# Basic Definitions

**Acceleration:**
Clause used in an installment note and mortgage (or deed of trust), which gives the lender the right to demand payment in full upon the happening of a certain event, such as failure to pay an installment by a certain date, change of ownership without the lender's consent, destruction of the property (see Waste), or other event which endangers the security of the loan.

**Agent:**
A person who, by mutual consent, is authorized to act for the benefit of and under the direction of another person when dealing with third parties. The person who appoints the agent is the principal. The agent is in a fiduciary relationship with the principal, can enter into binding agreements on behalf of the principal, and could potentially create liability for her or him. See apparent authority; ostensible agent.

**Agreement:**
An understanding between two or more parties about a particular issue, covering their obligations, duties and rights. The term can also mean contract (i.e., a legally binding agreement), but it has a broader application and extends to understandings that are not legally binding.

**Appraisal:**
An estimate of the fair market value of something (e.g., real estate, valuables, shares). A professional appraiser (a neutral expert) makes an estimate by studying the property and comparing the initial purchase price with recent sales of similar property. Appraisals are often ordered by courts in probate, bankruptcy and other proceedings in which market values need to be established. Banks and mortgage companies use appraisals before making loans, and insurance companies use damage appraisals before settling claims.

**Arrears:**
Money owed and due, but not yet paid; often the total of a series of unpaid amounts. Being overdue in an installment payment

**Bankruptcy:**
Proceedings under federal law whereby a debtor can discharge (i.e., wipe out) his or her debts or have protection from creditors while trying to repay them. Liquidation bankruptcy (Chapter 7) involves discharging debts by the surrender of assets. Reorganization bankruptcy (Chapter 13) involves providing the court with a plan for repaying the debts. Reorganization bankruptcy for businesses and for consumers with very large debts is called Chapter 11.

**Bankruptcy Court:**
The specialized federal court that deals with bankruptcy matters as detailed in the Federal Bankruptcy Act. Each state also has a number of such courts, usually covering several counties.

**Bankruptcy Trustee:**
A court-appointed individual who oversees the case of a person or business that has filed for bankruptcy. In a consumer Chapter 7 case, the trustee gathers the debtor's nonexempt property, liquidates it, and distributes it proportionally to the creditors. In a Chapter 13 case, the trustee receives the debtor's monthly payments and distributes them proportionally to the creditors

**Chapter 7 Bankruptcy:**
Liquidation or straight bankruptcy, the most familiar sort, in which many or all debts are discharged (i.e., wiped out) completely in exchange for an individual's or business' nonexempt property. Proceeds are distributed to creditors. Chapter 7 refers to the relevant section of the federal Bankruptcy Code.

**Chapter 11 Bankruptcy:**
Reorganization bankruptcy mainly for businesses, either voluntary or involuntary, in which the debtor remains in possession and control of the business. The creditors and the debtor agree on a plan that permits the business to continue after creditors accept a portion of their claims as payment in full. Owners also accept less for their share of the business. Chapter 11 refers to the relevant section of the federal Bankruptcy Code.

**Chapter 13 Bankruptcy:**
Reorganization bankruptcy for individual consumers that may allow the full repayment of debts. Individuals keep their property and use their income to pay their debts (partly or fully) over three to five years, according to a plan presented to the court. The minimum amount to be paid is approximately equal to the value of the individual's nonexempt property. In addition, the individual's disposable net income (minus reasonable expenses) must be used to pay debts during the period. At the end of three to five years, the outstanding balance of the debt owed is erased. Chapter 13 refers to the relevant section of the federal Bankruptcy Code.

**Clear Title:**
Title that is not encumbered or burdened with defects.

**Compound Interest:**
Payment of interest on both the principal and the previously accumulated interest, which increases the amount paid for money use above simple interest. If interest is compounded daily, the balance on an annual rate of 7 percent will rise by 1/365th of 7 percent each day; if compounded monthly, the balance will rise by 1/12th of 7 percent on the first day of each month.

**Credit:**
Goods, services or monies advanced by another with the promise from the borrower to repay the lender in a specific manner.

**Credit Bureau:**
A profit-making company that gathers information on the credit-worthiness of individuals and companies, and distributes this information to those who provide credit facilities. Typical clients include banks, mortgage lenders and credit card companies that use the information to screen applicants. The major credit bureaus are regulated by the federal Fair Credit Reporting Act.

