

Real Estate Terms

ABA Number

Originated by the American Bankers Association, it is the number (usually in the upper right-hand portion of the check) which identifies the bank upon which the check is drawn.

Abandonment

The voluntary relinquishment of rights of ownership or another interest (such as rights to an easement) by failure to use the property, coupled with an intent to abandon (give up the interest).

Abatement

A reduction or decrease. Usually applies to a decrease of assessed valuation of property for ad valorem taxes.

Abstract of Judgment

A summary of the essential provisions of a court judgment. (When this summary or abstract is recorded in the county recorder's office, in some states the judgment becomes a lien on the debtor's property, both presently owned or after-acquired).

Abstract of Title

A summary of the public records relating to the title to a particular piece of land. An attorney or title insurance company reviews an abstract of title to determine whether there are any title defects which must be cleared before a buyer can purchase clear, marketable and insurable title.

Abutting

Touching or bordering a street, highway, or other public place.

Acceleration Clause

Condition in a mortgage that may require the balance of the loan to become due immediately, if regular mortgage payments are not made or for breach of other conditions of the mortgage.

Access

The right to enter and leave a tract of land from a public way. Can include the right to enter and leave over the lands of another.

Accession

Addition to property by natural increase or growth or by installation of improvements.

Accommodation Recording

Recording of instruments with the county recorder by a title company merely as a

convenience to a customer and without assumption of responsibility for correctness or validity.

Accretion

The gradual addition to the shore or bank of a waterway.

Accrued Interest

Accrued interest is the interest expense that accumulates on your loan. In order to pay down more of your loan, you must increase your loan payment to reduce the share that is paid to accrued interest.

Acknowledgment

A formal declaration before a duly authorized officer (such as a notary public) by a person who has executed an instrument that such execution is his own act and deed. An acknowledgment is necessary to entitle an instrument (with certain specific exceptions) to be recorded, to impart constructive notice of its contents and to entitle the instrument to be used as evidence without further proof. The certificate of acknowledgment is attached to the instrument or incorporated therein.

Acre

A measure, usually of land, containing 43,560 square feet in any shape.

Action

An ordinary proceeding in a court of justice by which one party prosecutes another for the enforcement or protection of a right; the redress or prevention of a wrong; or, the punishment of a public offense.

Ad Valorem

"According to value". A method of taxation using the value of the thing taxed to determine the amount of the tax.

Adjoining Owners

Owners of two or more parcels of real property that are contiguous to each other.

Adjudication

A judicial determination.

Adjustable Rate Mortgage (ARM)

A loan with an interest rate that changes periodically in keeping with a current index, like one-year treasury bills. Typically, however, ARMs can't jump more than two percentage points per year or six points above the starting rate.

Adjustment Period

The frequency that the lender adjusts the interest rate on a variable-rate mortgage loan. For example, a one year ARM would have an adjustment period of one year.

Administrator

A person appointed by the probate court to carry out the administration of a decedent's

estate when the decedent has left no will.

Administratrix

A woman administrator.

Advances

Money paid before proper time of payment.

Adverse Possession

A process of acquiring title to real property by possession for a certain (statutory) period of time, in addition to fulfilling other conditions.

Affiant

A person who has made an affidavit.

Affidavit

A written statement or declaration, sworn to before an officer who has authority to administer an oath.

Affirmation

A declaration in writing under penalty of perjury.

Agent

One who has authorization, either expressed or implied, to act for or represent another party, usually in business matters.

Agreement of Sale

Known by various names, such as contract of purchase, purchase agreement, or sales agreement according to location or jurisdiction. A contract in which a seller agrees to sell and a buyer agrees to buy, under certain specific terms and conditions spelled out in writing and signed by both parties.

Aggressive Qualification Estimate

Mortgage lenders are more aggressive when the economy is strong. As a result, they tend to lower their loan qualification requirements to make it easier to qualify for a loan.

AKA

Also Known As.

Alienate

To transfer title to property.

Alienation

The transfer of title to property.

Alienation Clause

Provision in a note or in a security instrument calling for automatic maturity in the event of sale or transfer of title by borrower.

All-Inclusive Deed of Trust

A deed of trust securing payment of an obligation owing under a prior deed of trust.

A.L.T.A.

American Land Title Association.

ALTA Settlement Statement

The settlement statement used for a real estate closing that replaced the former HUD-1.

Amendment

A change, either to correct an error or to alter a part of an agreement without changing the principal idea or essence.

American Institute of Real Estate Appraisers

A trade organization designed to establish standards of competence in the appraisal industry. The designation MAI (competent by the institute's standards to appraise all types of real property) and RM (one to four family residences) are prestigious and heavily relied upon by the real estate industry, lenders governments, and others who utilize appraisers.

Amortization

A payment plan which enables the borrower to reduce his debt gradually through monthly payments of principal and interest.

Annexation

Addition to property or to territory.

Annual Percentage Rate (A.P.R.)

The yearly interest percentage of a loan, as expressed by the actual rate of interest paid. The A.P.R. is disclosed as a requirement of federal truth in lending statutes.

Appel Loan (Accelerating Payoff Progressive Equity Loan)

A residential property loan which calls for a payment increase over the first six (6) years. Level payments are made for the remaining years and the loan paid off during the 15th year. There is no prepayment penalty and P.M.I. is required.

Appraisal

An expert judgment or estimate of the quality or value of real estate as of a given date.

Appraiser

A person qualified to determine property value.

Appreciation Rate

Appreciation rate is the yearly percentage rate that an asset increases in value.

Appropriation

The private taking and use of public property, such as water from a river or lake. Not to

be confused with condemnation or expropriation.

Approved Attorney

In states where attorneys examine the chain of title before title insurance is issued, the title company will approve certain attorneys as those whose opinion it will accept for the issuance of a title policy.

Appurtenance

A right or privilege that is a part of the ownership of property, such as a right of way to a highway across the land of another. Water rights are also an example.

Arbitrary (ARB) Map

A map made by a title company for its own convenience in identifying parcels of real property.

Arbitration Clause

A clause in a lease calling for the decision of a third party (arbiter) regarding disputes over future rents based on negotiation. Also used in construction contracts, disputes between brokers, etc.

Articles of Incorporation

Documentation filed with the state which sets forth general information about a corporation. More specific rules of the corporation would be contained in the by-laws.

"As Is" Condition

Premises accepted by a buyer or tenant in the condition existing at the time of the sale or lease, including all physical defects.

Assessment

(1) The valuation of real estate for purpose of taxes or special improvement charges. (2) The amount of taxes or special improvement charges. Special improvement charges are usually for the costs of streets, sidewalks, sewers, etc.

Assessor

County official who determines value of property for taxation purposes.

Assignee

One to whom property is assigned.

Assignment

(1) The act of transferring an interest, such as a loan secured by a mortgage, from one person to another. (2) The instrument or paper by which one person transfers such ownership to another.

Assignor

One who transfers property by assignment.

Assumable Mortgage

A mortgage which, by its terms, allows a new owner to take over its obligations.

Attachment

Legal seizure of property to force payment of a debt.

Attestation Clause

The clause in a deed denoting the subscribing persons are witnesses.

Attorney in Fact

One who holds a power of attorney from another allowing him/her to execute legal documents such as deeds, mortgages, etc., on behalf of the grantor of the power.

Attorney's Opinion

A statement by an attorney as to the validity of a title, arrived at after investigation of the history of the title as recorded in the public records.

Back Title Letter

Also called "back title certificate" in some areas, and "starter" in others. When titles previously have been examined up to a certain date by reliable examiners, title companies sometimes give subsequent examiners of such titles a letter that sets forth the condition of the title at the time of the previous examination and authorizes them to begin their subsequent examination with the terminal date of the previous examination.

Backup Offer

A secondary offer to buy property, used in case the first (primary) offer fails. A backup offer is especially useful when the primary offer contains difficult contingencies.

Balloon Note

A form of promissory note that calls for the minimum payment of principal and the payment of interest at regular intervals. This type of note requires a substantial final payment, which represents all the principal.

Balloon Payment

The final payment (balance due) of a balloon note.

Bankruptcy

A special proceeding under federal, or in some instances state, laws by which the property of a debtor is protected by the court and may be divided among the debtor's creditors and the debtor.

Base Lines

Imaginary east-west lines that intersect meridians to form a starting point for measurement of land.

Base Rate

The interest rate that is used as a benchmark to set the interest rate for borrowers. A base rate is sometimes called an index rate.

Beneficial Estate

An estate, the right of possession of which has been postponed, such as a devisee under a will. More commonly, an estate, the legal ownership of which has not yet vested, as under a land contract. An equitable estate.

Beneficial Interest

The equitable, rather than legal ownership of property such as under a land contract.

Beneficiary

(1) One for whose benefit a trust is created. (2) In states in which deeds of trust are commonly used instead of mortgages, the lender (mortgagee) is called the beneficiary.

