**Chapter 33 Mortgages**

1. People who buy real property usually do not have enough money to pay for the property outright. They must borrow it. Lenders wish to have some security for their loan. A mortgage provides such security.

2. In addition to signing a mortgage deed when the loan is made, the mortgagor also signs a promissory note.

3. In ancient times, a mortgage was a "dead pledge."

4. The mortgagor is the borrower who pledges the property. The mortgagee is the lender to whom the property is pledged.

5. Under the common law theory, the mortgagee holds legal title to the property. Under the lien theory, the mortgagor retains the title.

6. The mortgagor has the right to possession of the premises under the common law mortgage theory.

7. Four types of mortgages are: (a) fixed-rate mortgage, (b) variable- or flexible-rate mortgage, (c) graduated-payment mortgage, and (d) balloon mortgage.

8. Equity of redemption is the right to redeem the property any time before the completion of a foreclosure proceeding by paying the amount of the debt, interest, and costs. The right of redemption is a statutory right to redeem the property even after a foreclosure sale.

9. Three methods of foreclosure are: (a) judicial sale, (b) sale under the terms of a power of sale clause in a mortgage instrument, and (c) entry and possession.

10. If a new buyer takes property subject to a mortgage and a default of the mortgage payments by the mortgagor occurs, the mortgagee can foreclose against the new buyer.

11. If a first mortgagee forecloses, the second mortgagee's recourse is to pay the mortgagor's debt and then foreclose also.

12. A deed of trust conveys title to a third party, called a trustee, who holds it as security for the debt. When the debt is paid, title is returned to the borrower. If the borrower defaults, the trustee sells the property to pay the amount of the debt to the lender.

# Understanding Legal Concepts

1. F, borrower 6. F, after

2. T 7. F, judicial sale

3. T 8. T

4. F, common law or title 9. T

5. F, mortgagor 10. T

# Checking Terminology

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2. x 8. u, y 14. z 20. cc 26. c, hh

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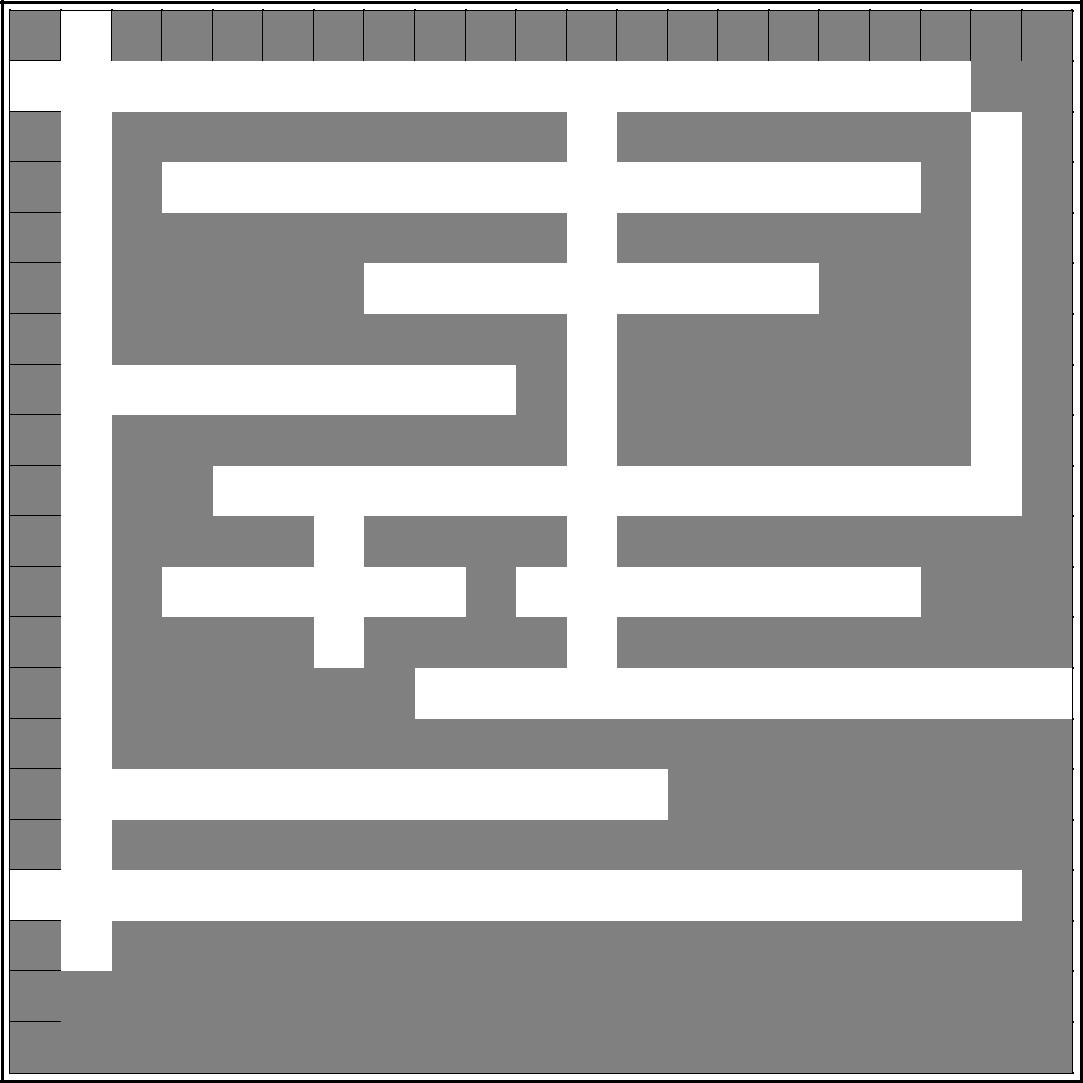
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# Using Legal Language