**Creditor:**
A person or entity (e.g., a bank) to whom a debt is owed.

**Credit Score:**
A numerical reputation determined by the three main credit bureaus for borrowing and repaying monies, goods, or services by a person. Typically, the higher the credit score, the more trustworthy the lender sees the borrower as being. With this trust, lower interest rates (less additional monies that have to be paid) are typical

**Credit Cards**:
Typically an *unsecured* loan backed by a bank, credit union, or store. May be a useful tool if original amount borrowed is paid back on time and in full. If not paid in full, fees called interest are added to the remaining balance owed on the account.

**Debt:**
A sum of money, or value of goods or services, owed by one person or entity to another. Debt arises because a seller allows a buyer credit. The term debt is also used to describe the whole of a company's borrowings.

**Debtor:**
A person or business that owes an amount of money or service to another. In bankruptcy, the debtor is the party whose affairs are the subject of the proceedings.

**Debt Management**:
Typical debt management is the repayment of debt through a third party, usually for a fee. Typically, this is done by an accountant, lawyer or agency.

**Debt Settlement:**
This is what you hear on the radio every day. We offer the service, but only as a last resort. Debt settlement is the paying of your debts at a reduced rate. It also will continue to damage your credit through the process and beyond.

**Deed in Lieu of Foreclosure:**
Used by owners to voluntarily convey the title of their property to the beneficiary (lender) to avoid the negative credit consequences of a foreclosure. Lenders are generally

reluctant to accept a “deed in lieu” unless the title is free and clear of any other encumbrances junior to theirs and the owners execute an estoppels affidavit acknowledging that they acting voluntarily, with informed consent.

**Deed of Trust (Trust Deed):**
A three party security instrument conveying the legal title to real property as security for the repayment of a loan. The owner is called the “Trustor”. The neutral third party to whom the bare legal title is conveyed (and who is called on to liquidate the property if need be) is the “Trustee”. The lender is the “Beneficiary”. When the loan is paid off the trustee is directed by the beneficiary to issue a deed of re-conveyance to the Trustor, which extinguishes the trust deed lien.

**Deficiency:**
The amount for which the borrower is personally liable if the foreclosure sale does not bring enough to cover the debt.

**Dischargeable Debts:**
**D**ebts that can be erased through bankruptcy. This includes most debts incurred before an individual or business declares bankruptcy. Compare non-dischargeable debts.

**Due on Sale Clause:**
Provision in a DOT/Mortgage calling for the total pay-off of the loan balance in the event of a sale or transfer of the secured real estate.

**“First” Trust Deed/Mortgage:**
A DOT/Mortgage having priority over all other voluntary liens against the property.

**Forbearance:**
Voluntarily refraining from doing something, especially choosing not to assert a legal right. For example, a creditor may postpone or reduce a borrower’s payments, or one party to a contract may forbear demanding performance of the other party.

**Forbearance Agreement:**
The waiting for payment of a debt by a creditor after the debt becomes due.

**Foreclosure:**
The forced sale of property pledged as security for a debt that went into default.

**Grace period:**
A time stated in a contract during which a late payment or performance may be made without penalty. If, after the grace period ends, there has still been no payment or performance, the contract is suspended

**Gross income:**
In calculating income tax, the income of an individual or business from all sources before the deduction of allowable expenses or mandatory deductions, which then results in net income.

**Guarantor:**
One who makes a legally binding secondary promise to pay the debts of another or to perform another person's duty if that person fails to perform it.

**Guaranty:**
As a verb, to promise to pay another person's debt or fulfill her or his obligation should she or he fail to do so. As a noun, the written document stating these promises. For example, the co-signer of a loan has made a guaranty and will be legally responsible for the debt if the borrower fails to repay the money as promised. Also known as a guarantee or warranty

**Income:**
Money, goods or services received by an individual or business. Income may be a return on work or investment (e.g., salary, rent, interest, and profit) or a payment made for some other reason (e.g., unemployment benefit). For tax purposes, income does not include gifts and inheritance.

**Independent Contractor:**
A person who is hired (i.e., contracted) to work for another to do a specific job, and who retains control over how the job is done. Such a contractor does not qualify as a statutory employee under the day-to-day control of the employer (i.e., the person who did the hiring) and is not protected by most employment laws.

