



LAW OFFICE OF

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# THE REAL ESTATE DICTIONARY

# A

## **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.

## **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.

## **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.

## **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.

## **Ad Valorem**

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

**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.

**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. If a woman is appointed, she is called an administratrix.

**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.

**Affidavit**

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

**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.

**Amortization**

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

**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.

**Appraisal**

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

**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.

**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.

**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.

**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.

**Attorney in Fact**

One who holds a power of attorney from another allowing him or 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.

## B

**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.

**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.

**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.

**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**

An early agreement to buy a home from a seller, which is usually ensured with earnest money.

**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.

**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.

**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.

**Building Contract**

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

**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 to five years of the loan. (See also: Certificate Backed Mortgage).

## C

**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.

**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

## D

**Debt**

Money owing from one person to another.

**Debtor**

One who owes a debt.

**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. (See also deed of trust, general warranty deed and quitclaim deed.)

**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.

**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 Note**

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

**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.

**Devise**

A disposition of property made by a will.

**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.

**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.

**Due on Sale Clause**

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

# E

## **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. See Condemnation.

## **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.

## **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.

**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.

**Espel**

A legal restraint that s[ TOP ]s or prevents a person from contradicting or reneging on his previous position or previous assertions or commitments.

**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.

**Exception**

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

**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 person appointed in a will and affirmed by the probate court to cause a distribution of the decedent's estate in accordance with the will. (The one who makes the will is called a "testator.") If a woman is appointed, she is referred to as the "executrix."

**F****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.

**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.

**File and Use**

In most states, title insurers 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 Statement**

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

**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. Examples: 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 .

**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.

**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.

# G

## **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.

## **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.

## **Grantee**

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

## **Grantor**

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

## **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.

# H

## **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.

## **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).

**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".

**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.

**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 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.

**I****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.

**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.

**Inchoate Curtesy**

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

**Indemnity**

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

**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.”

**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.

**Interest**

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

**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.

**J****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.

**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 Lien**

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

**Junior Mortgage**

A mortgage lower in lien priority than another.

# L

## **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.

## **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.

## **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.

## **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.

**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.

**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.

**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

**Majority**

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

**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.

**Metes and Bounds**

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

**Minor**

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

**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 saying it will advance mortgage funds in a specified amount to enable a buyer to purchase a house.

**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.

**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.

## N

**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.

**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.

## O

**Obligee**

One to whom an obligation (promise) is owed.

**Obligor**

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

**Original Cost**

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

**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.

**P****Parcel**

Any area of land contained within a single description.

**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, goods, 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."

**"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.

**Plat**

A map or chart of a lot, subdivision or community drawn by a surveyor showing boundary lines, buildings, improvements on the land and easements.

**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.

**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.

**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.

**“PRE,” “PRELIM” or Preliminary Title Report**

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. See Commitment.

**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.

**Pro rate**

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

**Public Domain**

Land owned by the government and belonging to the community at large.

**Public Records**

The records of all documents which are necessary to give notice and are available to the public.

**Purchase Money Mortgage**

A mortgage given by a purchaser to a seller on the subject property to secure payment of a part of the purchase price.

# Q

## **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.

# R

## **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 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.

## **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.

## **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.

## **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.

## **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 reinsurers. In the case of coinsurance, each coinsurer has a direct contractual 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.

**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.

**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.

**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.

# S

## **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.

## **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.

## **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.

## **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.

## **Squatter**

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

## **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.

## **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.

## **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.

**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.

# T

**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 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.

**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.

**Testate**

Leaving a legally valid will at death. See Intestate.

**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 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 attorneys' 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.

**Trust**

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

**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.

## U

**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.

**Underwriter**

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

## V

**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.

**W****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 to real property. A warranty deed contains provisions under which the seller becomes liable to the purchaser for defects in or encumbrances on the title.

**Will**

A written expression of the desire of a person as to the disposition of that person's property after death. Must follow certain procedures to be valid.

**Z****Zoning**

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