

# **A**bstract

A summary; an abridgment. Before the use of photo static copying public records were kept by abstracts of recorded documents.

## **Abstract of Title**

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

## **Acceleration Clause**

Provision in a mortgage document stating that if a payment is missed or any other provision is violated the whole debt becomes immediately due and payable.

## **Acknowledgment**

Formal declaration before a public official that one has signed a document. Prior to recording real estate legal documents, such as grant deeds and deeds of trust, a Notary Public acknowledges the person's signature on the document.

## **Acre**

A measure of land equal to 43,560 square feet.

## **Action to Quiet Title**

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

## **Adjustable Rate Mortgage (ARM)**

A mortgage where the interest rate is not fixed for the life of the loan. These mortgages adjust periodically based on an index that changes with market conditions. The rate of interest is the sum of the index plus a margin ( the margin remains fixed for the life of the loan). Most ARMs have periodic interest rate and payment caps, as well as a life cap. ARM's may also be referred to as AML's or VRM's.

## **Ad Valorem**

Designates an assessment of taxes against property. Literally, according to value; based on the "ability to pay" theory.

## **Adverse Possession**

The actual, exclusive, open notorious, hostile and continuous possession and occupation of real property under an evident claim of right or title. The time required legally to obtain title by adverse possession varies from state to state.

## **Agency**

A contract by which the agent undertakes to represent the principal in business transactions, using some degree of discretion.

## **Agent**

Person authorized to act on behalf of another in dealings with third parties.

## **Agreement of Sale**

An agreement between parties for the sale of real estate. In some states it is synonymous with a Purchase Agreement, Sales Agreement, or Land Contract. In Texas it is known as an Earnest Money Contract.

## **Alienation Clause**

Provision in a mortgage document stating that the loan must be paid in full if ownership is transferred.

**Amenities**

The qualities and state of being pleasant and agreeable. In appraising, those qualities that attach to property in the benefits derived from other than monetary. Satisfaction of possession and use arising from architectural excellence, scenic beauty and social environment.

**American Land Title Association**

Title policy that assures a lender that it has the proper rights as the beneficiary on a mortgage loan.

**Amortization**

Gradual payment of a debt through regular installments that cover both interest and principal.

**Annual Percentage Rate (APR)**

A measure of the total cost of credit (interest as well as other recurring charges) expressed as a yearly percentage rate. Because all lenders apply the same rules in calculating the annual percentage rate, it provides consumers with a good basis for comparing the cost of loans.

**Appraisal and Credit Report Fees**

These fees are generally collected by the lender and paid to outside companies performing the services.

**Appraised Value**

An expert opinion of the value of a property at a given time, based on facts regarding the location, improvements, etc., of the property and surroundings.

**Appraisal Report**

Estimate of real estate value, presumably by an expert. An appraisal evaluates the property at a given time based on facts regarding the location, improvements, neighborhood and comparable sales. Generally, the value is based on three approaches: cost, market and income.

**Appreciation**

Increase in value or worth of property.

**Arrears**

Payment made after it is due is in arrears. Interest is said to be paid in arrears since it is paid to the date of payment rather than in advance.

**"As is"**

A clause that is sometimes used in the transfer of property. It means that the present property is being transferred with no guarantee or warranty provided by the seller.

**Assessment Base**

The total assessed value of all property in a given assessment district.

**Assessed Valuation**

Value placed on real estate by governmental assessors as a basis for levying property taxes; not identical with appraised or market value.

**Assignment**

Transfer of a contract from one party to another.

**Assumption**

New owner assumes the responsibility for repaying an existing mortgage. Both FHA and VA loans are fully

assumable. Some adjustable rate mortgages may be partially assumable, but the new owners may be required to re-qualify for the loan.

#### **Attached Homes**

A home that has one or more common walls adjoining another home. Condominiums and row houses are attached homes

## **B**alloon Loan

Mortgage in which the remaining principal balance becomes fully due and payable at a predetermined time. Most of the time, balloon loans have level payments until the note becomes due and payable.

#### **Balloon Payment**

The final payment of a mortgage which is larger than the regular payment; it usually extinguishes the debt.

#### **Bankruptcies**

A court action to restructure debt.

#### **Basis**

Original cost of property plus value of any improvements put on by the seller minus the depreciation taken by the seller.

#### **Beneficiary**

The lender named on the mortgage note. One entitled to the proceeds of property held in trust; also proceeds of wills, insurance policies, or trusts.

