

Escrow Term and Phrases Glossary

A

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

Abstract of Judgment -- A summary of the essential provisions of a court judgment, which when recorded in the county recorder's office, creates a lien upon the property of the defendant in that county, both presently owned or after acquired.

Abutting Owner -- One whose land is contiguous to (abuts) a public right of way.

Acceleration Clause -- Clause used in an installment note and mortgage (or deed of trust), which gives the lender the right to demand payment in full upon the happening of a certain event, such as failure to pay an installment by a certain date, change of ownership without the lender's consent, destruction of the property, or other event which endangers the security of the loan.

Access Right -- A right to ingress and egress to and from one's property. May be express or implied.

Accommodation Recording -- The recording of documents with the county recorder by a title insurance company, without liability (no insurance) on the part of the company, but merely as a convenience to a customer.

Acknowledgement -- A written declaration by a person executing an instrument, given before an officer authorized to give an oath (usually a notary public), stating that the execution is of his own volition.

Action to Quiet Title -- A court action to establish ownership to real property. Although technically not an action to remove a cloud on title, the two actions are usually referred to as "Quiet Title" actions.

Adjudication -- A judgment or decision by a court.

Adjustable Mortgage Loans (AML\ '92S) -- Mortgage loans under which the interest rate is periodically adjusted to more closely coincide with current rates. The amounts and times of adjustment are agreed to at the inception of the loan. Also called: Adjustable Rate Loans, Adjustable Rate Mortgages (ARM\ '92s), Flexible Rate Loans, and Variable Rate Loans.

Administrator -- A person given authority by a proper court to manage and distribute the estate of a deceased person when there is no will.

Adverse Possession -- A method of acquiring title by possession under certain conditions. Generally, possession must be actual, under claim of right, open, continuous, notorious, exclusive and hostile (knowingly against the rights of the owner). Exact time (years) of possession and specific requirements (such as payment of property taxes) vary with the statutes of each state.

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

Affirmative Easement -- An easement described from the benefited estate (dominant tenement). Also called a parcel 2 easement. The same easement described from the burdened estate (servient tenement) would be a negative easement.

After Acquired Title -- Legal doctrine by which property automatically vests in a grantee when the grantor acquires title to the property after the deed has been executed and delivered.

Agency -- One who is authorized to act for or represent another (principal), usually in business matters. Authority may be expressed or implied.

Alias -- Latin for (otherwise) commonly meaning that a person is known by more than one name. In some states, indicated by the letters AKA (Also Known Aliases).

Alienation 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. Also called a "due-on-transfer" clause.

A.L.T.A.(American Land Title Association) -- An organization, composed of title insurance companies, which has adopted certain insurance policy forms to standardize coverage on a national basis.

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

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

Amortization -- Payment of debt in regular, periodic installments of principal and interest, as opposed to interest only payments.

Amortization Schedule -- A schedule showing each payment of a loan to be amortized and breaking down the payment applied to principal and the amount applied to interest.

Amortize -- To reduce debt by regular payments of both principal and interest, as opposed to interest only payments.

Anchor Tenant -- The most reliable, and usually the largest, tenant in a shopping center. The strength of the anchor tenant greatly affects the availability of financing for the shopping center. The term may also be used to describe a tenant in an office building, industrial park, etc.

Annexation -- Permanently affixing to real property, such as city adding additional land to increase its size.

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

Appraisal -- An opinion of value based upon a factual analysis. Legally, an estimation of value by two disinterested persons of suitable qualifications.

Appraiser -- One who is trained and educated in the methods of determining the value of property through analysis of various factors which determine said value.

Appropriation -- The private taking and use of public property, such as water from a river or lake. Not to be confused with condemnation or expropriation.

Appurtenance -- Something belonging to something else, either attached or not, such as a barn to a house or an easement to land. The appurtenance is part of the property and passes with it upon sale or other transfer.

Arbitrary Map -- A map drawn by a title company to be used in locating property in areas where legal descriptions are difficult and complex. Areas are arbitrarily subdivided, usually by ownership at a given time, into lots which are numbered. Recorded documents are then posted to these arbitrary lots by the same "arb" number.

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

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

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

Assessed Value -- Value placed upon property for property tax purposes by the tax assessor.

Assessment -- (1) The estimating of value of property for tax purposes. (2) A levy against property in addition to general taxes. Usually for improvements such as streets, sewers, etc.

