

Glossary

A

Abstract of Judgment

A condensation or summary of the essential provisions of a court judgment.

Abstract of Title

A list of, and full or abstract copies of, all documents affecting Title based on an examination of public records.

Abstract Plant

Also known as a "Title Plant." A geographically filed collection of title information that helps expedite the title search and examination process; included records may include copies of previous attorney's opinions, abstracts, tax searches, and copies of take-offs from the public record.

Acceleration Clause

Mortgage clause that may require the balance of the loan to become immediately due if regular mortgage payments are not made or if other mortgage conditions are breached.

Acceptance

Voluntarily agreeing to the price and terms of an offer. Offer and acceptance create a contract.

Accommodation Recording

Recording of instruments with county recorder by a title company merely as a convenience to a customer and without assumption of responsibility for correctness or validity.

Accrued Interest

Interest on a note, bond, etc. which has been earned but not yet paid. Since interest is generally paid in arrears, accrued interest does not necessarily indicate a delinquency in payment.

Acknowledgment

An act of authenticating instruments conveying property or otherwise conferring right; a declaration by the Party executing an instrument that it is the Party's act and Deed; a form used by Notaries Public and other authorized officials to verify the act of Acknowledgment.

Acre

A tract of land 208.71 feet square and containing 43,560 feet of land.

Act of God

Damage caused by nature (i.e., floods, winds, etc.) rather than the destruction by man.

Addendum

A list or other material added to a document, letter, contractual agreement, escrow instructions, etc.

Adjustable Rate Mortgage (ARM)

A mortgage loan where the interest rate is adjusted periodically, according to some market indicator, to more closely resemble current rates. The extent and number of these adjustments are agreed to at the inception of the loan.

Administrator

A person appointed by a Probate Court as the representative of a decedent's estate where the decedent left no will.

Glossary

A

Adverse Possession

Claims of ownership of property based upon hostile possession and occupancy. Issuance of Title Insurance requires judicial determination.

Affiant

A person who makes an Affidavit.

Affidavit

A written declaration under oath, made before a notary public or other judicial officer.

Agent

One who is authorized to act for or represent another (principal), usually in business matters.

Agreement

A legally binding contract made between two (or more) people.

ALTA (American Land Title Association)

The trade association of the title insurance industry; they have worked to standardize coverage on a national basis by adopting certain insurance policy forms.

Amendment

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

Amortization

A payment to reduce the principal of a debt in regular, periodic installments.

Annual Percentage Rate (APR)

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

Appraisal

An independent report, from a third-party, detailing the estimated value of real estate.

Appurtenance

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

Appurtenant

Belonging to.

Assessed Value

Value placed on property as a basis for taxation.

Assessments

Special taxes imposed to pay for public improvements beneficial to a limited area (streets, sidewalks, sewers, etc.)

Glossary

A

Assignment

A transfer of all of an interest in personal property.

Assumption of Mortgage

The obligation undertaken by the purchaser of property to be liable for the repayment of an existing mortgage. In an assumption, the new purchaser is substituted for the original mortgager in the mortgage instrument while the original mortgager is released from further liability.

An "Assumption of Mortgage" is not the same as "Purchasing Subject to a Mortgage," though the two are often confused. In a purchase subject to a mortgage, the purchaser agrees to make the monthly mortgage payment while the original mortgagor remains personally liable if the purchaser fails to make the payments.

Attorney-In-Fact

An Agent authorized to act for another under a "Power of Attorney."

Attorney's Opinion

A statement by an attorney regarding the validity of a title, arrived at after a title search and examination.

B

Back Title Letter

Also called a "Back Title Certificate" in some areas or a "Starter" in others. When titles have previously been examined, up to a specific date, by a reliable examiner, a title company may give subsequent examiners of the title a letter that states the condition of the title at the time of the previous authorization. This allows future examiners to begin their examination at the end date of the previous examination.

Balloon Note

A promissory note that calls for the minimum payment of principal and the payment of interest in regular installments. This form of promissory note requires a substantial final payment, representing all of the remaining principal.