#### **Bill of Sale**

Written agreement transferring personal property from one person to another.

#### **Binder**

Preliminary agreement of sale, usually accompanied by earnest money (term also used with property insurance).

#### **Blanket Mortgage**

A mortgage covering more than one property of the mortgage.

#### **Bond**

A debt instrument in the capital markets. The US government, corporations and municipalities use bonds to raise money. Bonds can also be backed by real estate loans and the payments from mortgages.

#### **Bridge Financing**

A form of an interim loan, generally made between a short term loan and a long term loan when the borrower needs additional time before obtaining permanent financing.

#### **Broker**

A person that represents another for a fee in real estate transactions. Real Estate brokers help consumers locate suitable real estate and are paid a fee for their services.

#### **Building Code**

Government regulations specifying minimum construction standards.

#### **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.

#### **Buy down**

An interest rate buy down is the temporary reduction of the note rate and resulting monthly payments a borrower pays to the lender. The shortfall between the rate on the note and initial payment made by the borrower is usually paid by a third party such as a seller or builder.

#### **Buyer's Broker**

Agent who takes the buyer as a client, and is obligated to represent their interest above all others, and owes specific fiduciary duties to the buyer

### **C**apital

Accumulated wealth. A portion of wealth which is set aside for the production of additional wealth; specifically, the funds belonging to the partners or shareholders of a business, invested with the expressed intention of their remaining permanently in the business.

#### **Capital Gain**

Taxable profit on the sale of an appreciated asset.

#### **Caps**

Caps are used on adjustable rate mortgages (ARM's) to limit the interest rate and/or the payment. Most ARMs have a periodic cap that is around 2% per year and a life cap of around 5%-6% over the life of the loan. "Payment only" caps sometimes create negative amortization where the principal balance of the loan increases rather than decreases over time.

#### **Caveat Emptor**

A legal term meaning "let buyer beware".

#### **Certificate of Eligibility**

A certificate obtained by a veteran from a Veteran's Administration office which states that the veteran is eligible for a VA insured loan..

#### **Certificate of Occupancy**

Document issued by a local governmental agency that states a property meets the local building standards for occupancy.

#### **Certificate of Reasonable Value (CRV)**

An appraisal of property for the purpose of insurance by the Veteran's Administration.

#### **Certificate of Title**

A certification issued by a title company or a written opinion rendered by an attorney that the seller has good marketable and insurable title to the property which he is offering for sale. A certificate of title offers no protection against any hidden defects in the title which an examination of the public records could not reveal. The issuer of a certificate of title is liable only for damages due to negligence. The protection offered a homeowner under a certificate of title is not as great as that offered in a title insurance policy.

#### **Certified Copy**

A true copy, attested to be true by the officer holding the original.

**Cestui Que Trust**

One having an equitable interest in property with the legal title being vested to the trustee.

**Chain of Title**

The chronological order of conveyance of a parcel of land from the original owner to the present owner.

**Chattel**

Personal property.

**Client**

Person who employs the agent. Typically the seller is a client. The buyer can be a client (buyer's broker) or customer (seller's broker).

**Closing**

Conclusion of a real estate sale where the title of the property is transferred to the new owners and funds are transferred to the appropriate parties ( seller, old lender, real estate broker, etc.).

**Closing Agent**

A neutral third party that facilitates the closing of a real estate transaction. The closing agent can be an escrow company, title company or attorney.

**Closing Costs**

Expenses incurred by the buyer/borrower and the seller in a real estate or mortgage transaction. There can be non-recurring costs that include a one time charge for points, appraisal fees, etc. or a prorating of recurring costs such as taxes and insurance incurred while the new buyer/borrower owns the real estate.

**Closing Statement**

Statement prepared for the buyer and seller itemizing all of the costs of a real estate transaction.

**Closing Day**

The day on which the formalities of a real estate sale are concluded. The buyer signs the mortgage, and closing costs are paid. The final closing merely confirms the original agreement reached in the agreement of sale..

**Cloud on Title**

An outstanding claim or encumbrance which, if valid, adversely affects the marketability of title.

**Code of Ethics**

Standards subscribed to by members of the National Association of Realtors.

**Co-Maker**

Equally responsible for repayment as the borrower.

**Commercial Property**

Property intended for use by all types of retail and wholesale stores, office buildings, hotels and service establishments.

**Commission**

Fee paid to a broker or other entity for services rendered. Real estate brokers and mortgage brokers receive a commission for the services they provide; a real estate broker secures a buyer for a property that is for sale and a mortgage broker secures a mortgage loan for the buyer to finance the purchase of a property. Commissions are

generally paid as a percentage of the sales price in a real estate transaction or the loan amount in a mortgage transaction.

