



CITY OF NEW YORK  
OFFICE OF THE COMPTROLLER

# QUICK REFERENCE GUIDE

## Important Lending and Foreclosure-Related Concepts

This Quick Reference Guide provides a basic explanation of words, expressions and concepts that you may hear when speaking with your lender or mortgage counselor. The Guide is not intended to provide legal, financial or regulatory advice and should not be relied upon for such purposes. Please consult a lawyer or a not-for-profit counseling agency for specific guidance.

Terms that are shown in **bold text with underlining** provide particularly important information about the foreclosure process and possible arrangements for avoiding foreclosure.

**WILLIAM C. THOMPSON, JR.**  
COMPTROLLER

## **Important Definitions**

**Adjustable Rate Mortgage (ARM):** A loan with an interest rate that changes at regular intervals during the life of the loan. The interest rate is calculated by adding a pre-determined number of percentage points (“the margin”) to a specific market rate of interest (“the index”). For example, a loan agreement for an ARM might state that your interest rate will change (“reset”) every six months, and the new rate will be calculated by adding 3 percentage points to the London Inter-Bank Offered Rate (LIBOR).

**Amortization:** The process of reducing the principal balance of your loan by making regular monthly or bi-weekly payments. Each payment is applied to principal and to interest. Most loans are so-called “fully amortizing” loans, which means that your monthly payment is calculated to ensure that, at the end of the loan, you have fully repaid (“amortized”) the amount you borrowed, including applicable interest. If a loan is not set to fully amortize, you will still owe money (a “balloon payment”) at the end of the loan. Beware of “negative amortization” loans.

**Annual Percentage Rate (APR):** A way of expressing the true cost of a loan as a percentage rate, taking into account applicable fees and charges. Federal law requires the APR to be calculated in a specific way, which makes it easier to compare a variety of loan products that have different interest rates and fees. The annual percentage rate (as opposed to the stated or “nominal” interest rate) shows the true cost of a loan by considering lender’s fees such as discount points, origination fees, and other similar charges. You will find the APR of your loan on the Truth in Lending disclosure statement. Please note that an initial disclosure Truth in Lending disclosure statement is provided at or near the time that you apply for a loan. A final Truth in Lending disclosure statement will be provided at the loan closing. You should compare the initial and final disclosure statements to ensure that any changes are consistent with your understanding of the loan terms.

**Appraisal:** A formal estimate of the value of your home based on standards set forth in the Uniform Standards of the Professional Appraisal Practice (USPAP). An appraisal must be conducted by a licensed professional called an “appraiser.” The cost of an appraisal depends upon whether it contains a full report of value based on a visit inside the house and a market analysis of other recent sales of similar properties (“comparables”) in your neighborhood, or if it is a less detailed report based solely on an external review (“drive by”) of the house.

**Arm’s Length Transaction:** A legal concept indicating that the parties to a transaction (e.g., the buyer and the seller), do not have ties to each other that could affect the terms of the transaction. For example, the sale of a house from a parent to a child would not be an arm’s length transaction because the buyer and the seller are related to each other.

**Arrears:** The amount you owe your lender for missed or late payments and related collection costs. The amount by which you are “in arrears” is the amount you need to pay to bring the loan up-to-date (“current”).

**Automatic Stay:** A pause (“stay”) in the foreclosure process that is triggered automatically when a homeowner files for bankruptcy. An automatic stay requires a lender to stop all collection activity for a specified period of time. An automatic stay does not get rid of the debt that is owed. Filing for bankruptcy is the only way to get this protection.

**Balloon Payment:** A large, lump-sum payment that is due at the end of certain types of loans. The amount of a balloon payment is significantly larger than a regular monthly payment. A balloon payment occurs when your monthly payments are calculated: (1) using a smaller amount of money than you actually borrowed; or (2) using a longer repayment period than the actual length of your mortgage. Loans with balloon payments are often used by lenders to keep monthly payments low; however, these loans can be dangerous because paying only your monthly payment leaves you with a large amount still owing at the end of the loan.

**Bankruptcy:** A formal legal process through which a borrower seeks protection from lenders and creditors. The bankruptcy process and the protections available vary from state to state.

**Closing:** The meeting at which a borrower signs loan papers that require him or her to repay a loan. When you are purchasing a home, the closing is the event at which you sign your loan papers and take ownership of your new home. For refinance loans, the closing occurs when you sign new loan documents that allow you to repay the old loan. The closing of a loan is also known as the “settlement.”