Bankruptcy

A proceeding in the U.S. District Court where assets of an insolvent debtor are protected and distributed in an equitable manner.

Binder

Also referred to as a "Preliminary Certificate," "Preliminary Report," or "Commitment." (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 specific conditions are met. (2) A deposit of a small portion of the purchase price of real estate as evidence of good faith and to bind an agreement to purchase.

Bona Fide

A legal term which refers to any actions, situations or persons that are honest, in good faith, and without fraud.

Breach

The violation of an obligation.

Glossary

B

Broker

Also known as a "Real Estate Broker." A middleman 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.

Building Line or Setback

Distances from the ends and/or sides of the lot beyond which construction may not extend. The building line may be established by a filed plat of subdivision, by restrictive covenants in deeds or leases, by building codes or by zoning ordinances.

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.

C

Cap

A maximum amount of a charge. I.e., an Adjustable Rate Mortgage with a 5% rate cap could not adjust the interest rate by more than 5%.

Certificate of Occupancy

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

Certificate of Title

A certificate issued by a title examiner stating the condition of a title.

Chain

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

Chain of Title

A chronological list of recorded instruments affecting the Title to 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 lines, defects, encumbrances or claims.

Closing

Also called "Settlement." A meeting of all parties involved in a property transaction during which the transaction is consummated.

Glossary

C

Closing Costs

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

Cloud on Title

An invalid encumbrance on real property, which, if valid, would affect the rights of the owner.

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 Assignment

The Assignment of a debt and the security therefore, such as a Note and Deed of Trust to secure the performance of an obligation by the Assignor. The assignee holds Title for security purposes.

Commission

Money paid to a real estate agent or broker by the seller as compensation for finding a buyer and completing the sale. Usually, it's a percentage of the sale price.

Commitment

Also referred to as a "Preliminary Certificate," "Preliminary Report," or "Binder." A preliminary report as to the condition of a title and a commitment to issue a title insurance policy in a certain manner when specific conditions are met.

Common Area

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

Comparables

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

Concession

A granting of a right, by government or privately, usually to the use of land or area in a building to carry on a business.

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 Sales Contract

A contract of sale where Title remains in the Seller's name until the conditions of the contract have been performed (i.e., Utah's Uniform Real Estate Contract).

Condominium

Individual ownership of a dwelling unit and an individual interest in the common areas and facilities which serve the multi-unit project.

Glossary

C

Constructive Notice

Notice given by the public records of a claim of ownership or interest in property. Generally, the law presumes that one has the same knowledge of instruments properly recorded as if one were actually acquainted with them.

Contingency

Commonly, the dependence upon a stated event which must occur before a contract is binding. For example, the sale of a house is contingent upon the buyer securing financing.

Conventional Mortgage

A mortgage loan not insured by HUD or guaranteed by the Veterans' Administration. It is subject to conditions established by the lending institution and state statutes. The mortgage rates may vary from institution to institution.

Conveyance

A written instrument transferring the Title to land or an interest therein from one party to another.

Cooperative Housing

An apartment building or a group of dwellings owned by a corporation, the stockholders of which are the residents of the dwelling. It is operated for their benefit by their elected board of directors. In a cooperative, the corporation or association owns title to the real estate. A resident purchases stock in the corporation, which entitles him to occupy a unit in the building or property owned by the cooperative. While the resident does not own his unit, he has an absolute right to occupy his unit for as long as he owns stock.

Covenants

Agreements contained in Deeds and other instruments for the performance or non-performance of certain acts, or the use or non-use of property in a certain manner.

Credit Report

A report on the past ability of a loan applicant to pay installment payments.

D

Debt

Money owing from one person to another.

Debtor

One who owes a debt.

Dedication

The setting aside of land by the owner and the declaration that it is for public use. Examples: streets, sidewalks, parks, etc.

Deed

A formal, written, legal instrument which transfers title to real property from one owner to another. The deed should contain an accurate description of the property being conveyed, should be signed and witnessed in accordance with the laws of the state in which the property is located and it should be delivered to the purchaser on the date of closing. The deed refers to two parties: the grantor and the grantee.