**Commitment**

A written promise to make or insure a loan for a specified amount and on specified items.

**Common Law**

Rules based on usage as demonstrated by decrees and judgments from the courts.

**Community Property**

Property owned jointly by husband and wife.

**Comparables**

Properties which are similar in value to a particular property and are used as comparisons to determine the fair market value of a specified property.

**Condemnation**

The taking of private property for public use by a government unit, against the will of the owner, but with payment of just compensation under the government's power of eminent domain. Condemnation may also be a determination by a governmental agency that a particular building is unsafe or unfit for use.

**Conditional Commitment**

A lenders promise to issue a loan subject to certain conditions. Generally, the lender will not fund the loan until the conditions have been met.

**Conditional Offer**

Purchase offer in which the buyer proposes to purchase property only after certain events (sale of another home, finding a loan commitment, etc.) occur.

**Condominium**

A structure of two or more units, the interior space of which are individually owned.

**Consideration**

Anything of value given to induce another to enter into a contract. Earnest money deposit on a sales contract is consideration.

**Construction Loan**

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

**Contingency**

Condition which must be satisfied before the buyer can consummate the purchase of a property. Contingencies are generally outlined in the purchase contract between the buyer and seller.

**Contract of Purchase**

An agreement between parties for the sale of real estate. In some states it is synonymous with a Purchase Agreement, Sales Agreement, or Land Contract. In Texas it is known as an Earnest Money Contract.

**Contract of Sale**

A purchase transaction in which the buyer receives possession of the property, but the seller retains title.

**Contract Sales Price**

The full purchase price as stated in the contract.

**Conventional Loan**

A mortgage loan that is not guaranteed or insured by the government. FHA and VA loans are not conventional loans.

**Convertible ARMs**

ARMs that have a provision allowing the borrower to convert the mortgage to a fixed rate term. The conversion feature is outlined in the mortgage note and has certain restrictions.

**Conventional Mortgage**

A loan neither insured by the FHA nor guaranteed by the VA.

**Cooperative Housing**

An apartment building or a group of dwellings owned by a corporation, the stockholders of which are the residents of the dwellings. 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 purchase 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 the stock.

**Cost Plus Contract**

A building contract setting the builder's profit at a set percentage of actual cost of labor and materials.

**Cost Basis**

Accounting figure that includes original cost of property plus certain expenses to purchase, money spent on permanent improvements and other costs, minus any depreciation claimed on tax returns over the years.

**Counteroffer**

A new offer made as a result of another offer, which cancels the original offer

**County**

A division within a state, usually encompassing one or more cities or towns.

**Covenant**

An agreement written into deeds and other instruments promising performance or nonperformance of certain acts or stipulating certain uses or non users of the property.

**Customer**

Typically, the buyer (before buyer agency laws), as opposed to the principal (seller).

**D** **claration of Restrictions**

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

**Dedication**

The voluntary giving of private property to some public use by the owner, as the dedication of land for streets, schools, etc., in a development.

**Deed**

Formal written document transferring title to real estate; a new deed is used for each transfer. The deed should contain an accurate description of the property being conveyed, should be signed and witnessed according to the

laws of the State where the property is located, and should be delivered to the purchaser at closing day. (See also deed of trust, general warranty deed, quitclaim deed, and special warranty deed.)

**Deed of Trust**

An instrument given by the borrower to a third party (trustee) vesting title to the property in the trustee as security for the borrower's repayment of the mortgage loan.

**Deed of Trust Rider**

The document required by the lender to be recorded along with the security instrument for an ARM.

**Deed Restriction**

Restrictions placed on use of real property by writing in a deed to control use and occupancy of the property by future owners.

**Default**

Failure to make mortgage payments or violations other provisions of the mortgage note.

**Defective Title**

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

**Deficiency Judgment:**

Personal claim against the debtor when the sale of foreclosed property does not yield sufficient proceeds to pay off the loan (s) and accrued interest.

**Deposit**

Also called Earnest Money Deposit, the deposit is money given to the seller or his agent by the potential buyer upon the signing of the agreement of sale to show that he is serious about buying the house. If the sale goes through, the earnest money is applied against the down payment. If the sale does not go through, the earnest money deposit will be forfeited to the seller unless the purchase contract expressly provides conditions for its return to the buyer.