Binder

(1) A preliminary report as to the condition of a title and a commitment to issue a title insurance policy in a certain manner when certain conditions are met. Sometimes called "preliminary certificate" or "prelim commitment". (2) A policy of title insurance (used primarily by investors) calling for a reduced rate for a future policy if the property is sold within a specified period. (3) An early agreement to buy a home from a seller, which is usually ensured with earnest money.

Blanket Mortgage

A mortgage or trust deed that covers more than one lot or parcel of real property, and often an entire subdivision. As individual lots are sold, a partial reconveyance or release from the blanket mortgage is ordinarily obtained.

Board of Equalization

State board charged with the duty to equitable uniformity to the various local property tax assessments.

Bona Fide Purchaser

One who buys property in good faith, for fair value, and without notice of any adverse claim or right of third parties.

Breach of Contract

Failure to perform a contract, in whole or part, without legal excuse.

Broker, Real Estate

One who is licensed by the state to carry on the business of dealing in real estate. A broker may receive a commission for his or her part in bringing together a buyer and a seller, landlord and tenant, or parties to an exchange.

Building Contract

An agreement between an owner or lessee and a building contractor, setting forth terms relative to the construction of a proposed structure.

Bulk Sale

A transfer in bulk, not in the ordinary course of business, of all or substantially all of the inventory and fixtures of a business.

Buydown

A payment to the lender from the seller, buyer, third party, or some combination of these, causing the lender to reduce the interest rate during the early years of a loan. The buydown is usually for the first one (1) to five (5) years of the loan.

By-Laws

Rules and regulations, adopted by an association or corporation, which govern its activities.

Cal-Vet Loans

Real estate loans available to armed forces from California, at low interest rates.

Cancellation Clause

A clause in a lease or other contract, setting forth the conditions under which each party may cancel or terminate the agreement. The conditions may be as simple as giving notice or complex and require payment by the party desiring to cancel.

Cashier's Check

A check drawn by a bank on itself rather than on an account of a depositor. A cashier's check is generally acceptable to close a sale without waiting for the check to clear.

Caveat Emptor

"Let Him Beware". Legal maxim stating that the buyer takes the risk regarding the quality or conditions of the item purchased, unless protected by warranty or there is misrepresentation. Currently, consumer protection laws have placed more responsibility for disclosure on the seller and broker.

CC&R's

Covenants, Conditions & Restrictions. Detailed limitations applying to the use or enjoyment of real property.

Closing Disclosure

A five-page form that provides final details about the mortgage loan you have selected. It includes the loan terms, your projected monthly payments, and how much you will pay in fees and other costs to get your mortgage (closing costs).

Certificate of Occupancy

A certificate issued by a local building department to a building renovator, stating that the building is in proper condition to be occupied.

Certificate of Sale

Certificate issued to the buyer at a judicial sale (such as a tax sale), which will entitle the buyer to a deed upon confirmation of the sale by the court or if the land is not redeemed within a specified time.

Certificate of Title

In areas where attorneys examine abstracts or chains of title, a written opinion, executed by the examining attorney, stating that title is vested as stated in the abstract.

Certified Check

A personal check drawn by an individual, which is certified (guaranteed) to be good. The bank holds the funds to pay the certified check and will not pay any other checks drawn on the account if such payments would impede payment of the certified check. The bank also will not honor a stop payment on a certified check.

Chain

In real estate measurements (surveying), a chain is 66 feet long or 100 links, each link being 7.92 inches. The measurement may change when used in fields other than surveying.

Chain of Title

The successive ownerships or transfers in the history of title to a tract of land.

Claim

An adverse right or interest asserted by one party against another or against an insurer or indemnitor. Claims may arise from unpaid debts or taxes, as well as from hidden title defects such as fraud, forgery, missing heirs, etc.

Clear Title

Real property ownership free of liens, especially voluntary liens such as mortgages.

Closing

Also known as "escrow" or "settlement". The process of executing legally binding documents, such as deeds and mortgages most commonly associated with the purchase of real estate and the borrowing of money to assist in the purchase.

Closing Costs

The numerous expenses which buyers and sellers normally incur to complete a transaction in the transfer of ownership of real estate. These costs are in addition to price of the property and are items prepaid at the closing day. This is a typical list:

Buyer's Expenses:

- Documentary Stamps on Notes
- Recording Deed and Mortgage
- Escrow Fees
- Attorney's Fee
- Title Insurance

- Appraisal and Inspection
- Survey Charge

Seller's Expenses:

- Cost of Abstract
- Documentary Stamps on Deed
- Real Estate Commission
- Recording Mortgage
- Survey Charge
- Escrow Fees
- Attorney's Fees

Closing Statement

The statement that lists the financial settlement between buyer and seller, also the costs each must pay. A separate statement for buyer and seller is sometimes prepared.

Clouded Title

An irregularity, possible claim or encumbrance that, if valid, would adversely affect or impair the title.

Coinsurance

Two or more policies of title insurance issued by different insurers, each covering a portion of the same risk, which together provide total coverage of the risk.

Collateral

Property pledged as security for a debt; also, indirect, when referenced to blood relationship as in "collateral heirs".

Collateral Assignment

Transfer of an interest in personal property for security purposes. A collateral assignment is distinguished from an absolute assignment mainly because once the debt is paid that was secured by the collateral assignment, the assignment is extinguished.

Commercial Property

Property, which is zoned "commercial" (for business use). Property such as stores, restaurants, etc., falling between residential and industrial.

Commission

An amount, usually as a percentage, paid to an agent (real estate broker) as compensation for his services. The amount to a real estate broker is generally a percentage of the sale price or total rental.

Commitment

Also called "binder". A document issued by a title insurance company that contains the conditions under which a policy of title insurance will be issued.

Common Area

The area owned in common by the owners of condominiums or planned unit development homes in subdivisions.

Community Property

Property acquired by a husband and wife, or either, during marriage, when not acquired as the separate property of either.

Comparable

Properties used as comparisons to determine the value of a specified property.

Condemnation

(1) The taking of private property for a public purpose, with compensation to the owner under the right of eminent domain. Governmental units, railroads and utility companies have the right to condemn and take private property. (2) The destruction by government of private property that imperils the life, health or safety of the public.

Conditional Commitment

A loan commitment given before a borrower (buyer) is obtained and subject to approval of the buyer by the lender.

Conditional Sales Contract

A sale in which the title to property or goods remains with the seller until the purchaser has fulfilled the terms of the contract, usually payment in full.

Condominium

The composite of individual ownership and exclusive possession of a cube of space in a multi-unit building plus a collective ownership of and a collective right of possession to facilities common to all separately owned units.

Conservatee

A person unable to manage self and/or property for whom the probate court has appointed a conservator.

Conservator

A person appointed by probate court to take care of the person and/or property of conservatee.

Construction Loan

Short term financing of real estate construction. Generally followed by a long term financing called a "take out", issued upon completion of improvements.

Constructive Notice

Notice given by public records.

Contiguous

Near or close to, whether actually touching or not. Generally refers to actual touching or bordering on.

Contingent

Dependent upon an uncertain future event.

Contract of Sale

An agreement entered into for the sale and purchase of property.

Conventional Loan

A loan secured by a mortgage or deed of trust for which the loan-to-value ratio is within an acceptable range for a particular lending institution.

Conveyance

The transfer of title to property from one person to another.

Corporate Seal

A seal attached to an instrument executed by a corporation.

Co-Trustee

One of two or more trustees.

Counter Offer

An offer (instead of acceptance) in response to an offer. For example: "A" offers to buy "B's" house for "X" dollars. "B", in response offers to sell to "A" at a higher price. "B's" offer to "A" is a counter offer.

County Records

Public recorded documents by which notice is given of changes to title, liens, and other matters reflecting real estate.

Courtesy to Brokers

Willingness of a seller to pay a commission to any broker supplying a suitable buyer; or the willingness of a listed broker to share the commission with any broker supplying a suitable buyer.

Credit Report

A report on the past ability of a loan applicant to pay installment payments. Several national and local companies make such reports.

Creditor's Position

(1) The portion of the value of property, which is mortgaged, rather than the equity. (2) The portion of the value of property upon which a first mortgage could be obtained.

Covenant

A formal agreement or contract between two parties in which one party gives the other certain promises and assurances, such as covenants of warranty in a warranty deed.

Curtesy

A right that a husband has in his wife's property at her death. It does not exist in all states.

Custodian

One who is entrusted with the care and keeping of real or personal property.

Custody

The care and keeping of property (real and personal). For example: An escrow agent has custody of documents and funds until closing.

Custom Builder

One who builds for a specific owner, designing the building to suit said owner's need, rather than building and then looking for a buyer.

Date Down

The date to which a title examination is to be brought down from the date of the last examination. Generally the date of recording of instruments and documents in the Recorder's Office.

DBA (Doing Business As)

An identification of the owner or owners of a business and the business name. Not a partnership or corporation.

Debt

Money owing from one person to another.

Debt Ratio

Lenders use a debt ratio (also called debt income ratio) to approve loan applicants. Debt ratio equals combined monthly debt payments divided by gross monthly income.