**Collateral:** Property that is pledged to a lender to ensure repayment of a loan. For a mortgage loan, you pledge your house as collateral for the loan. In the event that you do not repay your loan as agreed, the lender can take the collateral (i.e., foreclose on your house) and then sell it to repay the loan and any related collection costs.

**Cosigner:** A person who agrees to be responsible for someone else’s debt. A cosigner is normally responsible for paying back a debt just as if he or she had received the money.

**Debt Collector:** In general terms, any person or company that attempts to collect an amount that you owe. Consumer protections contained in the federal Fair Debt Collection Practices Act (FDCPA) usually apply to: (1) people or companies attempting to collect a debt owed to a third party; and (2) lenders using a different company name when collecting its own debts. If a lender is collecting a debt using its own company name, the restrictions of the FDCPA probably do not apply. State law may offer additional protections or limitations regarding debt collection activities.

**Debt Consolidation:** Combining (“consolidating”) existing debts into a single new loan. In many cases, debt consolidation loans involve using a relatively low-cost second mortgage loan to repay unsecured loans that have relatively high interest rates (e.g., credit card debt). One of several major problems with debt consolidation loans is that they convert unsecured debt into secured debt. In other words, if you fail to repay a debt consolidation loan that involves a mortgage on your house, you can lose your home to foreclosure. In contrast, an unsecured lender would not be able to foreclose on your house to collect the amount you owe.

**Debtor:** A person who owes money to another person or to a company.

**Default:** Failing to meet the requirements of a loan or mortgage agreement. Most defaults occur when a borrower fails to make required payments; however, other common types of default include: failing to maintain homeowners’ insurance; neglecting to maintain the property in acceptable condition; failing to pay property taxes; and, failing to pay condominium or homeowners’ association fees.

**Default Rate:** The interest rate that a creditor will charge after the borrower has defaulted on the loan. If there is a default rate, it should be identified in the loan agreement. The default rate on a loan typically is significantly higher than the regular interest rate.

**Deficiency:** A deficiency arises when a foreclosure sale does not generate enough money to repay the full amount that was owed to the lender. In some states, a lender can sue to obtain a “deficiency judgment” that, if granted, requires the former homeowner to pay the amount of the deficiency.

**Equity:** The difference between the value of your home and the total amount of money that you owe on all of your mortgage debts. For example, if your house is worth \$100,000 and you owe \$70,000 on your first mortgage and \$10,000 on your second mortgage, your equity is \$20,000 (i.e., \$100,000 in value minus \$80,000 in debt).

**Escrow:** Most commonly, escrow is money that is added to your mortgage payment each month to cover the cost of property taxes, homeowners’ insurance and other similar costs related to owning your home. Not all loans or lenders require escrow payments. If your lender does not collect escrow payments, you must pay your property taxes, insurance and other payments on your own. Since taxes and insurance are often paid quarterly, semi-annually or annually, escrow payments help homeowners put aside a portion of these costs each month so that, when the payment comes due, the required money has already been saved up.

**Eviction:** The legal process through which a landlord or a lender forces a person to move from the place they are living. The legal process required to evict someone from their residence varies from state to state.

**Fixed-Rate Mortgage:** A mortgage loan that has a single interest rate for the entire length of the mortgage. Since the interest rate does not change, the rate is said to be “fixed.” Please note that a fixed rate loan may have a default rate that is triggered if/when the borrower fails to repay the loan as agreed. The default rate is essentially a penalty rate that is charged for as long as the default condition lasts.

**Forbearance Agreement:** A forbearance agreement allows for a brief interruption in your obligation to make your monthly mortgage payment. This arrangement is most commonly used when someone encounters a temporary loss of income due to illness, job loss or other unexpected circumstances. When the forbearance period ends, the homeowner is required to resume paying the mortgage, and payments that were skipped will need to be repaid according to the terms of the agreement. This is a short-term arrangement that does not reduce the total amount owed or the interest rate charged. As a result, this strategy is unlikely to help a person whose mortgage payment has become unaffordable.

**Foreclosure:** A legal process through which a lender takes ownership of your home because you failed to pay your mortgage loan as agreed. Lenders are required to follow certain procedures established by law. For example, your lender must notify you in writing that the legal process to obtain ownership of your home has begun. The lender also must give you a specific amount of time to respond to that notice. If you receive a foreclosure notice from your lender, respond immediately. You also should consider contacting a lawyer or a not-for-profit mortgage counseling agency to discuss ways of safeguarding your equity and/or saving your home from foreclosure.