Assessment District -- An area, the boundaries of which are set for tax assessment purposes only; these boundaries may cross city boundaries.

B

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

Balloon Note -- A note calling for periodic payments which are insufficient to fully amortize the face amount of the note prior to maturity, so that a principal sum known as the "balloon" is due at maturity.

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

Bankruptcy -- Proceedings under federal bankruptcy statutes to relieve a debtor (bankrupt) from insurmountable debt. The bankrupt's property is distributed by the court to the creditors as full satisfaction of the debts, in accordance with certain priorities and exemptions. Voluntary bankruptcy is petitioned by the debtor; involuntary by the creditors.

Base Map -- A map having background information, such as state, county, or city boundaries, upon which more detailed data is plotted.

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

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

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

Beneficiary's Demand -- Written instructions by a beneficiary under a deed of trust stating and demanding the amount necessary for issuance of a reconveyance, whether a full or partial amount.

Beneficiary's Statement -- A statement by a lender under a deed of trust, setting forth the pertinent information necessary to assume said deed of trust, such as the unpaid balance, monthly payment, and interest rate.

Bequeath -- To give personal property by will.

Bequest -- Personal property left by will.

Bill of Sale -- An instrument by which one transfer personal property.

Binder -- A report issued by a title insurance company setting forth the condition of title to certain property as of certain date, and also setting forth conditions which, if satisfied, will cause a policy of title insurance to be issued. Also called a commitment. 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 -- (1) A mortgage covering more than one property of the mortgagor, such as a mortgage all the lots of a builder in a subdivision. (2) A mortgage covering all real property of the mortgagor, both present and future. When used in this meaning, it is also called a general mortgage.

Board of Equalization -- State board charged with the duty to equitable uniformity to the various local property tax assessments.

Boot -- Something given in addition to. Generally used in exchange to refer to something given other than the major properties to be exchanged, in order to equalize value.

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

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

Business Opportunity -- The sale of a business (may or may not include the sale of real estate). Some states require a real estate license for these sales even when real estate is not involved. The Uniform Commercial Code, state statutes, and special laws for alcoholic beverage licenses (when applicable) should be studied by the business opportunities broker.

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

C

Cal-Vet Loans -- Real estate loans available to armed forces from California, at low interest rates.

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

Caravan -- An inspection of newly listed properties, either by the entire sales staff of an office or by sales personnel from more than one office in conjunction with a multiple listing group. Generally conducted on a regular basis.

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

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

CC&R's (Covenants, Conditions, and Restrictions) -- A term used in some areas to describe the restrictive limitations which may be placed on property. In other areas, simply called restrictions.

Certificate of Deposit (C.D.) -- A specific sum of money deposited into a savings institution for a specified time period and bearing a higher rate of interest than a passbook account if left to maturity. Does not have withdrawal privileges, as does a passbook account. Also called a time certificate deposit (T.C.D.).

Certificate of Eligibility -- A certificate obtained by a veteran from a Veteran's Administration office which states that the veteran is eligible for a V.A. insured loan. There is a list of requirements (when and how long the veteran served, type of discharge, etc.) which also may be obtained from the V.A. office.

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

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

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

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

Chain of Title -- The chronological order of conveyance of a parcel of land, from the original owner (usually the government to the present owner).

Chains and Links -- Measurements. In real estate measurements (surveying) a chain is 66" long or 100 links, each link being 7.92". The measurement may change when used in fields other than surveying.

Chattel -- Personal property.

Cistern -- A tank used for storing rainwater for use in areas where there is no water brought to the property by plumbing.

Closing -- (1) In real estate sales, the final procedure in which documents are executed and/or recorded, and the sale (or loan) is completed. (2) A selling term in which the client or customer is asked to agree to the sale or purchase and sign the contract. (3) The final call in a metes and bounds legal description which "closes" the boundaries of the property.

Closing Costs -- Expenses incidental to the sale of real estate, such as loan fees, title fees, appraisal fees, etc.

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

Cloud on Title -- An invalid encumbrance on real property, which, if valid, would affect the rights of the owner. For example: A sells lot 1, tract 1, to B. The deed is mistakenly drawn to read lot 2, tract 1. A cloud is created on lot 2 by the recording of the erroneous deed. The cloud may be removed by quitclaim deed, or, if necessary, by court action.

Cluster Housing -- Building houses close together with little yard space and a large common area, rather than each house having a large yard. The density is usually greater in the cluster project.