**Depreciation**

Decrease in value to real property improvements due to wear and tear, adverse changes in the neighborhood, or any other reason.

**Devise**

Real Estate left by will.

**Devisee**

One to whom real estate is given by will.

**Devisor**

A testator who leaves real estate.

**Direct Endorsement**

A lender that can complete the processing and closing of an FHA loan without prior approval from FHA.

**Direct Reduction Mortgage**

An amortized mortgage in which principal and interest are computed on the remaining balance.



**Discount**

A loan funded below par (100%). Lenders or investors will fund loans at a discount in order to increase the overall yield on the note.

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**Disbursements**

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

**Documentary Tax Stamps**

Stamps affixed to a deed showing the amount of transfer tax. In Nebraska the documentary tax is \$1.75 for each thousand dollars of the selling price.

**Dower**

The rights of a widow to a portion of her deceased husband's property.

**Down Payment**

Cash to be paid by the buyer at closing to consummate a real estate transaction. Down payment is the difference between the sales price and the mortgage amount. Buyer cash required at closing includes the down payment, closing costs and prepaid expenses.

**Dragnet Clause**

A clause in a mortgage or deed of trust which places the real estate as security for existing debts between the parties.

**Earnest Money**

The earnest money is the deposit money given to the seller or his agent by the potential buyer upon the signing of the agreement of sale to show that he is serious about buying the house. If the sale goes through, the earnest money is applied against the down payment. If the sale does not go through, the earnest money deposit will be forfeited to the seller unless the purchase contract expressly provides conditions for its return to the buyer.

**Easement**

A right-of-way created by grant, reservation, agreement, prescription or necessary implication which one has in land owned by another.

**Economic Obsolescence**

Impairment of desirability or useful life arising from economic forces, such as changes in optimum land use, legislative enactments which restrict or impair property rights and changes in supply-demand relationships. Loss in the use and value of property arising from the factors of economic obsolescence is to be distinguished from loss in value from physical deterioration and functional obsolescence.

**Eminent Domain**

A government right to acquire private property for public use by condemnation and the payment of just compensation.

**Encroachment**

Unauthorized intrusion of a building or improvement such as a wall, fence, etc. onto another's land.

**Encumbrance**

A legal right or interest in land that affects a good or clear title and may diminish the land's value. It can take

numerous forms, such as zoning ordinances, easement rights, claims, mortgages, liens, charges, a pending legal action, unpaid taxes, or restrictive covenants. An encumbrance does not legally prevent the transfer of real property. It is up to the buyer to determine whether to purchase with the encumbrance.

### **Equity**

The market value of the property less the homeowner's unpaid mortgage balance and any outstanding liens or other debts against the property.

### **Escheat**

Reversion of property to the State by reason of failure to find persons legally entitled to hold or lack of heirs. The State must try to find heirs.

### **Escrow**

The deposit of instruments and/or funds into the care of a neutral third party with instructions to carry out the provisions of an agreement or contract once all instruments and/or funds have been deposited. Many closings are handled by escrow agents. In this situation, the seller deposits the deed and the buyer deposits the funds necessary with the escrow agent. Once all requirements of the purchase contract are in the control of the escrow agent, the money and deed are distributed accordingly.

### **Escrow Payment**

That portion of a mortgagor's monthly payment held in trust by the lender to pay for taxes, mortgage insurance, hazard insurance, lease payments and other items as they become due. Also known as "impounds" in some states.

### **Escrow Reimbursement**

The buyer reimburses the seller for the current balance of his escrow (or impounded) funds.

### **Estate at Will**

Possession of property at the discretion of the owner.

### **Estate for Years**

Tenant has rights in real property for a designated number of years.

### **Estimated Closing Costs Statement**

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

### **Estoppels**

An impediment to a law of action, whereby one is forbidden to contradict or deny one's own previous statement or act.

### **Exclusive Agency**

Listing agreement in which only the listing office may sell the property and earn the commission. If the owner sells the house, the listing office would not receive any commission.

### **Exclusive Right-to-Sell**

Listing agreement under which the owner promises to pay a commission if the property is sold during the listing period by anyone, even the owner.

## **F**annie Mae (Federal National Mortgage Association/FNMA)

FNMA is one of the major secondary market investors that purchases loans from mortgage companies and other depository institutions. The company is a private corporation and its stock is traded on the New York Stock Exchange.

### **Federal Home Board**

The board which oversees the Federal Home Loan Bank systems.