Glossary

D

Deed of Trust

A security instrument whereby real property is used as security for a debt. In a deed of trust, there are three parties referenced: the borrower, the trustee and the lender (or beneficiary). In this 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. If the debt is paid as agreed, the deed of trust becomes void. If, however, the borrower defaults in the payment for the debt, the trustee may sell the property at a public sale, according to the terms of the deed of trust. In many jurisdictions where the deed of trust is in force, the borrower may have his property sold without a legal proceeding. Some states have recently begun to treat the deed of trust like a mortgage.

Deed Restriction

A covenant in a deed which imposes limits on the use or occupancy of the real estate, or the type, size, purpose and/or location of improvements to be constructed on it.

Default

A failure to make good on mortgage payments as agreed to in a commitment based on the terms and at the time designated in the mortgage or deed of trust. It is the mortgagor's responsibility to track the due date of their payment and ensure that their payment is received prior to that date. Generally, thirty-days after the due date (if payment is not received) the mortgage is placed into default. In the event of default, the mortgage may give the lender the right to change the rate of payment, take possession of the home and be paid rent and/or start foreclosure. Default may also occur by failing to observe other conditions in the mortgage or the deed of trust.

Defect

A blemish, imperfection or deficiency.

Defective Title

Title to real property that lacks some of the elements necessary to transfer good title.

Deferred Maintenance

Repairs necessary to put a property in good condition, which is a concern of a purchaser. An owner may have an account for such maintenance.

Depreciation

Loss in value due to ordinary wear and tear, destructive elements, or becoming obsolete.

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 said deed.

Deposit

Money given by the buyer with an offer to purchase, showing good faith (also called Earnest Money).

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 a legal description of property.

Devise

A gift of real estate made via a will.

Glossary

D

Disbursements

Payments made during the course of an escrow or at closing.

Documentary Stamps

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

Domicile

A legal term signifying a place where a person has his permanent home. The most accurate meaning is the laymen's understanding of the place where a person "lives," since this takes into consideration the intent of the person to make a particular property his "home."

Dominant Estate

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

Donee

One who receives a gift.

Donor

One who makes a gift.

Double Escrow

Two concurrent escrows on the same property, having the same party as buyer and seller of the property. I.e., in Escrow 1, A buys from B. In Escrow 2, A sells the same property to C. A is using C's money to buy B's property. This process is illegal in many states without a full and complete disclosure of the circumstances.

Dower

The right that a wife has in her husband's property at the time of his death; this does not exist in all states.

Down Payment

The amount of money to be paid by the purchaser to the seller upon the signing of the agreement of sale. The agreement of sale will reference the down payment amount and acknowledge receipt of the down payment. The down payment is the difference between the sales price and the maximum mortgage amount.

Due on Sale Clause

A type of acceleration clause, calling for a debt under a mortgage or deed of trust to be due in its entirety upon transfer of ownership of the secured property.

E

Earnest Money

The deposit 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 home. If the sale goes through, the earnest money is applied against the down payment.

Glossary

E

Easement

A limited right or interest in land of another that entitles the holder of the right to some use, privilege, or benefit out of or over the land (e.g., to install pole lines, pipelines, roads, driveways).

Egress

A term concerning a right to come and go across the land (public or private) of another. Usually part of the term ingress and egress.

Elevation

Height above sea level.

Eminent Domain

The right of the government to take privately owned property for public purposes under condemnation proceedings subject to payment of its fair market value.

Encroachment

The extension of an improvement onto the property of another.

Encumbrance

A lien or charge on land.

Endorsement

Also a notation on an instrument to change, clarify, or enlarge its contents. In Insurance, a provision or rider added to the Insurance Policy to alter the terms of the Insurance Contract.

Equity

The value of a homeowner's unencumbered interest in real estate. Equity is computed by subtracting from the property's fair market value the total of the unpaid mortgage balance and any outstanding liens or other debts against the property.