Codicil -- An addition to a will, which modifies the will by adding to it, subtracting from it, or clarifying it.

Color of Title -- That which gives the appearance of good title, but actually contains some defect. For example: a conveyance given without the grantor having good title.

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

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

Commitment -- (1) Title insurance term for the preliminary report issued before the actual policy. Said report shows the condition of title and the steps necessary to complete the transfer of title as contemplated by buyer and seller. (2) A written promise to make or insure a loan for a specified amount and on specified terms.

Commitment Fee -- A fee paid for a loan commitment.

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

Community Property -- Property owned in common by a husband and wife, which was not required as a separate property. A classification of property peculiar to certain states.

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

Compensatory Damages -- Damages to cover a loss or injury or nothing more.

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

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

Condominium -- A structure of two or more units, the interior space of which are individually owned; the balance of the property (both land and building) is owned in common by the owners of the individual units. The size of each unit is measured from the interior surfaces (exclusive of paint or other finishes) of the exterior walls, floors, and ceiling. The balance of property is called the common area.

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

Constructive Notice -- Notice given by publishing in a newspaper, recording, or other method which legally notifies the parties involved, but may not actually notify them.

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

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

Contact of Sale -- In some areas of the country, synonymous with land contract. In some areas, synonymous with purchase agreement.

Conventional Loan -- A mortgage or deed of trust not obtained under a government-insured program, (such as F.H.A. or V.A.).

Conveyance -- Transfer of title to land. Includes most instruments by which an interest in real estate is created, mortgaged, or assigned.

Corporation -- A general term encompassing any group of people "incorporating" by following certain statutory procedures. Most common type of corporation is a private one formed to carry on a business.

Co-Trustee -- One who shares the duty if trustee with one or more other trustees.

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

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

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

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

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

Custodian - (1) One who is entrusted with the care and keeping of real or personal property. (2) A janitor.

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

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

D

DBA (Doing Business As) -- An identification of the owner or owners of a business and the business name. Not a partnership or corporation.

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

Declaratory Judgment -- A determination by a court as to the legal rights of the plaintiff, with no order for relief. The judgment is binding on future litigation.

Deed -- Actually, any one of many conveyance or financing instruments, but generally a conveyance instrument, given to pass fee title to property upon sale.

Deed in Lieu -- A deed from the owner (debtor) to a lender to prevent foreclosure. There are usually statutory provisions as to fairness of value and absence of coercion, which must be recited on the deed.

Deed in Lieu of Foreclosure -- A deed given by an owner/borrower to a lender to prevent the lender from beginning foreclosure proceedings. The validity of the deed depends to some degree on "fairness" under the circumstances, and adequacy of consideration, which will be considered.

Deed of Trust -- An instrument used in many states in place of a mortgage. Property is transferred to a trustee by a borrower (trustor), in favor of the lender (beneficiary), and reconveyed upon payment in full.

Deed Restrictions -- Limitations on the use of property placed in conveyance deed by the grantor, which bind all future owners.

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.

Defendant -- The person against whom a civil or criminal action is brought.

Delayed Reconveyance -- A reconveyance of a deed of trust which is issued and recorded after transfer of title and issuance of title insurance (not showing the deed of trust). Usually occurs when the lender is in another state and will not issue the reconveyance paid in full.

Demand -- (1) The quantity of goods that can be sold at a specified price, in a given market, at a particular time. (2) A letter from a lender showing the amount due in order to pay off a mortgage or trust deed.

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

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

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

Development -- A planned construction project, rather than simply the building of unrelated buildings.

Development Loan -- A loan for the purchase of land or off-site improvements, rather than building costs. The land involved is used to secure the loan.

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

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

Documentary Tax Stamps -- Stamps, similar to postage stamps, affixed to a deed, showing the amount of transfer tax paid. Most states now "stamp" the deed rather than affixing a stamp.

Documentary Transfer Tax -- A state tax on the sale of real property, based on the sale price or equity transferred.

Dominant Tenement -- A parcel of land which benefits from an easement. For example: An easement exists over parcel A for access to parcel B. Parcel B is the dominant tenement; parcel A is the servient tenement.

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

Downzoning -- A change in the allowable use of land by the appropriate zoning authority to a lesser (usually less available) use. Example: Eight units per acre to four units per acre.

Dresser Drawer Title -- The failure to record evidence of title; instead, placing it in a "dresser drawer". Also called "Trunk Title".

