

# Michael Saunders & Company

Licensed Real Estate Broker

## Glossary for Distressed Property

### **Agency**

Federal or quasi-federal organization involved in mortgage lending (i.e., Freddie Mac or Ginnie Mae).

### **Bank Owned Property**

Real estate (land, residential, commercial) owned by a bank, lender or investor due to the mortgagor's inability to meet or satisfy the terms of the mortgage resulting in foreclosure.

### **Bank Portfolio Loan**

A loan with parameters set and retained after closing by the approving bank; or a loan in which the bank is the investor.

### **Bankrupt**

An individual, firm, or corporation who through a court proceeding is relieved from the payment of all debts. Bankruptcy may be declared under one of several chapters of the federal bankruptcy code: a) Chapter 7 covers liquidation of individual or business assets; b) Chapter 11 covers reorganization of bankrupt businesses; c) Chapter 12 covers certain farm bankruptcies; d) Chapter 13 covers workouts of debts by individuals.

### **Cash for Keys**

Lender or investor is willing to offer a fee to encourage the mortgagor to leave distressed property peacefully. This is a negotiated process and typically done when the mortgagor has exhausted all other options in an effort to retain their property.

### **Chronic Delinquents**

Mortgagors who are seriously or repeatedly late in making payments and the lateness is not caused by circumstances beyond their control.

### **Collection**

The servicing procedure followed to bring a delinquent mortgage current and to file the required notices to begin foreclosure when necessary.

### **Collection Report**

The form used by a mortgage servicer in reporting collection from borrowers, including payments in full, repayment of advances, tax and insurance funds for foreclosed mortgages, and any other items not remitted as regular installment payments.

### **Decree of Foreclosure and Sale**

In a judicial foreclosure, the court decree of judgment that establishes the amount of the mortgage debt and orders the property sold to satisfy the debt.

### **Deed-in-Lieu**

A deed given by a mortgagor to a mortgagee to satisfy a debt and avoid foreclosure.

### **Default**

A breach or nonperformance of the terms of a note or the covenants of a mortgage.

### **Deficiency Judgment**

A court order to pay the balance owed on a loan if the proceeds from the sale of the security are insufficient to pay off the loan.

***Distressed Property***

Term that denotes property in trouble due to one of several reasons (i.e., cost overrun, insufficient income, poor management or any other conditions which affect the mortgagor's ability to repay the loan on a timely basis).

***Equity of Redemption***

The common law right to redeem property following default on a mortgage by paying the unpaid debt plus interest and costs prior to the foreclosure sale. In some states, the mortgagor has a statutory right to redeem property after a foreclosure sale.

***Eviction***

The lawful expulsion of an occupant from real property.

***Fannie Mae***

Federal National Mortgage Association (FNMA). The nation's largest mortgage investor. It is a private corporation that purchases single-family and multifamily FHA, VA, and conventional mortgages. Typically the loans are swapped for securities of the agency. Created in 1968 by an amendment to Title III of the National Housing Act (12 USC 1716 et seq.), this stockholder-owned corporation, a portion of whose board of directors is appointed by the President of the United States.

***Federal Home Loan Mortgage Corporation (FHLMC; Freddie Mac)***

A quasi-governmental secondary market organization that offers various mortgage purchase and securitization programs. Its major program is the Freddie Mac Participation Certificate (PC). Created by Congress in Title III of the Emergency Home Finance Act of 1970 (12 USC 1451 et seq.). This stockholder-owned corporation, a portion of whose board of directors is appointed by the President of the United States, supports the secondary market in mortgages on residential property with mortgage purchase and securitization programs.

***Federal Housing Administration (FHA)***

A federal agency within the Department of Housing and Urban Development (HUD) that provides mortgage insurance for residential mortgages and sets standards for construction and underwriting. The FHA does not lend money, nor does it plan or construct housing.

***Forbearance***

The act of refraining from taking legal action despite the fact that the mortgage is in arrears. It is usually granted only when a mortgagor make satisfactory arrangements to pay the amount owed at a future date.

***Foreclosure***

A legal procedure in which a severely delinquent mortgaged property is sold to pay the outstanding debt in case of default.

***Foreclosure Sale***

A forced sale of mortgaged property at public auction conducted either by the court or in some other prescribed fashion, with the proceeds of the sale going to satisfy the debt. The lender is usually the successful bidder at the foreclosure sale.

***Investor***

Any person or institution that invests in mortgages or mortgage-backed securities. The holder of a mortgage or the permanent lender for whom the mortgage banker services the loan.

***Judgment Lien***

Lien upon the property of a debtor resulting from a decree of the court.

***Judicial Foreclosure***

Type of foreclosure proceeding used in some states that is handled as a civil lawsuit and conducted entirely under the auspices of the court.

**Lender**

A person or entity that invests in, or originates mortgage loans (e.g., a mortgage banker, credit union, commercial bank, or savings and loan); in single-family property usage, the lender is generally whose name the loan is closed in. (In a table funding transaction, the wholesaler mortgage company is usually considered to be the lender.); in commercial property usage, the lender is the life insurance company, bank or pension fund that provides the funds and in whose name the loan is closed.

**Lien**

A legal hold or claim of a creditor on the property of another as security for a debt. Liens are always against property, usually real property.

**LIS Pendens**

A notice recorded in the official records of a county to indicate there is a pending lawsuit affecting land within the jurisdiction.

**Lis/P**

Lis Pendens.

**Mark to Market**

The process whereby the book value or collateral value of the security is adjusted to reflect current market value.

**Mechanic's Lien**

A claim created by law to secure priority of payment for work performed and materials provided by a vendor during construction of improvements. Land may be attached as well as buildings, equipment, or other property.

**Mortgage**

A pledge of property, especially real property, as security for a debt. By extension, the document evidencing the pledge. In many states this document is a deed of trust. The document may contain the terms of repayment of the debt. By further extension, mortgage is used to describe both the mortgage proper and the separate promissory note evidencing the debt and providing the terms of the debt's repayment.

**Mortgage Backed Security (MBS)**

An investment instrument which represents an undivided, fractional interest in a pool of mortgages. Principal and interest are Passed-through to investors in the security, minus a fee for administering the mortgage pool.

**Mortgage in Possession**

A mortgagee who, due to default under the terms of a mortgage, has obtained possession but not ownership of the property.

**Negative Amortization**

The unpaid interest added to the mortgage principal in a loan where the principal balance increases rather than decreases because the mortgage payments do not cover the full amount of interest due. Negative amortization is characteristic of certain types of ARM loans where the interest rate increases but the loan payments do not adjust to keep pace.

**Notice of Default**

Notice recorded after a default under a deed of trust or mortgage; a notice sent to defaulting mortgagors, required by insurers or guarantors such as FHA, VA, or MIC.

**Portfolio Lender**

A lender who holds loans in their portfolio and does not sell to investors in the secondary market. The lender usually holds these loans until maturity or until loan payoff.

**REO**

Property acquired by a lender through foreclosure. Also known as Real Estate Owned.

***Sheriff's Deed***

A deed given by court order when a property is sold to satisfy a judgment or tax lien.

***Short Sale***

A workout program wherein the lender accepts less than the total payoff amount.

***Subordination***

The act of a party acknowledging by written record, that a debt is inferior to the interest of another in the same property. Subordination may apply not only to mortgages but also to leases, real estate rights, and any other type of debt instruments.

***Tax Lien***

A government claim against real property for unpaid taxes.

***Voluntary Conveyance***

An elective transfer of property title from a defaulting mortgagor to the lender, as an alternative to foreclosure.

For additional information or assistance regarding REO/Bank-Owned property, please contact:

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