Escheat

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

Escrow

A transaction in which an impartial third party acts as Agent for both Seller and Buyer, or for both Borrower and Lender, in carrying out instructions, delivering papers and documents. The holding of funds and/or documents by a neutral third party for the performance of a condition or conditions.

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 who has, through experience and education, gained a degree of expertise in escrow matters.

Estoppel

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

Glossary

E

Examination

The study of the chain of title to determine their effect or condition in order to reach a conclusion regarding the status of the title.

Exception

A provision in a title insurance binder or policy which excludes a specific title defect or an outstanding encumbrance.

Execute

To sign a legal instrument. A deed is considered executed when it has been signed, sealed, witnessed and delivered.

F

Fair Credit Reporting Act (FCRA)

A federal law giving one the right to see his or her credit report so that errors may be corrected. A lender refusing credit based on a credit report must inform the buyer which company issued the report; the buyer may then see the report without charge if refused credit or for a charge, if no credit has been refused.

Fannie Mae (FNMA)

Federal National Mortgage Association. A private corporation that deals with the purchase of first mortgages.

Federal Housing Administration (FHA)

A federal agency that insures first mortgages, enabling lenders to lend a very high percentage of the sale price.

Federal Tax Lien

A lien attaching to property for nonpayment of 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.

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.

First Mortgage

A mortgage having priority over all other voluntary liens against certain property.

Fixed Rate Mortgage

A mortgage having a rate of interest that remains the same for the life of the mortgage.

Fixtures

Personal property that is attached to real property and is legally treated as real property while it is attached (i.e., medicine cabinets, window blinds, chandeliers, etc).

Foreclosure

A legal term describing any of the various methods of enforcing payment of the debt secured by a mortgage, or deed of trust, by taking and selling the mortgaged property, and depriving the mortgagor of possession.

Glossary

F

Forgery

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

Freddie Mac (FHLMC)

Federal Home Loan Mortgage Corporation. A federal agency that purchases both conventional and federally insured first mortgages from members of the Federal Reserve System and the Federal Loan Bank System.

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, that the grantee may hold the grantor liable.

General Lien

A lien, such as a tax lien or judgment lien, which attaches to all property of the debtor rather than the lien of, for example, a trust deed which attaches to only a specific property.

Ginnie Mae (GNMA)

Governmental National Mortgage Association. A federal association working with the FHA that offers special assistance in obtaining mortgages and purchases mortgages in the secondary market.

"Good Faith" or "Mortgage Savings" Clause

A clause in CC&R's which provides that "a violation thereof shall not defeat or render invalid the lien of any mortgage or deed of trust made in good faith and for value.

Grant

To bestow or confer, with or without compensation, a gift such as land or money by one having control or authority over the gift.

Grantee

One to whom a grant is made.

Grantor

One who makes a grant.

Grant Deed

One of the many types of deeds used to transfer real property. Contains warranties against prior conveyances or encumbrances. When title insurance is purchased, warranties in a deed are of little practical significance.

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.

Glossary

H

Hazard Insurance

Real estate insurance protecting against fire, some natural causes, vandalism, etc. depending upon the policy. Buyer often adds liability insurance and extended coverage for personal property.

Hereditaments

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

Homeowner's Association

An association of people who own homes in a given area, formed for the purpose of improving or maintaining the quality of the area. An association formed by the builder of condominiums or planned developments.

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 including coverage such as personal liability and theft away from home.

Housing and Urban Development (HUD)

The federal department responsible for the major housing programs in the United States.

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.

Indemnity Agreement

An agreement to compensate another Party for a potential loss. A "Hold Harmless" agreement.

Ingress

A right to enter upon and pass through land.

Insurable Interest

An interest in property of such a nature that the occurrence of the event insured against would cause financial loss to the insured. Such interests may be that of an Owner, a Mortgagee, a lessee, a Trustee, etc.

Instrument

Any written document which has a legal effect.

Interest

A charge paid for borrowing money.

Intestate

Property not disposed of by will or bequest; also the lack of a legally valid will at the time of death.

Involuntary Lien

A lien created by operation of Law.

