

## Deed of Trust or Mortgage?

### Description



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***Dear Dave: We have just moved to Anchorage after living in Hawaii for some 10 years. We are a bit confused because the paperwork for closing the mortgage loan is completely different from what we are used to. Can you explain why Alaska's real estate practices are so weird? What is a Deed of Trust anyway?***

**Answer:** Quite a number of States operate similarly to Alaska. In Hawaii, the lending process for real estate is Mortgage based. Alaska operates under a Deed of Trust theory. These are 2 distinctly different styles under which Lenders give loans for the real estate purchase.

In the case of a mortgage, there is simply the exchange of a Note and Mortgage between the lender and borrower. The Note is your promise to pay and the Mortgage gives the Lender a lien against the property which will, if you default, give them the right to recover the money and foreclose against the property if necessary.

***There is no such thing as a 'Mortgage' or 'Mortgage Lender' in Alaska***

In Alaska, and in some 20 other States, a third party (the Trustee) is involved. Instead of you receiving the Title to the property, it is held in trust by a Trustee, usually a Title Insurance Company. The 'Deed of Trust' contains all kinds of protections for the lender in the event of a default, including taking possession of the property, collecting rents if possible, and providing for a much cleaner foreclosure

process than with a mortgage.

Since the title to the property is already held by a trustee, in the event of a default the lender simply instructs the trustee to foreclose. With a mortgage the foreclosure often has to go through the Court. Hawaii may be described as 'Old School' in this respect because the 'Deed of Trust' procedure is more advantageous to lenders and enables them to provide loans at a lower cost in States which allow it to replace the common Mortgage.

Dave

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1. Real Estate

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