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

E

Easement -- A right created by grant, reservation, agreement, prescription, or necessary implication, which one has in the land of another. It is either for the benefit of land (appurtenant), such as the right to cross parcel A to get to B, or "in gross", such as public utility easement.

Easement Appurtenant -- An easement for the benefit of another parcel of land, such as the right to cross parcel A to reach B. The easement will pass with the transfer of property to a new owner.

Easement in Gross -- An easement for the benefit of a person or company, rather than for the benefit of another parcel of land. Commonly, such easements as for public utilities.

Easement of Necessity -- An easement granted by a court when it is determined that said easement is absolutely necessary for the use and enjoyment of the land. Commonly given to landlocked parcels.

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.

Encroachment -- Generally, construction onto the property of another, as of a wall, fence, building, etc.

Encumbrance, Incumbrance -- A claim, lien, charge or liability attached to and binding real property. Any right to, or interest in, land which may exist in one other than the owner, but which will not prevent the transfer of fee title.

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

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

Equity -- (1) A legal doctrine based on fairness, rather than strict interpretation of the letter of the law. (2) The market value of real property, less the amount of existing liens. (3) Any ownership investment (stocks, real estate, etc.) as opposed to investing as a lender (bonds, mortgages, etc.)

Escheat -- A reversion of property to the state in the absence of an individual owner. Usually occurs when a property owner dies interstate, and without heirs.

Escrow -- Delivery of a deed by a grantor to a third party for delivery to the grantee upon the happening of a contingent event. Contemporarily, in some states, all instruments necessary to the sale (including funds) are delivered to a third (neutral) party, with instructions as to their use.

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

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

Estoppel -- The prevention of one from asserting a legal right because of prior actions inconsistent with the assertion.

Evidence of Title -- A document establishing ownership to property. Most commonly, a deed.

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

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

Execute -- To complete; to fulfill a purposes, such as to execute an instrument, meaning to sign, seal (contemporarily, to notarize), and deliver.

F

Farmer Home and Administration (FMHA) -- The federal agency which makes, participates, and ensures loans for rural housing and farms.

Federal Deposit Insurance Corporation (FDIC) -- The federal corporation which insures against loss of deposits in banks and, since 1989, in savings associations.

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

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

Fee Simple Absolute -- A term now used synonymously with fee simple.

F.H.A. (Federal Housing Administration) -- A federal agency which insures first mortgages, enabling lenders to loan a very high percentage of the sale price.

FHA Escape Clause -- A clause stating that the buyer (borrower) shall not be obligated to buy nor shall any deposit be lost if the appraisal is less than the agreed upon amount.

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

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

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

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

Floor Time -- A period during the working day when a specific salesperson is responsible for general inquiring (walk-in or telephone) regarding property in a brokerage office. This is generally established as a set, rotating number of hours per week for each salesperson. When a salesperson is "on the floor" he or she must be in the office or make arrangements with another salesperson to cover the floor during those hours.

FNMA (Fannie Mae) -- A private corporation dealing in the purchase of first mortgages at a discount.

FNMA Buydown -- FNMA (Federal National Mortgage Association) accepts loans containing a buy down provision on single family residential, owner occupied properties. A prepayment (points) will buy a lower rate of interest during the first one to five years of the loan. Restrictions apply to the amount of the buydown and rise in payment amount as the loan progresses.

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

Foreclosure Sale -- a sale of property used as security for a debt, to satisfy said debt.

Fraud -- A deception, intended to wrongfully obtain money or property from the reliance of another on the deceptive statements or acts, believing them to be true.

Free and Clear -- Real property against which there are no liens, especially voluntary liens (mortgages).

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

Fully Amortizing Loan -- A loan of equal, regular payments, which cause the principal and interest to be completely paid by the due date.

G

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

Gift Letter -- A letter to HUD from the owner (giver) stating that a gift of money has been made to the buyer in order to purchase specific property. The relationship of the donor and recipient is stated, as well as the amount of gift.

GNMA (Ginnie Mae) -- Government National Mortgage Association. A federal association, working with FHA, which offers special assistance in obtaining mortgages and purchases mortgages in a secondary capacity.

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.

Grantee -- One to whom a grant is made, generally the buyer.

Grantor -- One who grants property or property rights.