Debtor

One who owes a debt.

Declaration of Restrictions

A set of restrictions filed by a subscriber to cover an entire tract or subdivision.

Declaration of Trust

A written instrument by a person (settlor-trustor), acknowledging that he or she holds title to property (as trustee) for the benefit of another or others (beneficiary(ies)).

Decree

A judgment by court.

Decree of Distribution

A probate court decree which determines how the estate of a decedent shall be distributed.

Dedication

The setting aside of certain land by the owner and declaring it to be for public use.
Examples: streets, sidewalks and parks.

Deed

A formal written instrument by which title to real property is transferred from one owner to another. The deed should contain an accurate description of the property being conveyed, should be signed and witnessed according to the laws of the State where the property is located, and should be delivered to the purchaser at closing day. There are two parties to a deed: the grantor and the grantee.

Deed In Lieu of Foreclosure

The deed purchased by the mortgagee from the mortgagor in lieu of the foreclosure of the mortgagee's mortgage. The mortgagor grants the title to the property secured by the mortgage to the mortgagee (lender) in lieu of lender foreclosing the mortgage.

Deed of Sale

Evidence of a purchaser's acquisition of legal title at a judicial sale, subject to redemption rights, if any.

Deed of Trust

Like a mortgage, a security instrument whereby real property is given as security for a debt. However, in a deed of trust there are three parties to the instrument the borrower, the trustee and the lender (or beneficiary). In such a transaction, the borrower transfers the legal title for the property to the trustee who holds the property in trust as security for the payment of the debt to the lender or beneficiary. If the borrower pays the debt as agreed, the deed of trust becomes void. If, however, he defaults in the payment of the debt, the trustee may sell the property at a public sale, under the terms of the deed of trust. In most jurisdictions where the deed of trust is in force, the borrower is subject to having his property sold without benefit of legal proceedings. A few states have begun in recent years to treat the deed of trust like a mortgage.

Deed Restrictions

Limitations in the deed to a property that dictate certain uses that may or not be made of the property.

Default

Omission or failure to fulfill a duty, observe a promise, discharge an obligation, or perform an agreement.

Defective Title

(1) Title to a negotiable instrument obtained by fraud. (2) Title to real property which lacks some of the elements necessary to transfer good title.

Delivery

In conveyancing, the placing of the property in the actual or constructive possession of the grantee. Usually accomplished by delivery of a deed to the buyer or agent of the buyer, or by recording the deed. The transfer of a deed from seller to buyer in such a

manner that it cannot be recalled by the seller. A necessary requisite to the transfer of title.

Demand

An escrow term describing the consideration exacted for a conveyance or for the relinquishment of an interest in or a right to property.

Demand Note

A note having no date for repayment, but due on demand of the lender.

Department of Real Estate

That department of the state government responsible for the licensing and regulation of persons engaged in the real estate business. The person heading the department is usually called The Real Estate Commissioner. Other names for the department are The Division of Real Estate and the Real Estate Commission.

Deposit

(1) Money given by the buyer with an offer to purchase. Shows good faith. Also called earnest money. (2) A natural accumulation of resources (oil, gold, etc) which may be commercially recovered and marketed.

Depreciation

Loss in value occasioned by ordinary wear and tear, destructive action of the elements, or functional or economic obsolescence.

Description

The exact location of a piece of real property stated in terms of lot, block, tract, part lot, metes and bounds, recorded instruments, or U.S. Government survey (sectionalized). This is also referred to as legal description of property.

Developer

(1) A builder. (2) One who prepares the raw land for construction and then sells to a builder.

Devise

A disposition of property made by a will.

Devisee

A person to whom real property is given by will.

Disclaimer

(1) Statement on a publication attempting to limit liability in event the information is inaccurate. (2) Renunciation of a claim or right of another. (3) Refusal to accept an estate, either as trustee or as owner.

Distress Sale

A sale of property when the seller is under extreme pressure to sell. Generally the property is sold for less than market value.

Divest

To deprive of a right or title to property.

Documentary Stamps

A State tax, in the forms of stamps, required on deeds and mortgages when real estate title passes from one owner to another. The amount of stamps required varies with each state.

Domestic Partnership

Defined by California Family Code Section 297 as those partners who meet the requirements of and who have filed a valid Declaration of Domestic Partnership with the State of California's Secretary of State's office.

Dominant Estate

The property for the benefit of which a right-of-way easement exists across another's adjoining piece of land is said to be the dominant estate. The land across which the easement runs is said to be the servient estate.

Dower

A right that a wife has in her husband's property at the time of his death. Does not exist in all states.

Down Payment

Cash portion paid by a buyer from his own funds, as opposed to that portion of the purchase price that is financed.

Due on Sale Clause

Provision in a mortgage or deed of trust which requires a loan to be paid in full if property is sold or transferred.

Duplex

(1) Any building containing exactly two (2) dwelling units. Most commonly refers to the units that are side by side, with a common wall and roof. (2) An apartment on two (2) floors or levels.

Earnest Money

The deposit money given to the seller or his agent by the potential buyer upon the signing of the agreement of sale to show that he is serious about buying the house. If the sale goes through, the earnest money is applied as part of the down payment. If the sale does not go through, the earnest money will be forfeited or lost unless the binder or offer to purchase expressly provides that it is refundable.

Easement Rights

A right-of-way granted to a person or company authorizing access to or over the owner's land. An electric company obtaining a right-of-way across private property is a common example.

Effective Demand

A qualifying term meaning the ability to pay as well as desire to buy.

Egress

The right to leave a tract of land. Usually used as part of the term "ingress and egress" and interchangeably with "access".

Eminent Domain

The right of a government to take privately owned property for public purposes under condemnation proceedings upon payment of its reasonable value.

Encroachment

An obstruction, building or part of a building that intrudes beyond a legal boundary onto neighboring private or public land, or a building extending beyond the building line or into an easement.

Encumbrance

A legal right or interest in land that affects a good or clear title and diminishes the land's value. It can take numerous forms, such as zoning ordinances, easement rights, claims, mortgages, liens, charges, a pending legal action, unpaid taxes or restrictive covenants. An encumbrance does not legally prevent transfer of the property to another. A title search is all that is usually done to reveal the existence of such encumbrances, and it is up to the buyer to determine whether he wants to purchase with the encumbrance or what can be done to remove it.

Endorsement

Addition to or modification of a title insurance policy which expands or changes coverage of the policy, fulfilling specific requirements of the insured.

Environmental Impact Report

A report of the probable effect of a development on the surrounding area (environment). The report is prepared by an independent company to federal, state, or local guidelines.

Equitable Ownership

Ownership by one whom does not have legal title, such as vendee under a land contract or, technically, a trustor under a deed of trust (legal title being in the trustee). Also called equitable title.

Equity

The market value of real property, less the amount of existing liens.

Escheat

The reversion of property to the state when an owner dies leaving no legal heirs, devisees or claimants.

Escrow

Funds paid by one party to another (the escrow agent) to hold until the occurrence of a specified event, after which the funds are released to a designated individual. In FHA mortgage transactions, an escrow account usually refers to the funds a mortgagor pays the lender at the time of the periodic mortgage payments. The money is held in a trust fund, provided by the lender for the buyer. Such funds should be adequate to cover yearly

anticipated expenditures for mortgage insurance premiums, taxes, hazard insurance premiums and special assessments.

Escrow Instructions

Instructions which are signed by both buyer and seller, and which enable an escrow agent to carry out the procedures, necessary to transfer real property, a business, or other assignable interest.

Escrow Officer

An escrow agent. In some states, one who has, through experience and education, gained a certain degree of expertise in escrow matters.

Estate

(1) The interest or nature of the interest which one has in property, such as a life estate, the estate of a deceased, real estate, etc. (2) A large house with substantial grounds surrounding it, giving the connotation of belonging to a wealthy person.

Estoppel

A legal restraint that stops or prevents a person from contradicting or reneging on his previous position or previous assertions or commitments.

Evidence of Title

A document establishing ownership to property. Most commonly, a deed.

Examination (of Title)

The study of the instruments incident to a chain of title to determine their effect and condition in order to reach a conclusion as to the status of the title.

Examiner

A person who analyzes a chain of title to land and expresses an opinion thereon.

Exception

A provision in a title insurance binder or policy that excludes liability for a specific title defect or an outstanding lien or encumbrance.

Exclusive Agency Listing

A listing or agreement protecting the listing broker's commission against the sale of property by another agent but not against the sale of the principal. The term is not universal, as some areas use this term, nonexclusive listing, to describe this agreement.

Exclusive Listing

A written contract between a property owner and a real estate broker, whereby the owner promises to pay a fee or commission to the broker if certain real property of the owner is sold during a stated period, regardless of whether the broker is or is not the cause of the sale. The broker promises to put forth his/her best efforts to sell the property, and may make specific promises as to advertising or other promotion in certain instances.

Execute

To sign a legal instrument. A deed is said to be executed when it is signed, sealed, witnessed and delivered.