Glossary

J

Joint Tenancy

Title held by two or more persons in equal shares with rights of survivorship.

Judgment Lien

A Statutory Lien created by recording an "Abstract of a Judgment."

Junior Lien

A Subordinate 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 holds legal title and the buyer has equitable title until the sales price is paid in full.

Lease

An agreement, by which an owner or 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

The right to possession and use of land for a fixed period of time. The lease is the agreement that creates the right.

Legal Description

A description of real property sufficient to locate it by reference to government surveys or recorded maps.

Lender

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

Lessee

A tenant holding a leasehold.

Lessor

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

Letter of Intent

A formal method of stating that a prospective developer, buyer or lessee, is interested in property. Not an offer and creates no obligation. However, a builder who wants to build an office building, for example, may influence a lender by showing letters of intent from major prospective tenants.

License

Permission to enter or use the land of another, the permission being a personal privilege and note constituting an interest in the land.

Glossary

L

Lien

A charge upon property for the payment of a debt or performance of an obligation. A form of encumbrance. Taxes, Special Assessments, and Judgments, as well as Mortgages, are liens. In addition, there are Mechanic's and Material men's Liens for furnishing labor or materials.

Lien Waiver

A waiver of mechanics' lien rights, signed by contractors or subcontractors.

Limited Warranty Deed

The seller only warrants title as to the period that he/she held the title.

Link

In surveying, a link is 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 Origination Fee

A one time set up fee charged by the lender.

Loan Policy

Also referred to as a "Lender's Policy," this is a title insurance policy insuring a lender or beneficiary under a deed or trust, against loss caused by an invalidity or unenforceability of a lien or the loss of priority of the lien.

Loan to Value Ratio

The ratio, expressed as a percentage, of the amount of a loan to the value or selling price of real property. Usually, the higher the percentage, the greater the interest charged. Maximum percentages for banks, savings and loans, or government insured loans are set by statute.

Lot

Generally, a portion or parcel of real property; usually a portion of a subdivision.

M

Market Value

The average of the highest price that a buyer, willing though not compelled to buy, would pay, and the lowest price a seller, willing but not compelled to sell, would accept.

Marketable Title

A title free from reasonable doubt in Law and in fact.

Mechanic's Lien

A lien on real estate, created by operation of law, which secures the payment of debts due to a person (or persons) who perform labor or services, or furnish materials, necessary to the construction of buildings and improvements on real estate.

Glossary

M

Metes and Bounds

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

Mortgage

A lien or claim against real property given by the buyer to the lender as security for money borrowed. Mortgages generally run between 10 to 30 years, during which the loan is paid off.

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 home.

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 sales price.

Mortgage Insurance Premium

The payment made by a borrower to the lender for transmittal to HUD to help defray the cost of the FHA mortgage insurance program and to provide a reserve fund to protect lenders against loss in insured mortgage transactions.

Mortgage Note

A written agreement to repay a loan. The agreement is secured by a mortgage, serves as proof of indebtedness, and states the manner in which it shall be paid.

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 holder of a mortgage, generally the lender.

Mortgagor

A person who mortgages property. A person who executes a mortgage, generally the property owner.

Multiple Listing Service

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 possessed by an owner to prove his or her title to property.

Monuments

Objects or marks used to fix or establish a boundary.

Glossary

N

Notary

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

Note

Also called "Promissory Note." A written promise to pay a sum of money, usually at a specified interest rate, at a stated time to a named payee.

Notice of Default

Recorded notice that Default has occurred under the terms of a Deed of Trust.

O

Obligee

One to whom an obligation is owed.

Obligor

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

Original Cost

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

Owner's Policy

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

P

Parcel

Any area of land contained within a single description.

Party Wall

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

P.I.T.I.

A payment that combines principle, interest, taxes and insurance.

Plat

Also called a "Plat Map," which is a map dividing a parcel of land into lots, as in a subdivision.

Plat Book

A book containing the plat maps for a given area.

