

LEGAL FRAMEWORK & TERMS

Transferring Ownership Of Real Property

Grantee

The party to whom the title to real property is conveyed under a deed (i.e., the buyer)

Grantor

The party who gives the deed. (i.e., the seller)

Deed

A written document, properly signed and delivered, that conveys title to real property from the seller to the buyer at the closing.

General Warranty Deed

A deed in which the Grantor agrees to protect the Grantee against any other claim to title of the property.

Special Warranty Deed

A deed in which the Grantor limits the title warranty given to the Grantee. The Grantor does not warrant against title defects arising from conditions that existed before the Grantor owned the property.

Borrowing Money to Buy a House

Texas is a "Deed of Trust" state. Some are "Mortgage States".

In Both Types of States

Borrower signs a note acknowledging the debt and promising to pay under specified terms.

In Deed of Trust States

Borrower also signs a deed of trust that vests title to a trustee to secure the payment of the loan. If borrower defaults, the trustee forecloses on the property for the lender.

In Mortgage States

Borrower signs a mortgage that pledges the house to the lender as security for the note.

Somewhat Confusing

The terms "loan" and "mortgage" are commonly used interchangeably.

Mortgagor/Mortgagee

A "mortgagor" is one who pledges property as security for a loan. A "mortgagee" holds a lien on the property as security for the debt.

Foreclosing on Properties in Texas

Foreclosure auctions are held by Trustees on the 1st Tuesday of every month in each county (Texas law).

Texas is called a statutory or non-judicial foreclosure state (In judicial foreclosure states, the foreclosure process is put under court supervision).

Foreclosure Notice Requirements

41 days prior to Trustee's sale, a homeowner is given 20 days to cure the default before the entire debt is accelerated (This notice of the 20 day cure period is not required if the property is not owner occupied).

21 days prior to Trustee's sale, owner is sent a Trustee's notice that the entire debt is now due and payable and the property will be foreclosed at the next auction date. This notice also is filed with the county clerk and posted at the county courthouse.

Once the 21 day notice is posted, a lender is not obligated to accept payment of anything less than the entire amount owed. But since lenders don't want properties, they usually will accept payment of the arrearages to bring the note current (or a partial payment to stop the foreclosure at the next auction).