**Home Equity Loan:** A loan that you obtain based on the value of your home and the equity that you have in it. People seek home equity loans for a variety of purposes, such as renovating the house or paying for their children’s education. A home equity loan usually is obtained in addition to the mortgage loan that was used to buy or refinance the house. As a result, home equity loans are often called “second mortgage” loans; however, other types of second mortgage loans also exist.

**Interest:** The cost you incur for borrowing money from a lender over a particular period of time during the life of your loan.

**Interest Rate:** The number used by lenders to calculate how much you need to pay them for using (“borrowing”) their money during a particular time frame. Interest rates are expressed as percentages. For adjustable rate loans, the interest rate changes from time to time during the life of the loan. These rate changes occur on a schedule that is described in your loan documents.

**Lien:** A third party’s formal claim to a piece of property. A mortgage is one form of lien. With respect to houses, other liens can arise if a homeowner fails to pay a bill related to the ownership of their home (e.g., tax liens, water liens, workman’s liens, etc.).

**Lien Release:** A document which removes a lien from the title to your property. Since liens against your home are filed in the public records at your local county courthouse, you should be sure to receive and file (“record”) a lien release whenever you repay any kind of debt that created a lien.

**Liquidation:** The process of converting the value of an asset into cash. In mortgage lending, liquidation refers to the sale of your home (by you or your lender) to repay your debt(s).

**Market Value:** The amount for which your home would be expected to sell in an arms-length transaction in the open market. The market value of a home can change dramatically over time, and its value can move either up or down. Among the factors that affect market value are: local and national economic conditions; the price of comparable or better properties in the area; the condition of the home; the overall availability of similar properties on the market; and buyers’ preferences.

**Modification Agreement:** A loan modification makes a permanent change to the agreement between a homeowner and a lender. A modification generally reduces a borrower’s monthly payment by reducing the interest rate on the loan, lengthening the repayment period, or reducing (“writing down”) the principal balance of the loan. In cases where a borrower has overdue payments, a loan modification may also allow the borrower to spread the missed payments over the remaining life of the loan. Before agreeing to a loan modification, the lender generally will want to verify that the new payment will be financially feasible for the borrower over the long term so that current problems are not simply pushed into the future.

**Mortgage:** The document that gives your lender the right to take your house if you default on your loan. The mortgage document will explain what actions -- or inactions -- on your part will cause your loan to be in default. When you obtain a loan that requires you to grant the lender a mortgage on your property, that loan is called a mortgage loan. A loan that is used to buy (“purchase”) a house is called a “purchase money” mortgage.

**Mortgage Broker:** A person who negotiates loan financing with homebuyers and homeowners on behalf of third-party lenders. In New York State, a mortgage broker is not allowed to make loans directly. Instead, brokers in New York State arrange for loans to be made by other companies (i.e., lenders). Under existing law, a broker is not obligated to act in the best interests of homebuyers or homeowners. As a result, people using the services of a mortgage broker should not assume that the broker is acting in their best interests.

**Mortgagee:** The company that obtains a mortgage from a homeowner. In most cases, the mortgagee will be the company that lends you the money to buy or refinance your house.

**Mortgage Insurance:** Insurance provided by non-government insurers that protects lenders against loss if a borrower defaults. This insurance is usually required when a borrower makes less than a 20% down payment. When a homeowner's equity in their property equals or exceeds 20%, they can ask for the insurance to be cancelled.

**Mortgage Servicer:** A bank, mortgage company or other similar business that receives a borrower's payments on behalf of the lender. Mortgage servicers also may be responsible for negotiating with borrowers who have defaulted on their mortgages. Additionally, a mortgage servicer may supervise the foreclosure process on behalf of the lender.

**Mortgagor:** The owner of the property that is being mortgaged. When you obtain a mortgage loan, you are the mortgagor and your lender is the mortgagee.

**Negative Amortization:** Some loans allow you to make monthly payments that are less than the amount needed to repay interest that has built up during the previous month. Since the monthly payment does not repay any principal and only covers a portion of the interest that is due, your loan balance increases each month rather than decreasing. This is called negative amortization. Even though you are making your required monthly balance, the amount you have borrowed increases due to the unpaid interest. The lowest payment quoted for "payment option" adjustable rate mortgages (option ARMs) usually lead to negative amortization.

**Partial or Advance Claim:** If your mortgage is insured by a federal agency such as the Veterans Administration ("VA") or the Federal Housing Administration ("FHA"), that agency may be willing to provide a one-time, interest-free loan to help you get your mortgage payments back on track. For example, you may qualify for a partial claim on an FHA-insured mortgage if:

- Your loan is insured by the FHA;
- Your loan is between 4 and 12 months delinquent; and
- You are able to begin making full mortgage payments again.