Grantor-Grantee Index -- The record of the passing of title to all the properties in a county as kept by the county recorder's office. Property is checked, by tracing the names of the sellers and buyers (chain and title). Title companies usually have more efficient methods by keeping records according to property description, rather than people's names.

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

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

H

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

Hardpan -- A compacted layer of soil, usually containing clay, through which it is difficult to drain or dig.

Hazard Insurance -- Real estate insurance protecting against loss caused by fire, some natural causes, vandalism, etc., depending upon the terms of the policy.

Hereditaments -- (1) Anything which could be considered real property. (2) Anything which may be inherited.

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

Homestead -- The dwelling (house and contiguous land) of the head of a family. Some states grant statutory exemptions, protecting homestead property (usually to set a maximum amount) against the rights of creditors. Property tax exemptions (usually to set a maximum amount) are also available in some states. Statutory requirements to establish a homestead may include a formal declaration to be recorded.

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

Hypothecate -- To mortgage or pledge without delivery of the security to the lender.

I

Impound Account -- Account held by a lender for payment of taxes, insurance, or other periodic debts against real property. The mortgagor or beneficiary pays a portion of, for example, the yearly taxes, with each monthly payment. The lender pays the tax bill from the accumulated funds.

Indemnity Agreement -- An agreement by which one party agrees to repay another for any loss or damage the latter may suffer.

Ingress and Egress -- A right to enter upon and pass through land.

Installment Contract -- A method of purchasing by installment (usually monthly) payments. When referring to real property, it is usually called a land contract.

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

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

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

Involuntary Lien -- A lien, such as a tax lien, judgment lien, etc., which attaches to property without the consent of the owner, rather than a mortgage lien, to which the owner agrees.

J

Joinder -- Joining together in some legal proceeding.

Joint Protection Policy -- A policy of title insurance which insures both the owners and the lender under the same policy.

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

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

Judgment -- The decision of a court of law. Money judgments, when recorded, become a lien on real property of the defendant.

L

Land Bank -- An accumulation of land held for future use.

Land Loan -- A loan with collateral security of unimproved land. Usually, the loan to value ratio is less than on improved land.

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

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 specific consideration (rent).

Legal Description -- A method of geographically identifying a parcel of land, which is acceptable in a court of law.

Legal Owner -- The term has come to be used as a technical difference from the equitable owner, and not as opposed to an illegal owner. The legal owner has title to the property, although the title may actually carry no rights to the property other than a lien.

Legal Title -- Usually title without ownership rights, such as the title placed in a trustee under a deed of trust, or the title in a vendor under a land contract.

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

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

Line of Credit -- An amount of money a borrower may obtain from a bank without special credit check. The money is generally for business purposes and the amount would not include the borrower's own home loan and other personal secured loans.

Liquidated Damages -- A definite amount of damages, set forth in a contract, to be paid by the party breaching the contract. A predetermined estimate of actual damages from a breach.

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

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

Listing Agent -- A real estate agent obtaining a listing (see which), as opposed to the selling agent.

Loan Origination Fee -- A one-time setup fee charged by the lender.

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

Loan Policy -- A title insurance policy insuring a mortgagee, or beneficiary under a deed of trust, against loss caused by invalid title in the borrower, or loss of priority of the mortgage or deed of trust.

Loan Servicing -- The bookkeeping and collection of a loan. It may be done by the lender or by another for the lender.

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 percentage for banks, savings and loans, or government insured loans, is set by statute.

Loss Payable Clause -- A clause in a fire insurance policy, listing the priority of claims in the event of destruction of the property insured. Generally, a mortgagee, or beneficiary under a deed of trust, is the party appearing in the clause, being paid to the amount owing under the mortgage or deed of trust before the owner is paid.

M

M.A.I.(Member Appraisal Institute) -- The designation given to a member of the American Institute of Real Estate Appraisers. A designation earned through experience, education and examination.

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

Management Fee -- The amount paid for property management or the estimated value of such management if owner managed or the building is not yet built.

Marketable Title -- Title that can be readily marketed (sold) to a reasonably prudent purchaser aware of the facts and their legal meaning concerning liens and encumbrances.

Market Value -- The highest price a willing buyer would pay and a willing seller accept, both being fully informed, and the property exposed for a reasonable period of time. The market value may be different from the price a property can actually be sold for at a given time.

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 -- Description of land by boundary lines, with their terminal points and angles. Originally metes referred to distance, bounds to direction; contemporarily, the words have no individual meaning of practical significance.