Points

Sometimes referred to as "Discount Points." A point is one percent of the amount of the mortgage loan. For example, if a loan is for \$25,000.00 then one point is for \$250.00. Points are charged by a lender to raise the yield on his loan at a time when money is tight, interest rates are high and there is a legal limit to the interest rate that can be charged on a mortgage.

Power of Attorney

A document by which one person authorizes another person to act for him/her in a specific manner in designated transactions.

Premium

The amount payable for an insurance policy.

Prepayment

Payment of a mortgage loan, or a part of it, before its 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.

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

A sum of money owed as a debt on which interest is payable. Also, a person who empowers another to act as his representative or agent. Or the person having prime responsibility for an obligation as distinguished from one who acts as a surety or endorser.

Priority

That which is earlier or previous in point of time or right, such as a first Deed of Trust is ahead of or has priority over a second Deed of Trust.

Private Mortgage Insurance (PMI)

Insurance against a loss by a lender in the event of default by a borrower (mortgagor). The insurance is similar to insurance by a government agency such as FHA, except that it is issued by a private insurance company.

Purchase Money Mortgage

A mortgage (Deed of Trust) securing payment of all or a portion of the purchase price of real property.

Promissory Note

A promise in writing, and executed by the maker, to pay a specified amount during a limited time, or on demand, or at sight, to a named person, or on order, or to bearer.

Proration

The allocation of property taxes, interest, insurance premiums, rental income, etc. between buyer and seller proportionate to time of use.

Q

Quiet Title

An action to establish Title to real property or to remove a cloud on Title.

Quitclaim Deed

A Deed which conveys whatever present Right, Title or Interest the Grantor may have.

R

Real Estate

Land and anything permanently attached to the land, such as buildings, fences and those attached to buildings such as light fixtures, plumbing and heating fixtures, or other items that would be considered personal property where they not attached.

Real Estate Broker

A middleman 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)

Properties acquired by lenders through foreclosures or deeds in lieu of foreclosures.

Reconveyance

A document extinguishing the lien of a Deed of Trust.

Recording

The noting in a public office of the details of a large document – such as a deed or mortgage – affecting the title to real estate. Once an instrument is properly recorded, it is considered to be a matter of public record.

Refinancing

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

Release

An instrument releasing property from the lien of the mortgage, judgment, etc. When a trust deed is used, the instrument is called a Reconveyance. In some areas, a “discharge” is used instead of a release.

Request for Reconveyance

A request by a beneficiary under a deed of trust to the trustee, requesting the trustee to reconvey the property (release the lien) to the trustor, usually upon payment in full.

Reservation

The right or an interest retained by a grantor in a conveyance.

R

Restrictive Covenants

Restrictive covenants are private restrictions limiting the use of real property. They are created by deed and may "run with the land," binding all subsequent purchasers of the land, or may be "personal" and binding only between the original seller and buyer. The determination whether a covenant runs with the land or is personal, is governed by the language of the covenant, the intent of the parties and the law in the state where the land is situated.

Right of Redemption

A legally enforceable right provided by Law under certain conditions permitting the Owner to reclaim foreclosed property by making full payment of the mortgage debt or the foreclosure sales price, as applicable. The Right of Redemption exists for a specified period time, known as the Redemption Period. Junior lien claimants may also have such right.

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

A strip of land which is used as a roadbed, either for a street or railway. The land is set aside as an easement or in fee, either by agreement or condemnation.

Riparian Rights

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

S

Sales Agreement

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

Sale and Leaseback

The sale of an asset to a buyer who immediately leases it back to the seller.

Search

A careful exploration and perusal of the public records in an effort to find all recorded instruments relating to a particular chain of title.

Second Mortgage

A mortgage in priority immediately below a first mortgage.

Security Agreement

Document now used in place of a Chattel Mortgage as evidence of a lien on personal property. A Financing Statement may be recorded to give constructive notice of the Security Agreement.

Separate Property

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

S

Settlement Statement

A statement prepared by broker, escrow or lender, giving a complete breakdown of costs involved in a real estate sale.

Special Assessments

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

Special Lien

A lien that binds a specific piece of property, unlike a general lien, which is levied against all of one's assets.