When a lender files a partial claim, the insuring agency pays your lender the amount necessary to bring your mortgage current. You must sign a promissory note agreeing to repay the funds provided by the agency and a lien will be placed on your property until the promissory note is paid in full. The promissory note is interest-free and is due when you pay off the first mortgage or sell the property.

For FHA-insured loans, your lender must follow FHA servicing requirements. If you have an FHA-insured loan and your lender is not responsive to your requests for assistance, contact FHA's National Servicing Center at toll free (888) 297-8685 or via email [hsg-lossmit@hud.gov](mailto:hsg-lossmit@hud.gov). Please note that neither the FHA nor its parent organization, the U.S. Department of Housing and Urban Development ("HUD"), oversees VA or conventional loans.

**PITI:** An acronym for **P**rincipal + **I**nterest+ **T**axes + **I**nsurance. This expression is often pronounced as individual letters (P-I-T-I), but also can be spoken to sound like the word "pity."

**Prepayment:** Repaying some, or all, of a loan's principal balance before it is due.

**Prepayment Penalty:** For some loans, a fee charged by a lender if you make a prepayment. Prepayment penalties are included in mortgage agreements to discourage borrowers from paying off their loans sooner than expected. Originally, this fee was intended to compensate lenders when a loan was repaid before they had a chance to make enough money to cover the upfront costs of making the loan. In recent years, prepayment penalties were widely abused by predatory lenders to prevent borrowers from refinancing their high-cost loans. For lenders that are regulated by the New York State Banking Department, there are strict limitations on prepayment penalties, especially with respect to high-cost loans.

**Pre-Foreclosure Sale:** Sale of a house in anticipation of foreclosure or repossession, usually with the lender's consent. A pre-foreclosure sale is conducted to minimize the cost of liquidating the home to repay the loan. A pre-foreclosure sale is particularly useful when the homeowner has significant equity in their home and wants to reduce the amount of their equity that will be consumed by the lender's collection and foreclosure costs.

**Prime Loan:** A loan that offers particularly favorable terms, including minimal fees to obtain the loan, a relatively low interest rate and a reasonable repayment schedule. Prime loans generally are offered only to borrowers with high credit scores who can prove that they have a stable income, steady employment, a reasonable level of personal savings and a manageable level of total debt.

**Principal:** The amount of money you are borrowing from your lender, excluding interest.

**Purchase Money Mortgage:** A mortgage loan that provides the money needed to buy a home (i.e., the purchase money).

**Reamortization:** The process of recalculating a borrower's monthly mortgage payment after the lender has agreed to: lengthen the repayment period, reduce the principal balance or lower the interest rate, usually in response to some form of hardship encountered by the borrower. For example, if there are 10 years remaining on your 30-year mortgage and you have been a good customer for the past 20 years, the lender might be willing to give you 15 years to repay your loan if you experience a sudden financial hardship due to illness within your immediate family. When your lender reamortizes the remaining balance on your loan, and grants you 15 years instead of 10 years to repay your loan, your monthly mortgage payment will be reduced. With a reduced mortgage payment, you will be able to spend more money to cover essential healthcare expenses.

**Redemption:** Saving ("redeeming") your house from foreclosure by repaying your lender the entire amount you, including principal, interest, late fees and any costs associated with the foreclosure action.

**Refinancing:** Refinancing entails acquiring a new mortgage to completely repay your existing mortgage. If you are able to refinance at a reasonable interest rate without incurring excessive costs to obtain the new loan, a refinancing can help reduce your payment. The payment reduction usually results from obtaining a lower interest rate (preferably at a fixed rate) and/or by lengthening the amount of time over which the loan is repaid. If a borrower's credit rating has been badly damaged by missing payments, bankruptcy, or other financial problems, it is less likely that refinancing into a better loan will be possible. Please be aware that predatory lenders often target delinquent borrowers and offer them high-cost, subprime refinance opportunities or debt consolidation loans. Frequently, the cost of these loans and the terms of repayment are hidden from or not adequately described to the borrower, and threaten to make a bad situation worse, possibly leading to foreclosure.

**Reinstatement:** The process of correcting (or “curing”) a default in your mortgage and returning to a condition where your lender will treat you as if you had never fallen behind. For example, if you missed a few payments and triggered the default clause in your mortgage, but you are able to straighten out your finances to your lender’s satisfaction, your lender may reinstate your mortgage and begin treating you as if the default had not occurred. If you bring your loan up to date but your lender determines that your financial problems are likely to happen again, your request for reinstatement might be denied.