When Steve and Linda bought their house, they gave a(n) **mortgage**—that is, a conveyance of real property for the purpose of securing a debt—to the bank as **security** for the loan. They were called the **mortgagors**; the bank was the **mortgagee**. The instrument contained a(n) **defeasance clause** providing that the mortgage deed would be void on payment of the obligation. It also contained a(n) **power of sale clause**, which allows the mortgagee to hold a foreclosure sale without involving the court when a default in payment of the mortgage occurs. Steve and Linda hold the **equity of redemption**, which is the right to **redeem** (buy back) the property any time before the completion of a foreclosure proceeding. The state where they live does not recognize the **right of redemption**, which is the right to redeem the property even after a foreclosure sale. Similarly, their state does not use the **deed of trust** in place of a mortgage, which involves conveying title to a third party to hold as security for the debt. Steve and Linda gave a(n) **junior mortgage**, also known as a(n) **second mortgage**, which is a mortgage subject to a prior mortgage to Elliott who sold them their house. Soon thereafter, Elliott made a(n) **assignment**—that is, a transfer of the mortgage interest—to an out-of-town lending institution. The instrument represented a(n) **lien**, which is a claim or charge on the property for the payment of a debt. Possibly, when Steve and Linda sell their house, a(n) **mortgage takeover** or a(n) **mortgage assumption** will occur, wherein the new owner agrees to pay their existing mortgage. They were very careful not to **default**—that is, fail to perform their legal duty—on either of their obligations because they did not want anyone to **foreclose** (shut out, bar, or terminate) their equity of redemption.

**Puzzling Over What You Learned**



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*Caveat:* Allow squares for spaces between words and punctuation (apostrophes, hyphens, etc.) whenfilling in crossword.

**Across**

1. A mortgage with an interest rate that does not change.
2. A written promise by a borrower to pay a sum of money to a lender.
3. One who lends money and takes back a mortgage as security for the loan.
4. To shut out, bar, or terminate.
5. Mortgage with low fixed payments during its life, ending with one large payment.
6. Buy back.
7. Assurance, usually in pledge form, given to make sure a debt is paid.
8. Instrument by which legal title to real property is placed in trust as security.
9. Legal theory that a mortgage is a conveyance of title.
10. Clause in a mortgage allowing the mortgagee to hold a foreclosure sale.

**Down**

1. Statutory right to redeem property even after a foreclosure sale.
2. A conveyance of real property for the purpose of securing a debt.
3. Another name for a mortgage deed.
4. A claim or charge on the property for the payment of a debt.