**Insolvency:**
The state of having more liabilities than the total assets that might be available to pay them, and therefore the inability to pay debts when called upon to do so. If insolvency is chronic, bankruptcy normally follows.

**Installment Contract:**
An agreement in which payments of money, delivery of goods, or performance of services are to be made in a series, usually on fixed dates or based on certain actions. A failure to pay (or perform) an installment when due is a breach of contract and may relieve the other party from performing further. In many such contracts, the failure to make a payment gives the seller the right to repossess any article that has been sold.

**Interest:**
In finance, a commission paid by borrowers to creditors for the use of money belonging to the latter. The money being loaned (as opposed to the interest charged) is known as the principal. The interest to be charged is usually stated in writing at the time the money is loaned. An interest rate is the annual percentage that is added to the borrower's balance. See compound interest.

**Judicial Foreclosure:**
A foreclosure that's processed via a court action

**Judicial sale:**
The sale of goods by an official (e.g., keeper, trustee, or sheriff) appointed by a court, to satisfy a judgment or other court order. Such sales require public notice of time and place, and a description of the goods to be sold.

**Judgment creditor:**
A winning plaintiff in a lawsuit to whom a court decides the defendant owes money. It remains up to the creditor to collect the judgment. If the defendant debtor files for bankruptcy, the judgment creditor has priority—a share of the assets ahead of general unsecured creditors who do not have judgments.

**Judgment debtor:**
The losing defendant in a lawsuit who owes the amount of the judgment to the winner, the judgment creditor.

**Lien:**
A legal claim by a creditor against property that arises from some obligation of the property owner, usually a debt. Security interests are liens that an individual agrees to (e.g., mortgages, home and car loans, and personal loans for which property is pledged to guarantee repayment). Nonconsensual liens are made without a person's consent and include judgment liens (from a creditor who has sued and obtained a judgment), tax liens, and mechanic's liens (from an unpaid contractor, subcontractor or other worker).

**Lis Pendens:**
A legal notice required to show pending litigation relating to real property. Counting, when expenses are greater than profits, loss is the difference between the amount of money spent and the income.

**Market Value:**
The price a business, property or other commodity would bring if offered for sale in a fair market (i.e., not at auction or in a forced sale) without either buyer or seller being under compulsion. Also known as fair market value.

**Mortgage:**
A security instrument that is recorded against the property that enables the lender (Mortgagee) to sell the property if the borrower (Mortgagor) is in default on the obligations of the Note.

**Negotiated Settlement:**
A negotiated settlement is where a lender will agree to alter the original terms of the repayment agreement. The lender can reduce the debt, extends the repayment terms, reduce the interest rate or any combination thereof. While this may result in a lower payment from you, a negotiated settlement will may lower your credit score dramatically.

**Net:** The amount of money or other value that remains after all charges, costs, losses, taxes, depreciations, expenses and deductions have been paid and/or subtracted. Commonly used terms are net assets, net profit, net income, net loss, net worth and net estate.

**Non-Judicial Foreclosure:**
Sale by a trustee under a deed of trust, or mortgager under a power of sale of a mortgage. There is no court (judicial) proceeding.

**Non-dischargeable Debts:**
Debts that are not erased by filing for bankruptcy. In Chapter 7 bankruptcy, such debts remain when the case is over; in Chapter 13 bankruptcy, such debts have to be paid in full as part of the payment plan or remain as a balance at the end of the case. Non-dischargeable debts include alimony and child support, most income tax debts, many student loans, and debts for personal injury. Compare dischargeable debts.

**Nonprofit Corporation:**
An organization that is incorporated under state laws and approved by both the state's Secretary of State and its taxing authority as operating for educational, charitable, social, religious, civic or humanitarian purposes—either to benefit members of an organization (e.g., a club or mutual benefit society) or for some public purpose (e.g., a hospital, environmental organization, or literary society). A nonprofit corporation has a board of directors and officers (who are normally shielded from personal liability for the organization's debts). A nonprofit corporation can make a profit, but it cannot be designed primarily for profit-making purposes, and the profits must be used for the benefit of the organization or the purpose it was set up to help. Upon dissolution of a nonprofit corporation, any remaining assets must be distributed to another nonprofit corporation, not to the directors. For contributions to the corporation to be deductible as charitable gifts on federal income tax forms, the corporation must submit a detailed application (with a substantial fee) and obtain an Internal Revenue Service ruling that it is established for one of the specific nonprofit purposes spelled out in the Internal Revenue Code.