Execution Sale

Sale of real property under a writ of execution by a court. A judicial mortgage foreclosure sale is in this category.

Executor

A male representative of the estate of a testate decedent.

Executrix

A female representative of the estate of a testate decedent.

Exemption

Immunity from a burden or obligation.

Fannie Mae

Federal National Mortgage Association (also FNMA) is a private corporation, federally chartered to provide financial products and services that increase the availability and affordability of housing by purchasing mortgage loans.

Federal Housing Administration (FHA) Guarantee

An insurance contract in which HUD through FHA insures that the named lender will recover a specific percentage of the loan amount from the insurer (FHA) in the event that the loan goes bad.

Federal Tax Lien

A lien attaching to property for nonpayment of a federal tax (estate, income, etc.). A federal tax lien differs from other liens in that it is not automatically wiped out by foreclosing on a mortgage or trust deed recorded before the tax lien (except by judicial foreclosure).

Fee Simple

An estate under which the owner is entitled to unrestricted powers to dispose of the property, and which can be left by will or inherited. Commonly, a synonym for ownership.

Fictitious Instrument

An instrument (usually a mortgage or deed of trust) which is recorded not on specific property but to be incorporated by reference into future mortgages or deeds of trust. This is done by reference to the recording information of the fictitious instrument in the instrument recorded against specific property. This shortens the latter instrument and thereby cuts the cost of printing, paper, recording, etc. The fictitious instrument contains general language applicable to any specific property.

Fiduciary

One who holds a position of trust and confidence requiring scrupulous good faith and candor. For example, a trustee of a trust is a fiduciary.

File and Use

In most states, title insurer's file rate schedules, title insurance policies and endorsement forms with the State Insurance Department or other state agency and then may use such items or rates starting within a specified period of time after filing. Rates so filed usually are mandatory.

Financing Costs

The cost, interest and other charges involved in borrowing money to build or purchase real estate.

Financing Statement

A document filed with the Register of Deeds or Secretary of State securing the title to personal property.

First Refusal Right

A right, usually given by an owner to a lessee, which gives the lessee a first chance to buy the property if the owner decides to sell. The owner must have a legitimate offer, which the lessee can match or refuse. If the lessee refuses, the property can then be sold to the offeror.

Fixed-Rate Mortgage

A loan that carries an unchangeable interest rate over its entire term typically a period of 15-30 years.

Fixtures

Personal property that is attached to real property and is legally treated as real property while it is so attached. Example: medicine cabinets, window blinds and chandeliers.

Flood Certification

A common term for a Federal Emergency Management Agency (FEMA) Standard Flood Hazard Determination Form (SFHDF). This determines whether land or a building is located within a Special Flood Hazard Area for purposes of flood insurance requirements under the National Flood Insurance Program.

Flood Insurance

Insurance indemnifying against loss by flood damage. Required by lenders (usually banks) in areas designated (federally) as potential flood areas. The insurance is private but federally subsidized.

Forced Sale

A sale which is not the voluntary act of the owner, such as to satisfy a debt, whether a mortgage, judgment, etc. The selling price of such a sale would not be considered market value.

Foreclosure

A proceeding in or out of court, to extinguish all rights, title, and interest, of the owner(s) of property in order to sell the property to satisfy a lien against it.

Forfeiture of Title

A common penalty for the violation of conditions or restrictions imposed by the seller upon the buyer in a deed or other proper document. For example; a deed may be granted upon the condition that if liquor is sold on the land, the title to the land will be forfeited (that is, lost) by the buyer (or some later owner) and will revert to the seller.

Forgery

The fraudulent signing of another's name to an instrument such as a deed, mortgage or check.

Freddie Mac

Federal Home Loan Mortgage Corporation (also FHLMC) is a stockholder owned corporation chartered by Congress that purchases mortgage loans.

Free and Clear

Real property against which there are no liens, especially voluntary liens (mortgages).

Frontage

The linear measurement along the front of a parcel, that is, the portion facing a road, waterway, walkway, etc. that would be considered the most valuable measurement of the property.

Full Disclosure

In real estate, revealing all the known facts which may affect the decision of a buyer or tenant. A broker must disclose known defects in the property for sale or lease.

General Index

A title company's record of matters affecting title to land maintained according to names of individuals and entities rather than by real property description.

General Partner

A member of the partnership who has authority to bind the partnership and shares in the profits and losses. A partnership must have at least one general partner and may have more, as well as limited partners.

General Warranty Deed

A deed which conveys not only all the grantor's interests in and title to the property to the grantee, but also warrants that if the title is defective or has a "cloud" on it (such as mortgage claims, tax liens, title claims, judgments, or mechanic's liens against it) the grantee may hold the grantor liable.

Gift

A voluntary conveyance or transfer of property without a valuable consideration.

Ginnie Mae

Government National Mortgage Association (also GNMA) is a wholly-owned United States corporation that guarantees privately issued securities backed by pools of mortgages insured by FHA (Federal Housing Administration), FMHA (Farmers Home Administration) or VA (Veterans Administration).

Good Faith Purchaser or Mortgagee

A person who buys or lends in good faith, that is, without knowledge of fraudulent circumstances, or reason to inquire further, where value is paid or lent.

Graduated Payment Mortgage

A loan in which monthly payments are relatively small in the beginning and gradually increase in dollar amount over the life of the mortgage.

Grant

To transfer an interest in real property, either the fee simple or a lesser interest, such as an easement. A transfer of real estate from a sovereign is accomplished by patent or royal decree.

Grant Deed

A written instrument transferring title to real property.

Grantee

That party in the deed who is the buyer or recipient.

Grantor

That party in the deed who is the seller or giver.

Greenbelt

A landscaped area surrounding a development to separate and protect it from neighboring incompatible use, such as separating office buildings from an industrial park.

Ground Lease

A lease of vacant land, or land exclusive of any buildings on it. Usually a net lease.

Guarantee of Title

A form of title insurance based solely upon public record disclosures.

Guardian

A person appointed by a court to manage the person and/or property of one who is legally incompetent to handle his/her own affairs.

Harbor Line

An arbitrary line set by authorities on navigable rivers, beyond which wharves and other structures may not be built. Also designated as line of navigation.

Hard Money Mortgage

A mortgage given in return for cash, rather than to secure a portion of the purchase price, as with a purchase money mortgage.

Hazard Insurance

Real estate insurance that protects against damages caused to property by fire, windstorms and other common hazards.

Heir

One who might inherit or succeed to an interest in land of an individual who dies without leaving a will (intestate).

Hereditaments

Any and all kinds of estates, interest and rights in real estate that can be inherited.

Home Equity Conversion Mortgage

A reverse or reverse annuity mortgage in which HUD through FHA guarantees that the borrower will receive monthly payments from the insurer (FHA) in the event the lender is unable to make payments to the borrower.

Home Repair Loan

A loan used for repairs and additions to existing structures without affecting existing mortgage. Typically 10 years or less in length. May also be called a "Home Improvement Loan".

Home Warranty Insurance

Private insurance insuring a buyer against defects (usually in plumbing, heating and electrical) in the home he has purchased. The period of insurance varies and both new and used homes may be insured.

Homeowner's Association

(1) An association of people who own homes in a given area, formed for the purpose of improving or maintaining the quality of the area. (2) An association formed by the builder of condominiums or planned developments, and required by statute in some states. The builder's participation as well as the duties of the association is controlled by statute.

Homeowner's Insurance

Real estate insurance protecting against loss caused by fire, some natural causes, vandalism, etc., depending on the terms of the policy. Also includes coverage such as personal liability and theft away from home.

Homeowners Protection Act

The Homeowners Protection Act of 1999 requires home lenders to cancel a requirement for private mortgage insurance (PMI) if the borrower has equity of at least 22% in their home. (This is equal to a loan-to-value ratio of below 78%). The law allows the borrower to request dropping PMI when equity reaches 20% of home value.

Homestead

The dwelling (house and contiguous land) of the property owner. Some states grant statutory protection for homestead property against the rights of creditors. Property tax exemptions are also available in some states.

HUD

U.S. Department of Housing and Urban Development. The federal department responsible for the major housing programs in the United States, such as FHA.

HUD 1

A former form settlement (closing) statement required by the U.S. Department of Housing and Urban Development (HUD) where federally related mortgages are being made on residential properties. It is a balance sheet showing the source of funds and the distribution of funds in connection with the purchase and/or mortgaging of residential property.

Hypothecate

To pledge without delivery of title or possession. (Principally an admiralty term that has found its way into real property finance).

Impounds

A trust type of account established by lenders for the accumulation of borrower's funds to meet periodic payments of taxes, mortgage insurance premiums, and/or future insurance policy premiums, required to protect their security.

Improved Real Estate

Land upon which buildings have been erected.

Inchoate Curtesy

The curtesy interest of a husband during the life of his wife. It is an interest which upon the death of the wife may ripen into possession and use. Most states have abolished curtesy rights.

Inchoate Dower

The dower interest of a wife during the life of her husband. It is an interest which upon the death of the husband may ripen into possession and use. Most states have abolished dower rights.

