

## 90-300.03. DEFINITIONS

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**A. General** This section provides definition of terms used throughout this chapter.

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**B. Personal Property** Personal property is any possession, interest, or property right that is not real property. The usual personal property of a GR applicant/recipient includes cash-on-hand, checking or savings account, and the non-exempt value of a car. Included personal property is covered in [GRPG 90-300.4](#) through [8](#). Excluded personal property is covered in [GRPG 90-300.9](#).

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**C. Real Property** In general, real property includes land and improvements on the land. The usual real property of a GR applicant/recipient is his/her home.

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**D. Ownership** The owner of a property is the person who holds legal title to the property unless he/she:

- holds the title only for convenience, such as for the purposes of inheritance or to avoid probate, etc.; and
- has no beneficial interest in the property such as no right to possess and use the property or to dispose of the property and receive the proceeds of the disposition.

If the applicant/recipient has transferred property and title is held by someone else, as noted above, he/she is still considered the actual owner. Therefore, this property will be evaluated in determining eligibility.

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**E. Separate Property** Property acquired by the husband or wife prior to marriage is considered separate property. Property acquired during marriage is separate property if purchased with funds which are the separate property of the owner. Separate funds may be received from the sale of separate property or received by gift or inheritance. Funds awarded a married person in a civil action for personal injury are the separate property of that person. If the spouses are living apart, the income of each separate spouse is separate income in the month of receipt and becomes the separate property of each on the first of the month following receipt.

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### **F. Community Property**

Community property, real or personal, is property acquired by the husband or wife during marriage unless it has been determined as separate property as in [E](#), above. It includes property purchased with community funds or with funds received from the sale of community property and usually includes property purchased on the personal credit of either spouse. If property is purchased with funds which cannot be identified as separate property, such property will be considered to be community property. Each spouse is presumed to own a one-half interest in community property, regardless of which spouse holds the property or whether there is marital separation. Availability is to be investigated if the property would make the person ineligible or if the applicant/recipient disputes the use of the property in making the eligibility determination.

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### **G. Title Shared with Others**

There is a presumption that those who share title have equal right to possession, control, and use of the property. However, the presumption can be refuted by evidence to the contrary. The source and amount of funds invested in the property or the facts around inherited property must be determined in order to arrive at the share which the applicant/recipient and/or his/her spouse actually own.

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### **H. Transfer of Property**

A transfer of property means a change of ownership from the applicant/recipient to another party. This transfer may be in whole or in part (see [GRPG 90-300.12](#) and [13](#) for details on transfer of property requirements).

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### **I. Encum- brances**

Encumbrances must be verified and documented when used to establish property values. Encumbrances can be allowed against the value of the property, unless specifically disallowed. Providing verification and documentation of the encumbrances representing a bona fide indebtedness must meet all of the following requirements:

- The debt is supported by a written, verifiable record of the lender or the lender's agent, or by statements of both the lender and the borrower.
  - The debt is specifically identified as being against a particular item or items.
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**Encumbrances**  
(continued)

- The supporting verification specifically indicates the borrower expects to repay the debt, the lender expects repayment of the debt, and should the borrower fail to meet the obligation, the lender will normally begin action of collection or judgment.
  - The title is being held by the legal owner pending satisfaction of the debt.
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