**Repayment Plan:** Another short-term form of assistance is a repayment plan. Repayment plans are used when a person has missed a few payments; can afford to make regular payments going forward; and, expects to be able to “catch up” on the missed payments in the near future. In short, a repayment plan allows borrowers to return their account to good standing by adding a portion of the missed payments to their regular monthly mortgage payments over a specific period of time. Generally, repayment plans do not extend beyond twelve months. Since monthly payments during the term of the plan are higher than a regular monthly payment, this strategy is not suitable for people experiencing an ongoing interruption to their income.

**Reverse Mortgage:** A unique loan product that allows older homeowners to use the equity in their homes to receive monthly payments from a reverse mortgage lender. Because the borrower receives payments from the lender, instead of the other way around, this type of loan is called a “reverse mortgage.” This type of loan is repaid by selling the house when the homeowner moves out or dies. The risks associated with this type of loan are different from a regular mortgage and should be discussed with an experienced and qualified reverse mortgage lender.

**Satisfaction:** A legal document issued by your lender to show that your loan has been repaid and the associated mortgage lien on your home has been released. A satisfaction statement is one type of discharge and lien release.

**Securitization:** A process through which mortgage loans with similar characteristics are grouped together, packaged into an investment product and sold to investors. Mortgages that have been packaged into an investment are monitored by the company that created the investment opportunity or, in some cases, by a separate company that has been designated to receive monthly mortgage payments on behalf of investors.

**Short Sale:** A type of pre-foreclosure sale in which the lender agrees to let you sell your home (usually with assistance from a real estate professional) at a price that generates less money than is needed to fully repay the amount you owe. Even though the money generated by the sale is less than (“short of”) what you owe, the lender agrees to accept the sale proceeds as full satisfaction of the debt.

When a lender agrees to permit a short sale, financial assistance may be available to help you repay other liens against your home and/or move to a new dwelling. Homeowners may qualify for this type of assistance if:

- Their loan is at least 2 months delinquent;
- Their house is expected to sell within 3 to 5 months; and
- A new appraisal (obtained by the lender) shows that your home’s value falls within HUD guidelines.

As a condition of a short sale, lenders generally agree not to seek a “deficiency judgment” for any loss they may experience. Homeowners entering a short sale arrangement should be aware that the difference between amount owed to the lender and the net proceeds of the home sale generally will be reported to the Internal Revenue Service (IRS) as taxable income for the homeowner. That is to say, the amount of debt that the lender agrees to forgive normally is treated by the IRS as taxable income for the homeowner. However, Congress recently passed a temporary federal law (Public Law 110-142) that allows distressed homeowners to avoid income taxes on mortgage debt forgiven by their lender. For a summary of this legislation, please refer to the internet address listed below:

<http://www.aaabor.com/downloads/Education/LegalUpdate/MortgageCancellationSummary.pdf>

To determine whether you qualify for the exemption provided by Public Law 110-142, please consult a lawyer and/or an income tax professional.

**Subprime Loan:** A loan that is more expensive than comparable prime loans. Subprime lending is generally defined as less than ‘A’ (i.e. prime) lending. This type of lending is designed to help borrowers with no credit history or past credit problems obtain a loan. The increased expense of the loan is supposed to compensate lenders for the additional risk they accept when making loans to borrowers with weak, troubled or non-existent credit histories. When subprime loans contain requirements that trap borrowers into high payments, repeated refinancings and/or deceptive repayment terms, the loan becomes a “predatory” loan. Not all subprime loans are predatory loans; however, there is a greater risk of receiving a predatory loan if you are obtaining financing in the subprime market.

**Title:** A legal document showing that you own a particular piece of property. A “clear” or “free and clear” title means that no other person, company or agency has a claim to that property. A “clouded” title means that someone else has a claim to property that you would prefer to own “free and clear.”

**Title Search:** A formal review of the ownership history of a piece of property to determine who has a claim to the property or a lien against the property.

**Underwriting:** The process during which a lender reviews an applicant’s financial information to determine whether the person qualifies for the loan they have requested.

**Unsecured Debt:** A debt that is not backed by collateral.

**Variable-Rate Mortgage:** A mortgage loan that does not have a fixed rate of interest. A variable-rate mortgage is often called an adjustable rate mortgage (“ARM”).

**Workout:** A process through which you and your lender discuss ways of correcting a default on your loan. If you need time to correct the default, you and your lender may be able to reach a formal agreement about how you will bring your loan back into good standing. Common workout arrangements include: payment plans, forbearance agreements and loan modifications.