Indemnity

Insurance against possible loss or damage. A title insurance policy is a contract of indemnity.

Indenture

A deed or other document executed by both parties.

Index

(1) An alphabetical listing in the public records of the names of parties to recorded real estate instruments together with the book and page number of the record. (2) The listing in abstract and title plants of recorded real estate instruments in groups according to land descriptions, known as a geographic index. (3) The alphabetical listing in abstract and title plants, by names of the parties, of all recorded instruments that affect but do not describe particular real estate, such as judgments, powers of attorney, wills and probate proceedings. Such indexes are known by various names, such as "general index", "judgment index" and "name index".

Ingress

The right to enter a tract of land. Usually used as part of the term "ingress and egress" and interchangeably with "access".

Initial Interest Rate

The starting interest rate on an adjustable-rate mortgage loan, which is often below market ARM rates. The intent of a low initial rate is to assist homebuyers that may not otherwise qualify for a mortgage loan.

Institutional Lenders

Banks, savings and loan associations, and other businesses which make loans to the public in the ordinary course of business, rather than individuals, or companies which may make loans to employees.

Instrument

Any writing having legal form and significance, such as a deed, mortgage, will or lease.

Insurance

A contract under which, for a consideration, one party (the insurer) agrees to indemnify another (the insured) for a possible loss under specific conditions.

Insured Mortgage

A mortgage insured against loss to the mortgagee in the event of default and a failure of the mortgaged property to satisfy the balance owing plus costs of foreclosure. May be insured by F.H.A., VA, or by independent mortgage insurance companies.

Interest

(1) A share or right in property. (2) A charge paid for borrowing money.

Interest-Only Payments

Mortgage payments that include only interest. No loan amortization occurs; thus, the homeowner does not accrue any equity (unless the home value increases).

Interest Rate Cap

A limit on the amount the interest rate can increase. A periodic cap limits how much the rate can increase at each adjustment period.

Interim Financing

Temporary or short term loans. Often used with new construction.

Intestate

Without leaving a will, or leaving an invalid will so that the property of the estate passes according to the laws of succession rather than by direction of the deceased.

Joint Protection Policy

A policy insuring more than one interest, i.e., the interest of both owner and lender.

Joint Tenancy

An undivided interest in property, taken by two or more joint tenants. The interests must be equal, accruing under the same conveyance, and beginning at the same time. Upon the death of a joint tenant, the interest passes to the surviving joint tenants, rather than to the heirs of the deceased.

Joint Venture

A form of business organization composed of two or more persons to conduct a single enterprise for profit.

Judgment

The determination of a court regarding the rights of parties in an action. Money judgments, when recorded, become a lien on the real property of the party whom the judgment is against.

Judgment Creditor

A person, corporation, etc., that has been awarded a money judgment by a court. Recording an abstract of said judgment would create a lien on real property owned by the judgment debtor in the county where the abstract is recorded.

Judgment Debtor

A person, corporation, etc., against whom a money judgment has been awarded by the court.

Judgment Lien

A lien against the property of a judgment debtor. An involuntary lien.

Junior Mortgage

A mortgage lower in lien priority than another.

Jurat

The portion of a certificate or affidavit stating when, where, and before whom it was sworn.

Land Contract

An installment contract for the sale of land whereby the seller (vendor) holds legal title and the buyer (vendee) has equitable title until the sales price is paid in full.

Landlocked Parcel

A parcel of land surrounded entirely by privately owned land, with no access to a public right of way (road). Condemnation for a limited access highway is a major cause of such parcels.

Landmark

Any conspicuous object that helps establish land boundaries.

Lease

An agreement by which an owner of real property (lessor) gives the right of possession to another (lessee), for a specified period of time (term) and for a specified consideration (rent).

Leasehold

An estate in real property held under a lease for a fixed term.

Legal Description

A description of land recognized by law, based on government surveys, spelling out the exact boundaries of the entire piece of land. It should so thoroughly identify a parcel of land that it cannot be confused with any other.

Legal Owner

One who has legal title to property, although the title may actually carry no rights to the property other than rights of a lien. Not to be confused with equitable ownership.

Lender

Any person or entity advancing funds which are to be repaid. A general term encompassing all mortgagees, and beneficiaries under deeds of trust.

Lender's Policy

A title insurance policy which insures the validity, enforceability and priority of a lender's lien. This policy does not provide protection for the owner.

Lessee

A party to whom a lease (the right to possession) is given in return for a consideration (rent).

Lessor

A landlord; one who gives a leasehold to a lessee.

Letter of Credit

A letter, usually from a bank, requesting a person or company to extend credit to a certain person or company and guaranteeing payment. Most commonly used in the purchase of goods from another country. The letter may be revocable or irrevocable, but most parties insist on the irrevocable.

Letters of Administration

Formal written evidence of court appointment of a personal representative of the estate of an intestate decedent.

Letters of Conservatorship

Formal written evidence of court appointment of a conservator of the person and/or estate estate, or of the person and estate of a conservatee.

Letters of Guardianship

Formal written evidence of court appointment of a guardian for the person and/or estate, or person and estate of a minor or of an incompetent.

Letters of Testamentary

Formal written evidence of court appointment of a personal representative of the estate of a testate decedent.

Levy

Seizure of property by judicial process.

License

Permission to go upon or use the land of another, the permission being a personal privilege and not constituting an interest in the land.

Lien

A claim by one person on the property of another as security for money owed. Such claims may include obligations not met or satisfied, judgments, unpaid taxes, materials or labor.

Lien Waiver

Also called "waiver of liens". A waiver of mechanic's lien rights, signed by contractors or subcontractors so that the owner or general contractor can receive funds from a construction loan.

Life Estate

A grant or reservation of the right of use, occupancy and ownership for the life of an individual.

Lifetime Cap

A lifetime cap is the limit to how much the interest rate on an adjustable-rate loan can be increased over the term of the loan.

Line of Credit

An amount of money a borrower may obtain from a bank without special credit check.

Link

In surveying, a length of 7.92 inches.

Lis Pendens

A legal notice recorded to show pending litigation relating to real property, and giving notice that anyone acquiring an interest in said property subsequent to the date of the notice may be bound by the outcome of the litigation.

Listing

An agreement between an owner of real property and a real estate agent, whereby the agent agrees to secure a buyer or tenant for specific property at a certain price and terms in return for a fee or commission.

Listing Agent

A real estate agent obtaining a listing, as opposed to the selling agent.

Living Trust

A trust becoming operative in the lifetime of the person creating it.

Loan Origination Fee

A one time setup fee charged by the lender.

Loan Estimate (LE)

A three-page form, created by the Consumer Financial Protection Bureau (CFPB), that provides a borrower with important details about their loan, including the estimated interest rate, monthly payment, total closing costs, estimated costs of taxes and insurance, and how the interest rates and payments may change in the future. If the loan has special features, such as early payment penalties or increases in mortgage loan balances, the form will also include these details. The lender is required to provide a borrower with this form within three business days after receipt of the loan application. All lenders are required to use the same Loan Estimate form, making it easier for borrowers to compare mortgage loans. The Loan Estimate is not an approval or denial of a loan application, but shows a borrower the terms the lender expects to offer if the borrower decides to move forward with the loan

Loan Package

The file of all items necessary for the lender to decide to give or not to give a loan. These items would include the information on the prospective borrower (loan application, credit report, financial statement, employment letters, etc.), and information on the property (appraisal, survey, etc.). There may be a charge for "packaging" the loan.

Loan Policy

Also called "mortgage policy". A title insurance policy insuring a mortgagee, or beneficiary under a deed of trust, against loss caused by invalidity or unenforceability of a lien, or loss of priority of the mortgage or deed of trust.

Loan-to-Value (LTV) Ratio

Loan-to-value ratio is a key factor in determining how much of a home you can qualify for. To calculate, divide the mortgage loan amount by the fair market of the home value. A recent appraisal is generally required to determine fair market value.

Lock-In

A guarantee, for which you are usually charged a fee, that you will receive a specific rate when you close your mortgage.

Loss Payable Clause

A provision added to a Fire and Casualty Policy which says any loss will be paid to two or more parties as their interest may appear. Usually the owner and the mortgage lender.

Lot

Generally, any portion or parcel of real property. Usually refers to a portion of a subdivision.

M.A.I. (Member Appraisal Institute)

The designation given to a member of the American Institute of Real Estate Appraisers. A designation earned through experience, education and examination.

Maintenance Fee

As applied to condominiums and planned developments, the amount charged each unit owner to maintain the common area. Usually a monthly fee paid as part of the budget.

Majority

The age at which a person is no longer considered a minor and is entitled to contract and enjoy civic rights, such as voting.

Map Act

The Subdivision Map Act (Government Code, Section 66410, et seq.) regulating the subdivision of land.

Market Value

The price that a home will likely fetch on the market, based on comparisons to similar homes that have sold recently.

Marketable Title

A title which enables an owner to sell his property freely to others and which others will accept without objection.