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

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

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

Monument -- A visible, permanent object, marked by a surveyor, to indicate the boundaries of land. May be artificial, such as post, or natural, such as a tree or large stone.

Mortgage -- (1) To hypothecate as security, real property for the payment of a debt. The borrower (mortgagor) retains possession and use of the property. (2) The instrument by which real estate is hypothecated as security for repayment of a loan.

Mortgage Banker -- A company providing mortgage financing with its own funds rather than simply bringing together lender and borrower, as does a mortgage broker. Although the mortgage banker uses its own funds, these funds are generally borrowed and the financing is either short term or, if long term, the mortgages are sold to investors (many time's insurance companies) within a short time, in general mortgage.

Mortgage Broker -- One who, for a fee, brings together a borrower and lender, and handles the necessary applications for the borrower to obtain a loan against a real property by giving a mortgage or deed of trust as a security. Also called a loan broker.

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

Mutual Water Company -- A company in which the owners are the customers. Stock is issued to the users, who are the organizers of the company.

N

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

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

Non Exclusive Listing -- A listing under which the real estate broker has an exclusive listing as opposed to other agents, but the owner may sell the property without using an agent, and not be liable to pay a commission. Also called an agency agreement.

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

Notary Public -- One who is authorized by the state or federal government, to administer oaths, and to attest to the authenticity of the signatures. A federal authorization may extend the authority to attest to the authenticity of certain documents, and to act as a notary in foreign countries.

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

Notice of Completion -- A notice, recorded to show that the construction job is finished. The length of time in which a mechanic's liens may be filed depends upon when and if a notice of completion is recorded.

Notice of Default -- A notice is filed to show that the borrower under a mortgage or deed of trust is in default (behind on the payments).

O

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

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

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

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

Origination Fee -- A fee made by a lender for making a real estate loan. Usually a percentage of the amount loaned, such as one percent.

Owner's Policy -- Title insurance for the owner of the property, rather than a lien holder.

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

P

Parcel 2 Easement -- A colloquial term used to describe an appurtenant easement of the dominant tenement, because the easement is described in the legal description. Usually, the property is described as parcel 1 and the easement as parcel 2.

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

Peroration -- To divide (prorate) property taxes, insurance premiums, rental income, etc., between buyer and seller proportionally to time of use or the date of closing.

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

PITI (Principal, Interest, Taxes and Insurance) -- Used to indicate what is included in a monthly payment on real property. Principal, interest, taxes and insurance are the four major portions of a usual monthly payment.

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

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

Power of Attorney -- An authority by which one person (principal) enables another (attorney in fact) to act for him. (1) General power -- Authorizes sale, mortgaging, etc. of all property of the principal. Invalid in some jurisdictions. (2) Special Power -- Specifies property, buyers, price and terms. How specific it must be varies in each state.

Preliminary Title Report -- A report showing the condition of title before a sale or loan transaction. After completion of the transaction, a title insurance policy is issued.

Prepayment Penalty -- A penalty under note, mortgage, or deed of trust, imposed when the loan is paid before it is due.

Prescriptive Easement -- The granting of an easement by a court, based on the presumption that a written easement was given (though none existed), after a period of open and continuous use of land.

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

Pro Rate -- To divide in proportionate shares, such as taxes, insurance, rent or other items which buyer and seller share as of the time of closing, or other agreed upon time.

Public Records -- Usually at a county level, the records of all documents, which are necessary to give, notice. The records are available to the public. All transactions for real estate sales should be recorded.

Public Report -- A report given to prospective purchasers in a new subdivision, stating the conditions of the area (costs of common facilities, availability of schools, noise factor if near an airport, etc.) issued by the real estate commission.

Purchase Agreement -- An agreement between a buyer and seller of real property.

Q

Quitclaim Deed -- A deed operating as a release; intended to pass any title, interest, or claim, which the grantor may have in the property, but not containing any warranty of a valid interest or title in the grantor.

R

Range -- (1) A division of land in the government survey, being a six mile wide row of townships, running North and South, and used in legal descriptions. (2) Land used for grazing livestock.

Real Estate -- (1) Land and anything permanently affixed to the land, such as buildings, 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. The term is generally synonymous with real property, although in some states a distinction may be made. (2) May refer to rights in real property as well as the property itself.

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

Real Estate Owned (REO) -- Most commonly refers to property owned by a lender from foreclosure of mortgages or trust deeds. The property is usually for sale.

