges. The purpose is to avoid selling property for less than its value.

**Refinance.** The process of paying off one loan with the proceeds from another loan, using the same property as security.

**Rider.** An amendment addition or change to a contract or policy.

**Security interest.** A property interest created by agreement or by law. Usually, this type of interest is created in order to make certain that the person responsible for repaying the debt actually repays the debt.

**Servicer (Loan or Mortgage Servicer).** See mortgage servicer above.

**Service of process.** The legal term for the act of delivering to or leaving with the person who is a party to a lawsuit, a summons or writ, or other official court paper, which gives that party notice of the fact that someone has filed a lawsuit against him or her.

**Sheriff.** In New Jersey, an officer of the court who employs his officers perform official duties, such as providing security to the courthouse, serving process (court papers) on litigants, and enforcing court judgments, such as writs of execution. Sometimes referred to, especially in other states, as a constable.

**Standing.** A party's legal right to bring a legal claim were to seek a court's enforcement of a right or duty.

**Stay.** Postponement or halting of a court proceeding.

**Summons.** The official notice to the defendant that someone has filed a lawsuit against him or her. It also tells the defendant where and how he or she must respond to the complaint and how long he or she has to respond.

**Term.** The number of months or years of repayment in a loan agreement (note).

**Third-party complaint.** A complaint filed by defendant against the third-party claiming that the third party is responsible for some or all of the damages the plaintiff to try and recover from the defendant.

**Trial.** A public proceeding in which witnesses may testify, evidence may be presented, and the parties to the lawsuit have a right to testify. In addition, a jury may be present at a trial. The trial is usually more formal than a hearing.

**Unconscionable commercial practices.** The term unconscionable means literally without conscience, or showing no regard for conscience, sense of decency, or justice. Commercial practices refer to the sale and distribution of goods and the financing of credit transactions on the goods sold. Also referred to as predatory lending practices.

**Utilities.** This term refers to services such as natural gas, electricity, water, and telecommunications and Cablevision.

**Writ of execution.** A court order directing a sheriff or other officer to enforce a judgment, usually by seizing the judgment debtor's property. In the case of a foreclosure action, the judgment debtor is the homeowner and the property is the home.