Mechanic's Lien

A lien created by statute for the purpose of securing priority of payment for the price or value of work performed and materials furnished in construction or repair of improvements to land, and which attaches to the land as well as the improvements.

Mesne

Intermediate, intervening.

Metes and Bounds

A land description in which boundaries are described by courses, directions, distances and monuments.

Mineral Rights

The ownership of the minerals (coal, gold, iron, etc.) under the ground, with or without ownership of the surface of the land.

Minerals

In real estate terms, those minerals of value which may be taken by mining, such as coal, iron, copper, gold, silver, etc. Mineral rights, as well as oil rights, may be sold or leased separately from the land itself.

Minor

One who because of insufficient age or status is legally incapable of making contracts.

Mobile Home

Originally, a trailer pulled behind a car or truck cab. Now includes large homes, which are not truly mobile but are constructed in the same manner as trailers, as opposed to conventional on-site construction.

Monument of Survey

Visible marks or indications left on natural or other objects indicating the lines and boundaries of a survey. May be posts, pillars, stones, cairns, and other such objects. May also be fixed natural objects, blazed trees, roads and even a water course.

Mortgage

A lien or claim against real property given by the buyer to the lender as security for money borrowed. Under government-insured or loan-guarantee provisions, the payments may include escrow amounts covering taxes, hazard insurance, water charges and special assessments. Mortgages generally run from 10 to 30 years, during which the loan is to be paid off.

Mortgage-Backed Securities

Securities similar to bonds, but having their value based on a pool of mortgages. The rate of return is based on the interest rate of the mortgages, plus early payoffs, which increases the value of any discounts. The price of the securities will vary as interest rates rise and fall.

Mortgage Banker

A specialized lending institution that lends money solely with respect to real estate and secures its loans with mortgages on the real estate.

Mortgage Broker

A person or company that buys and sells mortgages for another on commission or who arranges for and negotiates mortgage contracts.

Mortgage Commitment

A written notice from the bank or other lending institution which states it will advance mortgage funds in a specified amount to enable a buyer to purchase a house.

Mortgage Company

A company authorized to service real estate loans, charging a fee for this service.

Mortgage Insurance

Insurance written by an independent mortgage insurance company protecting the mortgage lender against loss incurred by a mortgage default, thus enabling the lender to lend a higher percentage of the sale price.

Mortgage Note

A written agreement to repay a loan. The agreement is secured by a mortgage, serves as proof of an indebtedness, and states the manner in which it shall be paid. The note states the actual amount of the debt that the mortgage secures and renders the mortgagor personally responsible for repayment.

Mortgage (Open-End)

A mortgage with a provision that permits borrowing additional money in the future without refinancing the loan or paying additional financing charges. Open-end provisions often limit such borrowing to no more than would raise the balance to the original loan figure.

Mortgage Points

Mortgage points are also called discount points, points, loan discount points, loan origination fees or maximum loan charges. A point is equal to 1 percent of the loan amount.

Mortgagee

The lender in a mortgage agreement.

Mortgagee Policy

See Lender's Policy.

Mortgagor

The borrower in a mortgage agreement.

Multiple Listing

The pooling in a central bureau of listings of properties for sale. These listings are held individually by members of a group of real estate brokers, with the agreement that any member of the group may sell the properties and, in the case of a sale, the commission will be divided between the broker making the sale and the broker who filed the listing.

Muniments of Title

Written evidence (documents) that an owner possesses to prove his or her title to property.

NAR (National Association of Realtors®)

An association of people engaged in the real estate business. Organized in 1908, it currently lists over half a million members. With headquarters in Chicago, it is dedicated to the betterment of the real estate industry through education, legislation, and high ethical standards for its members.

Negative Amortization

A condition created when a loan payment is less than the interest payment due. Even though payments are made on time, the amount of principal owed increases.

Negative Cash Flow

When the income from an investment property does not equal the usual expenses, the owner must come up with cash each month to meet these expenses.

Non-Exclusive Listing

A listing under which only one agent may sell the property but without the right to a commission if the owner sells it directly. Also called an agency agreement.

Non-Judicial Foreclosure Sale

Sale by a trustee under a deed of trust, or mortgage under a power of sale of a mortgage. There is no court (judicial) proceeding.

Notarize

To prove execution of a document by means of a notary public's certificate of acknowledgment.

Notary Public

One who is authorized by the state or federal government to administer oaths, and to attest to the authenticity of signatures.

Note

A unilateral agreement containing an express and absolute promise of the signer to pay to a named person, or order, or bearer, a definite sum of money at a specified date or on demand. Usually provides for interest and, concerning real property, is secured by a mortgage or trust deed.

Notice of Action

A recorded notice that property may be subject to a lien, or even that the title is defective, due to pending litigation. Notice of a pending suit. Also called "Lis Pendens".

Notice of Cessation

A recorded notice shortening the time for filing mechanic's liens if work ceases prior to completion.

Notice of Completion

A notice recorded within ten (10) days of completion of a work of improvement signaling commencement of the time period within which claims of mechanics' liens must be recorded.

Notice of Default

A recorded notice of a trustor's failure to perform his/her obligation under a deed of trust. The beginning step in non-judicial foreclosure of a deed of trust.

Notice of Non-Responsibility

A recorded notice by an owner of real property that he/she will not be responsible for payment of costs of improvements contracted for thereon by some other person.

Obligee

One to whom an obligation (promise) is owed.

Obligor

One who legally binds (obligates) oneself, such as the maker of a promissory note.

Offer

A presentation of proposal for acceptance in order to form a contract. To be legally binding, an offer must be definite as to price and terms.

Office Information

Special information of title significance concerning persons or property maintained by a title company but not necessarily a matter of public record.

Off-Site Improvements

Development of land to make adjacent property suitable for construction. Includes sidewalks, curbs, streets, sewers, streetlights, etc.

Open House

A house which is open without appointment to prospective buyers (or tenants) for inspection during certain hours and days of the week.

Open Listing

A written authorization to a real estate agent by a property owner, stating that a commission will be paid to the agent upon presentation of an offer which meets a specified price and terms. However, the agent has no exclusive right to sell and must bring in his offer before any other offer is presented or accepted.

Order Confirming Sale

A court order confirming sale of estate property by a personal representative or other fiduciary.

Original Cost

The purchase price of property paid by the present owner. The present owner may or may not be the first owner.

Origination Fee

A fee charged by a lender for making a real estate loan. Usually a percentage of the amount loaned.

Owner's Policy

A policy of title insurance usually insuring an owner of real estate against loss occasioned by defects in, liens against or unmarketability of the owner's title.

Ownership

The right to possess and use property to the exclusion of others.

Owner will carry mortgage

A term used to indicate that the seller is willing to take back a purchase money mortgage.

Parcel

Any area of land contained within a single description.

Parcel Map

A map allowed in some states as a substitute for a subdivision map for 1 to 4 parcels (lots) with no common area. The procedure is much simpler and less costly than creating a subdivision map.

Partial Reconveyance

An instrument extinguishing the lien of a deed of trust from a portion of the property.

Partial Release Clause

Provision in a land contract, deed of trust or mortgage for a conveyance of a portion of the property to buyer upon satisfaction of specified conditions.

Partnership

An association of two or more persons who have contracted to join in business and share the profits.

Party Wall

A wall erected on a property boundary or between two lots for the common benefit and use of the property owners on either side.

Patent

A conveyance of title to land by the Federal or State Government.

Personal Property

Any property that is not designated by law as real property (i.e., money, good, evidences of debt, rights of action, furniture, automobiles).

Personal Representative

A person appointed by the probate court to administer a decedent's estate. See also "Executor".

PI (Principal and Interest)

Used to indicate what is included in a monthly payment on real property. If the payment includes only principal and interest, property taxes and hazard insurance would make the total payment higher.

P.I.Q.

A title term referring to Property in Question.

PITI

Abbreviation for principal, interest, taxes and insurance, all of which are lumped together in your monthly mortgage payment.

Planned Unit Development (PUD)

A subdivision of five or more individually owned lots with one or more other parcels owned in common or with reciprocal rights in one or more other parcels. The lots are generally small, being the exact size of the improvements or slightly larger.

Plat

A plot, map, or chart.

P.M.I.

Private Mortgage Insurance. An insurance contract which insures that the named lender will recover a specific percentage of the loan amount from the insurer in the event the loan goes bad. Many lenders require this on higher percentage loans.

Point of Beginning (POB)

A term used in metes and bounds descriptions. The description will start with the words "Beginning at a point" and end with "to the point of the beginning".

Points

A one-time-only fee you pay up front to your lender, sometimes in exchange for a slightly lower mortgage rate. One point equals one percent of the total amount you plan to borrow.

Policy

A general term used to describe all contracts of insurance.

Policy of Title Insurance

A contract indemnifying against loss resulting from a defect in title to the interest or lien in real property insured.

Power of Attorney

A document by which one person (called the "principal") authorizes another person (called the "attorney-in-fact") to act for him/her in a specific manner in designated transactions.