REALTOR® -- A designation given to a real estate broker or sales-associate who is a member of a board associated with the National Association of Realtors® or with the National Association of Real Estate Boards.

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

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

Recordation -- Filing instruments for public record (and notice) with a recorder (usually a county official).

Recorded Map -- A map recorded in a county recorder's office. May be a subdivision map or describe a non-subdivided parcel. Reference to a recorded map is commonly used in legal descriptions.

Recorded Plat -- Subdivision map filed as a matter of public record.

Recorder's Office -- The county office where instruments are recorded, giving public notice.

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

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

Referral -- In real estate business, generally the act of a past client recommending a real estate broker or agent to one currently a buyer or seller. Also, any recommendation by one real estate agent of another for a referral fee.

Refinance -- (1) The renewing of an existing loan with the same borrower and lender. (2) A loan on the same property by either the same borrower or lender. (3) The selling of loans by the original lender.

Regulation Z -- Federal Reserve regulation issued under the Truth-In-Lending Law, which requires that a credit purchaser be advised in writing of all costs connected with the credit portion of the purchase.

Reinstatement -- (1) Payment of a note, mortgage, deed of trust, etc., to bring it from default to good standing. (2) Restoring the previously used entitlement of a veteran to enable the veteran to purchase property under a VA program. (Also called restoration of Eligibility).

R.E.I.T. (Real Estate Investment Trusts) -- A method of investing in real estate in a group, with certain tax advantages. Federal and state statutes dictate procedure.

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.

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

Restriction -- Most commonly used to describe a use or uses prohibited to the owner of land. Restrictions are set forth by former owners in deeds or in the case of a subdivision, a declaration of restrictions is recorded by the developer. A limitation on use of the property by law (zoning ordinances) may also be termed a restriction.

Revenue Stamps -- Formerly federal tax on sale of real property. Canceled and replaced by state tax stamps. The stamps (similar to postage stamps) are affixed to the conveyance instrument (deed), or a rubber stamp is used to show the amount of tax.

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. May also be used to describe the right itself to pass over the land of another.

Riparian -- Belonging or relating to the bank of a river or stream. Land within the natural watershed of a river or stream.

Riparian Owner -- One who owns land along the bank of a river or stream.

Riparian Rights -- Rights of an owner to riparian lands and water.

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

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

S

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

Sales Kit -- Material carried by a salesperson to aid in listings and sale. This is the "tool kit" of real estate, containing forms, maps, tape measure, amortization schedules, pens, paper, etc.

Satisfaction -- Discharge of an obligation by payment of the amount due, as on mortgage, trust deed, or contract; or payment of a debt awarded, such as satisfaction of a judgment. Also the recorded instrument stating said payment has been made.

Secondary Financing -- A loan secured by a mortgage or trust deed, which lien is junior (secondary) to another mortgage or trust deed.

Secondary Mortgage Market -- The buying and selling of first mortgages or trust deeds by banks, insurance companies, government agencies, and other mortgagees. This enables lenders to keep an adequate supply of money for new loans. The mortgages may be sold at full value (par) or above, but are usually sold at a discount. The secondary mortgage market should not be confused with second mortgage.

Second Mortgage -- A mortgage which ranks after a first mortgage in priority. Properties may have two, three or more mortgages, deeds of trust, or land contracts, as liens at the same time. Legal priority would determine whether they are called a first, second, third, etc. lien.

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

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

Sheathing -- The covering over the outside studs (or rafters) of a roof. May be wallboard, plywood, etc.

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

Simultaneous Issue -- A simultaneous issuance by a little insurance company of policies insuring both an owner and a lender. The Lender's policy is issued at a reduced rate.

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

Slant Drilling -- A method of drilling for oil or gas from adjoining property when surface rights have not yet been granted.

Special Assessment -- Lien assessed against real property by a public authority to pay costs of public improvements (sidewalks, sewers, streetlights, etc.) which directly benefits the assessed property.

Spite Fence -- A fence built for the purpose of causing a problem for one's neighbor. May ruin the view, make access of a new vehicle, etc., or simply ugly.

Square Foot Method -- Determining the replacement cost of a building by finding the cost per square foot of comparable building.

Standard Coverage Policy -- A title insurance policy used in several states, not having as broad coverage as the nationally recognized American Land Title Association (A.L.T.A.) policies.