Special Warranty Deed

A deed in which the grantor conveys title to the grantee and agrees to protect the grantee against title defects or claims asserted by the grantor and those persons whose right to assert a claim against the title arose during the period the grantor held title to the property.

Squatter

One who settles upon unoccupied land without legal claim or authority.

Subdivision

Commonly, a division of a single parcel of land into smaller parcels (lots) by filing a map describing the division, and obtaining approval by a governmental commission (city or county).

Subordination Agreement

An agreement under which a lien is made inferior to another lien.

Surety

A person who agrees to be responsible for a debt or obligation of another. Also, the pledge or agreement by which one undertakes responsibility for the debt or obligation of another.

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.

T

Tax Deed

A deed issued to the purchaser at a tax sale.

Tax Sale

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 original owner may redeem it by paying taxes, penalties and costs. If it has not been redeemed within five years, the property is actually deeded to the state.

Tenancy in Common

Ownership or property by two or more persons in equal or unequal undivided interests without right of survivorship.

T

Testate

Leaving a legally valid will at death.

Title

Evidence of a person's right or the extent of his interest in property.

Title Covenants

Covenants ordinarily inserted in conveyance and in transfers of title to real estate for the purpose of giving protection to the purchaser against possible insufficiency of the title received.

Title Defects

Any possible or patent claim or right outstanding in a chain of title that is adverse to the claim of ownership. Also, any material irregularity in the execution or effect of an instrument in the chain of title.

Title Insurance

A contract of title insurance under which the insurer, in keeping with the terms of the policy, agrees to indemnify the insured against loss arising from claims against the insured interest.

Title Search

A check of the title records to make sure the buyer is purchasing a house from the legal owner and there are no liens, overdue special assessments, or other claims or outstanding restrictive covenants filed in the record, which would adversely affect the marketability or value of title.

Trust

A fiduciary relationship in which a Trustee holds title to property for the benefit of others.

Truth in Lending

Also referred to as Regulation Z. Part of the Consumer Credit Protection Act. Federal legislation designed to protect borrowers by requiring lenders to furnish information regarding the cost of the loan. The law requires interest to be expressed as the annual percentage rate to the 1/8 of one percent. The APR must include charges such as loan fees, discount points, servicing fees, etc., as well as interest. The law applies to 1-to-4 family residential property, as well as other consumer loans.

U

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 in return for a portion of the premium.

Undivided Interest

A partial interest by two or more people in the same property, whether the interest of each is equal or unequal.

U

Unmarketable Title

Not saleable. A title which has serious defects.

Unrecorded Instrument

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

Unsecured

Generally referring to an obligation which has only a promise as security. A note would be unsecured, a note and mortgage would be secured.

V

Vacate

To move out.

Valuation

The estimating of value.

Variance

Change of a portion of zoning requirements without changing the zoning.

Variable Interest Rate

An interest rate that fluctuates as 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," commonly used in land contract sales.

Venue

Neighborhood; often 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.

Vesting

The names, status and manner in which title of ownership is held with a fixed or determinable interest in a particular parcel of real property; also that portion of a title report or policy setting for the above.

Veterans Administration (VA) Loans

Housing loans to veterans by banks, savings and loan, or other lenders that are guaranteed by the Veterans Administration thus enabling veterans to buy a residence with little or no down payment.

Vest

To give immediate, fixed right in property, with either present or future enjoyment of possession; also denotes the manner in which Title is held.

W

Waive

To voluntarily and intentionally relinquish a known right, claim or privilege.

Warranty

An assurance or undertaking that certain defects do not exist.

Warranty Deed

A deed used in many states to convey fee title to real property. Until the widespread use of title insurance, the warranties by the grantor were very important to the grantee. When title insurance is purchased, the warranties become less important as a practical means of recovery by the grantee for defective title.

Will

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

Working Capital

Cash, or assets which are readily convertible to cash, used to carry on a business.

Z

Zoning

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

Zoning Ordinances

The acts of an authorized local government establishing building codes, and setting forth regulations for property land usage.