Power of Sale

A clause in a will, mortgage, deed of trust or trust agreement authorizing the sale or transfer of land in accordance with the terms of the clause.

Preliminary Title Report

Also known as "PRE" and/or "PRELIM". A written report issued by a title company, prior to issuing title insurance, which shows the recorded condition of title of the property in question.

Premium

The amount paid for an insurance policy.

Prepayment

Payment of mortgage loan, or part of it, before due date. Mortgage agreements often restrict the right of prepayment either by limiting the amount that can be prepaid in any one year or charging a penalty for prepayment. The Federal Housing Administration does not permit such restrictions in FHA insured mortgages.

Prescriptive Easement

A right to use another's property that is not inconsistent with the owner's rights and that is acquired by an open, notorious, adverse and continuous use for the statutory period, for example 20 years.

Principal

The basic element of the loan as distinguished from interest and mortgage insurance premium. In other words, principal is the amount upon which interest is paid.

Priority

The order of preference, rank or position of the various liens and encumbrances affecting the title to a particular parcel of land. Usually, the date and time of recording determine the relative priority between documents.

Priority Inspection

A title term referring to the type of inspection made in connection with insuring a new construction loan. In making the inspection of the property, the title company must be assured that the work of improvement had not yet begun when the lender's deed of trust was recorded.

Private Mortgage Insurance

Insurance against a loss by a lender in the event of default by a borrower (mortgagor). The insurance is similar to insurance by a governmental agency such as FHA, except that a private insurance company issues it. The premium is paid by the borrower and is included in the mortgage payment.

Promissory Note

An unconditional written promise, signed by maker, to pay, absolutely, a sum certain in money, either to the bearer or to a person therein designated.

Property Taxes

Property taxes are also called real estate taxes. These taxes are paid to the local taxing authority or municipality. The amount you pay can generally be deducted from your federal income taxes. Property taxes are often levied as a percentage of your home's assessed value.

Pro Rate

To allocate between seller and buyer their proportionate share of an obligation paid or due.

Purchase Agreement

An agreement between a buyer and seller of real property.

Quiet Title

To free the title to a piece of land from the claims of other persons by means of a court action called a "quiet title" action. The court decree obtained is a "quiet title" decree.

Quitclaim Deed

A deed which transfers whatever interest the maker of the deed may have in the particular parcel of land. A quitclaim deed is often given to clear the title when the grantor's interest in a property is questionable. By accepting such a deed the buyer assumes all the risks. Such a deed makes no warranties as to the title, but simply transfers to the buyer whatever interest the grantor has.

Range

A part of the government survey, being a strip of land six miles in width, and numbered east or west of the principal meridian.

Real Estate

Also called "real property". (1) Land and anything permanently affixed to the land, such as building, fences and those things attached to the buildings, such as light fixtures, plumbing and heating fixtures, or other such items that would be personal property if not attached. (2) May refer to rights in real property as well as the property itself.

Real Estate Board

A state license granted to one as a broker or salesperson after passing an examination. Some states have educational requirements before the brokers' examination may be taken.

Real Estate Broker

A middle man or agent who buys and sells real estate for a company, firm or individual on a commission basis. The broker does not have title to the property, but generally represents the owner.

Real Estate Owned (REO)

Most commonly refers to property owned by a lender from foreclosure of mortgages or trust deeds. The property is usually for sale.

Real Property

Immovable property such as land, buildings, improvements, appurtenances, and air space.

Realtor®

A federally registered collective membership mark which identifies a real estate professional who is a member of the National Association of Realtors® and subscribes to its strict Code of Ethics.

Realty

A brief term for real estate.

Recital

Setting forth in a deed or other writing some explanation for the transaction. For example: A deed may state that the property is being transferred in lieu of foreclosure.

Reconveyance

An instrument used to transfer title from a trustee to the equitable owner of real estate, when title is held as collateral security for a debt. Most commonly used upon payment in full of a trust deed. Also called a deed of reconveyance or release.

Recorder's Office

The county office where instruments are recorded, giving public notice.

Recording

Filing documents affecting real property as a matter of public record, giving notice to future purchasers, creditors, or other interested parties. Recording is controlled by statute and usually requires the witnessing and notarizing of an instrument to be recorded.

Recording Fee

The amount paid to the recorder's office in order to make a document a matter of public record.

Redeem

Literally "to buy back". The act of buying back lands after a mortgage foreclosure, tax foreclosure, or other execution sale.

Refinancing

The process of the same mortgagor paying off one loan with the proceeds from another loan.

Reinsurance

A contract which one insurer makes with another to protect the first insurer, wholly or partially, against loss or liability by reason of a risk under a separate and distinct contract as insurer of a third party. Reinsurance differs from coinsurance in that, in the case of reinsurance, only one insurer has a direct contractual relationship with the insured, and that insurer (commonly referred to as the "lead insurer") purchases reinsurance in order to lessen or spread the risk. The "lead insurer" will assume a risk up to a limit (the amount of which is referred to as the "retention") and any loss which exceeds this limit would be borne by the relationship with the insured, and the risk is shared in agreed upon proportions from the first dollar of loss.

REIT

Real Estate Investment Trust. A business trust or corporation formed under federal and state statutes for the purpose of investing in real estate.

Release

(1) To relieve from debt or security or abandon a right, such as the release of a mortgage lien from a part or all of the land mortgaged. (2) The instrument effecting a release.

REMIC

Real Estate Mortgage Investment Conduit. A product of 1986 federal tax legislation in which a business entity such as a corporation, partnership, or trust in which substantially all of the assets consist of qualified mortgages and permitted investments, elects to be treated as a REMIC. Qualification avoids treatment as a corporation for tax purposes.

Request for Notice

Recorded request by anyone desiring written notice of the recording of a notice of default under a deed of trust or of the scheduling of a trustee's sale thereunder; also, recorded trust request of anyone desiring notice of the scheduling of an execution sale foreclosing the lien of a judgment; also, a request filed in probate proceedings by anyone desiring special notice of proceedings taken therein.

Request for Reconveyance

Written instruction of a beneficiary under a deed of trust addressed to the trustee, acknowledging satisfaction of the secured obligation, and directing the trustee to extinguish the lien of the deed of trust and reconvey the property encumbered by the deed of trust.

Rescission

The act of canceling or annulling the effect of a document.

RESPA (Real Estate Settlement Procedures Act)

A federal statute effective June 20, 1975, requiring disclosure of certain costs in the sale of residential (one to four family) improved property which is to be financed by a federally insured lender.

Restraint on Transfer

An impediment or limitation on an owner's right to transfer title to property.

Restrictions

Often called restrictive covenants. Provisions in a deed or other instrument whereby an owner of land prohibits or restricts certain use, occupation or improvement of the land.

Revenue Stamps

Stamps affixed to documents evidencing payment of federal tax formerly imposed.

Reverse or Reverse Annuity Mortgage

A mortgage for which the borrower pledges home equity in return for regular (monthly) payments, rather than a lump sum distribution of loan proceeds. Repayment is usually not required until the home is sold or the borrower's estate is settled, provided the borrower continues to live in the home and keeps current all taxes and insurance.

Rider

A supplement to; an addition to; an endorsement to a document.

Right of Survivorship

The right of a survivor of a deceased person to the property of said deceased. A distinguishing characteristic of a joint tenancy relationship.

Right of Way

(1) The right to pass over property owned by another, usually based upon an easement.
(2) A path or thoroughfare over which passage is made. (3) A strip of land over which facilities such as highways, railroads or power lines are built.

Riparian Rights

The rights of owners of lands bordering watercourses which relate to the water and its use.

Rollover Loan

A loan, which is periodically reviewed, adjusted (usually to reflect current interest rates) and extended. Short term loans can be rolled over into long term loans. The process is by initial agreement or necessity.

Running with the Land

Usually concerned with easements and covenants. Passing with the transfer of the land.

Sale Agreement

A contract entered into between a buyer and seller, setting forth the terms, provisions and conditions of a sale of real estate.

Sale and Leaseback

A situation in which the grantor in a deed to a parcel of property sells it and retains possession by simultaneously leasing it from the grantee.

Sales Associate

One who is licensed to work in real estate under a licensed broker.

Satisfaction

The performance of the terms of an obligation.

Seal

An impression on a document lending authenticity to its execution.

Search

In title industry parlance, a careful exploration and examination of the public records in an effort to find all recorded instruments relating to a particular chain of title.

Second Mortgage

A mortgage ranking in priority immediately below a first mortgage.

Section or Section of Land

A parcel of land comprising one square mile or 640 acres.

Selling Agent

The real estate agent obtaining the buyer rather than listing the property. The listing and selling agent may be the same person or company.

Separate Property

Real property owned by one spouse exclusive of any interest of the other spouse.

Set Back Lines

Those lines which delineate the required distances for the location of structures in relation to the perimeter of the property.

Settlement Statement

A statement prepared by broker, escrow, or lender, giving a complete breakdown of costs involved in a real estate sale. A separate statement is prepared for the buyer and seller.