Start Card -- A file card used as a record of the opening of an escrow. It lists the date the escrow opened, escrow number, name of escrow officer, names of parties to the escrow, lender, title company, legal description of the property, consideration, and type of transaction (sale, loan, etc.).

Starter -- A copy of the last policy issued by a title insurer, which describes the condition of the title to land upon which a new policy is to be written. In some states this is furnished to an attorney for his opinion as to the condition of the title, and is called a back title letter or back title certificate.

Statement of Information -- A confidential form filled out by buyer and seller to help a title company determine if any liens are recorded against either. Very helpful when people with common names are involved. Also called a statement of identity.

Statute of Frauds -- State laws, requiring certain contracts to be in writing. All contracts for the sale of real property must be in writing. Leases (personal property) for more than one year must be in writing.

Statutory Lien -- An involuntary lien (created by law rather than contract). Includes tax liens, judgment liens, mechanic's liens, etc.

Street Improvement Bonds -- Interest bearing bonds, issued by a local government, to secure assessments for street improvements. The owners of the property assessed may pay in a lump sum or pay installments on the bonds, including interest.

Strip Center -- Any shopping are, generally with common parking, comprised of a row of stores. Usually does not contain major department stores or grocery chain stores.

Studs (Studding) -- Vertical supports (wood or metal) in walls and partitions.

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

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

Subordination Agreement -- An agreement by which an encumbrance is made subject (junior) to a junior encumbrance. For example: A loan on vacant land is made subject to a subsequent construction loan.

Substitution Agreement -- A document which is recorded to change the trustee under a deed of trust. A simple procedure in some states; more regulated in others.

Surface Rights -- The rights (easements) to use the surface of the land, including the right to drill or mine through the surface when subsurface rights are involved.

T

Take Out Loan -- The "permanent" (long term) financing of real estate after completion of construction.

Tax Deed -- (1) Deed from tax collector to government body after a period of non-payment of taxes according to statute. (2) Deed to a purchaser at a public sale of land taken for delinquent taxes. The purchaser receives only such title as the former owners had, and strict procedures must be followed to prevent attachment of prior liens.

Tax Lien -- (1) A lien for nonpayment of property taxes. Attaches only to the property upon which the taxes are unpaid. (2) A federal income tax lien. May attach to all property of the one owing the taxes.

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

Tentative Map -- A map submitted by a subdivider to a planning commission for approval; approval is usually conditioned upon charges. The final map, embodying the changes, is recorded.

Testate -- Having written a last will and testament.

Title Company -- An agency issuing the policy of a title insurance company.

Title Insurance -- Insurance against loss resulting from defects of title to a specifically described parcel of real property. Defects may run to the fee (chain of title) or to encumbrance.

Title Insurance Company -- A company which issues insurance regarding the title of real property.

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

Title Page -- The page in a subdivision map which is signed by all parties having an interest in the land, agreeing to the subdivision.

Title Plant -- A filing of all recorded information to real property, paralleling the records of the county recorder's office, although the filing system may be different.

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

Tombstone Title -- Information to validate title taken from tombstones, such as the death of the owner, date of death, names of survivors, etc.

Torrens Title -- A system by which title to land is registered with a registrar of land titles, instead of being recorded. Originally established by Sir Torrens in Australia in 1858.

Transfer Tax -- State tax on the transfer of real property. Based on purchase price or money changing hands. Check statutes for each state. Also called the documentary transfer tax.

U

Underwriter -- One who insures another. A small title insurance company may buy insurance from a larger one (the underwriter) for all or part of the liability of its policies. A larger title company may buy part of the insurance from another company on high liability policies.

Unity of Title -- In joint tenancy, the holding by the joint tenants under the same title.

Unmarketable Title -- Not salable. A title which has serious defects.

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

V

Variable Interest Rate -- An interest rate which fluctuates as the prevailing rate moves up or down. In mortgages there are usually maximums as to the frequency and amount of fluctuation. Also called "flexible interest rate".

Vested -- Present ownership rights, absolute and fixed. Modernly, ownership rights, even though on a land contract or subject to a mortgage or deed of trust.

Veteran's Administration (VA) Loans -- Housing loans to veterans by banks, savings and loans, or other lenders which are insured by the Veteran's Administration, enabling veterans to buy a residence with little or no down payment.

Voluntary Lien -- A lien placed against real property by the voluntary act of the owner. Most commonly, a mortgage or deed of trust.

W

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 practical means of recovery by the grantee for defective title.

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