**Note:**
The promise to pay (the actual loan itself).

**Notice of Default:**
A notice filed to show that the borrower under a mortgage or deed of trust is in default (behind on payments).

**Offer:**
A specific proposal to enter into an agreement with another person. An offer must include some essential items—especially the price and subject matter of the agreement—and must be communicated by the person making the offer. An offer is essential to the formation of an enforceable contract and, when accepted, creates the contract. The person

or entity who makes the offer is the “offeror;” the person or entity to whom the offer is made is the “offeree.”

**Option:** A right to purchase property or require another to perform upon agreed-upon terms. An option is paid for as part of a contract but must be “exercised” (acted upon) in order for the property to be purchased or the performance of the other party to be required. The “exercise” of an option normally requires notice and payment of a contract price. For example, a potential buyer of a building plot offered for sale at $300,000 might pay $4,000 for the option to buy, which gives her or him time to decide whether she or he wishes to proceed (effectively taking the property off the market during that period). If the time to exercise the option expires, then the option terminates. The amount paid for the option itself is not refundable, because it was the option that was being bought, whether it was exercised or not. An option can also be the right to renew something, such as a lease, the employment contract of an athlete, or some other existing business relationship.

**Per Diem:**
(Latin: by the day) An allowance or charge made on a daily basis. Also a phrase used for the payment of the daily expenses and/or fees of an employee or agent.

**Personal Property:**
All property that is not real estate (i.e., all property other than land and the fixtures that are permanently attached to it). Cars, bank accounts, shares, wages, a small business, furniture, insurance policies, jewelry and patents are examples of personal property. Also known as personal effects, movable property, goods and chattels, and personality.

**Priority:**
In bankruptcy law, the rights to collect before other creditors do so. Priority is given to taxing authorities, judgment holders, secured creditors, bankruptcy trustees, and attorneys. Priority is also given to mortgages, deeds of trusts, or liens, in the order they were recorded at the office of the County Recorder or Recorder of Deeds.

**Quit Claim Deed:**
A deed operating as a release; intended to pass any title, interest or claim which the grantor may have in a property, but not containing any warranty of a valid interest or title in the grantor.

**Real Estate:**
Land and the structures or fixtures that are permanently attached to it, including buildings, houses, stationary mobile homes, fences and trees. Also known as real property or realty

**Redemption:**
The process of canceling a defeasible (can be defeated: conditions apply) title to land, such as is created by a mortgage foreclosure or tax sale.

**Redemption Right:**
A time period during which a mortgage, land contract, deed of trust, etc., can be redeemed. Usually set by statute, and after judicial foreclosure.

**Repossession:**
A seller of goods (as creditor) taking them back because the buyer has breached the contract, usually by failing to make one or more payments on time, and has not attempted to work with the creditor to resolve the problem.

**Rescission:**
The annulment (by rescinding) of a contract either by agreement or by judicial order, which returns the parties to the relationship they had before the contract was made.

**Sale:**
The act of transferring goods or services from a buyer to a seller in exchange for money or something else of value. The price paid may be an announced or listed cost, or it may result from negotiation between seller and buyer or bidding at auction.

**Secured Debt:**
A debt on which a creditor has a lien. In the event of a default, the creditor can bring an action allowing foreclosure or repossession to take the property identified by the lien (i.e., the collateral or security).

**Self Directed Debt Management**:
This program is exclusive to us. Our goal is to teach you how to manage your debt and show you how to make your payments in a way that is easy to do. This way you stay in control of your debt and payments instead of an accountant, lawyer, or agency.

**Short Sale:**
A sale of property which includes some forgiveness of debt by the lender under a mortgage or trust deed. The amount of debt forgiven may be considered income to the seller and taxable.

**Tangible Property:**
Personal property that can be felt or touched, such as furniture, cars, jewelry, and works of art. Cash and bank accounts are not tangible property.

**Unsecured Debt:**
Money borrowed on the general credit of the borrower with no pledge of specific assets that may be forfeited to the creditor if repayment is not made as promised. The only remedy available to a creditor is to sue and get a judgment.

**Warranty Deed:**
A deed used in most states to convey fee title to real property. Until the widespread use of title insurance, the warranties by the grantor were very important to the grantee.