Short Form Document

A document which refers either to another document not of record containing the total agreement, or incorporates by reference a document of record.

Single Family House

A general term originally used to distinguish a house designed for use by one family from an apartment house. More recently, used to distinguish a house with no common area from a planned development or condominium.

Situs

The location of property.

Special Assessments

A special tax imposed on property, individual lots or all property in the immediate area, for road construction, sidewalks, sewers, street lights, etc.

Specific Performance Action

A form of action seeking the execution of documentation relating to real property.

Squatter

One who lives on another's land without legal claim or authority. (See Adverse Possession).

Standard Coverage Policy

A title insurance policy used in several states, not having as broad coverage as the nationally recognized American Land Title Association (ALTA) policies.

Starter

A copy of the last policy or report issued by a title insurer which described the title to land upon which a new search is to be made. In some states, this is called a back title letter or back title certificate.

Statement of Information

A brief statement of facts relied on by title insurers to assist in the proper identification of persons.

Status

The legal position of an individual; i.e., adult, minor, etc.

Straight Note

A promissory note calling for payment of principal in one sum rather than in installments.

Street Improvement Bonds

Interest-bearing bonds issued, usually by a city or county, to secure the payment of assessments levied against land to pay for street improvements. The property owner may pay off the particular assessment against the property, or may allow the assessment to "go to bond" and pay installments of principal and interest over a period of years, usually at the city or county treasurer's office. The holder of a bond received payments from these offices.

Subcontractor

One who works under a general contractor (builder), such as an electrical contractor, cement contractor, etc.

Subdivision

An area of land laid out and divided into lots, blocks, and building sites, and in which public facilities are laid out, such as streets, alleys, parks, and easements for public utilities.

"Subject To" Clause

A clause in a deed, stating that the grantee takes title "subject to" an existing mortgage. The original mortgagor is alone responsible for any deficiency, should there be foreclosure of the mortgage. Differs from an "assumption" clause, whereby the grantee assumes and agrees to pay the existing mortgage.

Sublease

A lease executed by a tenant for a term less than the leasehold.

Subordination

The act or process by which a person's rights are ranked below the rights of others. For example, a second mortgagee's rights are subordinate to those of the first mortgagee.

Subordination Agreement

An agreement by which one encumbrance (for example, a mortgage) is made subject (junior) to another encumbrance. To "subordinate" is to "make subject to", or to make of lower priority.

Subrogation

The substitution of one person for another, so that the former may exercise certain rights or claims of the latter. Used primarily when a surety relationship exists, as in insurance.

Subsurface Rights

The rights of ownership to things lying beneath the physical surface of the property.

Surety

(1) A person who agrees to be responsible for a debt or obligation of another. (2) The pledge or agreement by which one undertakes responsibility for the debt or obligation of another.

Surface Rights

Rights to enter upon and use the surface of a parcel of land, usually in connection with an oil and gas lease or other mineral lease. They may be "implied" by the language of the lease (no explicit reservation or exception of the surface rights) or explicitly set forth.

Survey

A map or plat made by a licensed surveyor showing the results of measuring the land with its elevations, improvements, boundaries and its relationship to surrounding tracts of land. A survey is often required by the lender to assure him that a building is actually sited on the land according to its legal description.

Tax

As applied to real estate, an enforced charge imposed on persons, property or income, to be used to support the State.

Tax Deed

A deed executed by the tax collector to the state, county or city after a period of non-payment of taxes according to statute.

Tax Roll

A list, usually published by a county, containing the descriptions of all parcels in said county, the names of the owners (or those receiving the tax bill), the assessed value and tax amount.

Tax Sale

(1) Property on which current county taxes have not been paid is "sold to the state". No actual sale takes place the title is transferred to the state and the owner may redeem it by paying taxes, penalties and costs. If it has not been redeemed within five years, the property (referred to as "tax sold property") is actually deeded to the state. (Similar "sales" to cities take place for unpaid city taxes). (2) A public sale of property at auction by a governmental authority, after a period of non-payment of property tax.

Tax Search

An examination of the public records of taxing authorities to determine the tax status of a parcel of real property.

Tenancy by the Entirety

Ownership by married persons where each owns the entire estate, with the survivor taking the whole upon the other's death.

Tenancy in Common

An estate or interest in land held by two or more persons, each having equal rights of possession and enjoyment, but without any right of succession by survivorship between the owners.

Tenant

Any person occupying real property with the owner's permission.

Termite Report

A report of an inspection for wood-destroying pests by a person licensed by the state.

Testamentary Trust

A trust created by the last will and testament of a decedent.

Testate

Leaving a legally valid will at death.

Title

As generally used, the rights of ownership and possession of particular property. In real estate usage, title may refer to the instruments or documents by which a right of ownership is established (title documents), or it may refer to the ownership interest one has in the real estate.

Title Covenants

Covenants ordinarily inserted in conveyances and in transfers of title to real estate for the purpose of giving protection to the purchaser against possible insufficiency of the title received. A group of such covenants known as "common law covenants" includes:

covenants against encumbrances; covenants for further assurance (in other words, to do whatever is necessary to rectify title deficiencies); covenants of good right and authority to convey; covenants of quiet enjoyment; covenants of seisin; covenants of warranty.

Title Defect

(1) Any possible or patent claim or right outstanding in a chain of title that is adverse to the claim of ownership. (2) Any material irregularity in the execution or effect of an instrument in the chain of title.

Title Insurance

Insurance against loss resulting from defects of title to a specifically described parcel of real property. Insurance benefits will be paid only to the "named insured" in the title policy, so it is important that an owner purchase an "owner's title policy", if he desires the protection of title insurance.

Title Order

An order for a search of title to some parcel of property, eventually leading to the issuance of a policy of title insurance.

Title Plant

Also called abstract plant in some areas. A geographically filed assemblage of title information that helps in expediting title examinations, such as copies of previous attorney's opinions, abstracts, tax searches and copies or take-offs of the public records.

Title Search or Examination

A review of all recorded documents affecting a specific piece of property to determine the present condition of title.

Torrens Title

A system whereby, title to land is registered with a registrar of land titles, instead of being recorded.

Township

A territorial division of land established by federal survey, being six miles square, containing 36 sections or 36 square miles.

Tract

A parcel of land.

Transfer Tax

A tax imposed upon transfers of title to real property.

Trust

A fiduciary relationship under which one holds property for the benefit of another.

Trust Deed

Same as a deed of trust; a three party security instrument conveying title to land as security for the performance of an obligation.

Trustee

A party who is given legal responsibility to hold property in the best interest of or "for the benefit of another". The trustee is one placed in a position of responsibility for another, a responsibility enforceable in a court of law.

Trustee's Deed

The deed given by the trustee under a deed of trust when the secured property is sold under power of sale.

Trustee's Sale

Foreclosure sale conducted by the trustee in the exercise of a power of sale.

Trustor

The person conveying property in trust.

UCC

Uniform Commercial Code. (Com. Code, Section 1101 et seq.)

Underwriter

An insurance company that issues insurance policies to the public or to another insurer.

Underwritten Company

A title firm which conducts title searches but is not qualified to insure, and therefore issues policies of a qualified title insurer (underwriter) in return for a portion of the premium.

Undivided Interests

Unsegregated interests of co-owners in the entire property owned by them as tenants in common.

Unjust Enrichment

Mistake or misfortune of one person unfairly benefiting another.

Unmarketable Title

Not salable. A title which has serious defects.

Unrecorded Instrument

A deed, mortgage, etc., which is not recorded in the county recorder's office and, therefore, not protected under recording statutes. Valid between the parties involved, but not against innocent third parties.

VA Guarantee

An insurance contract in which the Veterans Administration (VA) insures that the named lender will recover a specific percentage of the loan amount from the insurer in the event the loan goes bad.

Variable Interest Rate

An interest rate that fluctuates with the current cost of money; subject to adjustment if the prevailing rate moves up or down.

Vendee

Purchaser or buyer, especially on a land contract.

Vendor

The person who transfers property by sale. Another word for "seller".

Vendor's Lien

A lien either express or implied given to a vendor for the remaining unpaid and unsecured part of a purchase price.

Venue

Used to refer to the county or place in which an acknowledgment is made before a notary; also refers to the county in which a lawsuit may be filed or tried.

Vested

Present ownership rights, absolute and fixed.

Waiver

The voluntary and intentional relinquishment of a known right, claim or privilege.

Warranty

A legal binding, promise, given at the time of a sale, whereby the seller gives the buyer certain assurances as to the condition of the property being sold.

Warranty Deed

A deed used in many states to convey fee title.

Water Right

The right of an owner of land to use water adjacent to or below the surface of the land.

Wetlands

Lands which, in their normal condition, have wet or spongy soil, such as a marsh or bog.

Will

A testamentary disposition of property, usually in a form prescribed by law, that takes effect upon death.

Wrap-Around Mortgage

Same as an "all inclusive mortgage". One incorporating the balance due under a prior mortgage.

Zoning

Laws passed by local governments regulating the size, type, structure, nature and use of land or buildings.