### **Federal Home Loan Bank**

Provides liquidity to supervised financial service companies, such as savings and loans and credit unions. The bank system has several districts.

### **Federal Home Loan Board**

The board which charters and forbids discrimination in the sale.

### **Federal Home Loan Mortgage Corporation (Freddie Mac/FHLMC)**

A government sponsored agency that is also a publicly traded company on the New York Stock Exchange that purchases mortgage loans from mortgage bankers and financial depository institutions. FHLMC is a major secondary market investor.

### **Federal Housing Administration**

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

### **Federal National Mortgage Association**

See Fannie Mae.

### **Federal Reserve Bank**

The regulatory agency for certain commercial banks and bank holding companies. Sets monetary policy for the country and provides liquidity for supervised financial institutions.

### **Federal Tax Lien**

A lien attached to property for nonpayment of a federal tax.

### **Federal Tax Return**

The U.S. government's method to identify individual and company's annual tax responsibility. The tax returns identify the income and taxes.

### **Fee Simple**

Highest possible degree of ownership of land. The estate allows owners to have unrestricted powers to dispose of property, and which can be left by will or inherited.

### **Fiduciary**

A person in a position of trust or responsibility with specific duties to act in the best interest of a client. Real estate brokers and mortgage brokers are fiduciaries.

### **Financial Depositor Institutions**

Banks, savings and loans or credit unions.

### **First Mortgage**

Mortgage holding priority over the claims of subsequent lenders against the same property.

**Fixture**

Personal property affixed to structures or land, usually in such manner that they cannot be independently moved without damage to themselves or the property housing, supporting, or pertinent to them. Varies under state laws.

**Foreclosure**

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

**Freddie Mac**

See Federal Home Loan Mortgage Corporation.

**Full Disclosure**

Revealing all known facts which may affect the decision of a buyer or tenant.

**Functional Obsolescence**

Impairment of functional capacity or efficiency. For example, homes without indoor plumbing (while they may contain working outdoor plumbing facilities) are considered functionally obsolete.

**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 only to a specific property.

**General Warranty Deed**

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

Government National Mortgage Association (GNMA/Ginnie Mae)

A government owned agency that acts as a secondary market conduit for FHA and VA loans. GNMA guarantees the timely principal and interest payments to investors.

**Grandfather Clause**

The clause in a law permitting the continuation of a use, business, etc., which was permissible but because of a change in the law is now no longer permissible.

**Ground Rent**

Rent paid for vacant land. If the property is improved, ground rent is the portion attributable to the land only.

**Grantee**

The buyer, who receives a deed.

## **Grantor**

The seller, who gives a deed.

## **Hazard Insurance**

Insurance on a property against damages caused by fire, wind storms, and similar risks.

### **Heirs and Assigns**

One who might inherit or succeed to an interest in a property under the rules of law applicable when a property owner dies.

### **Holographic Will**

Will written in the testator's handwriting and not witnessed.

### **Homeowners Association**

An association of people who own homes in a given area for the purpose of improving or maintaining the quality of the area.

### **Homeowner's Policy**

Policy which expands the insurance for a homeowner. It may include theft, liability, earthquake, etc.

### **Homeowner's or Maintenance Fees**

Payments made by property owner (s) of a condominium or a unit in PUD to the homeowners' association for expenses incurred in upkeep of the common areas.

### **Homestead**

Tract of land occupied as a family home.  
Housing and Urban Development (HUD)  
The federal government agency that oversees FHA.

### **HUD 1**

A closing document required by HUD that outlines the settlement cost of a loan. The closing agent generally prepares the document and buyer receives it shortly after the loan is closed.

## **Impound Account**

Account held by a lender for payment of taxes, insurance or other related expenses. Also known as an escrow account.

### **Improvement**

Valuable additions to property which raise the value of the property.  
Incidental Recording, Delivery, Wire, etc., Fees  
Other costs that are incurred when a real estate loan is closed.

### **Index**

A published rate or benchmark measure of current interest rate levels used to calculate periodic changes in rates charged on adjustable rate mortgages.

### **Installment Sale**

A tax term used to describe a sale which is usually accomplished by use of a land contract.

**Insured Mortgage**

A mortgage insured against loss to the mortgagee (lender) in the event of default and failure of the mortgaged property to satisfy the balance owing plus cost of foreclosure.

**Interest Payment Notification (1098)**

A federal tax form that lenders use at year end to notify borrowers of the interest that was paid on their mortgage over the last year.

**Interest Rate**

The percentage of an amount of money which is paid for its use for a specified time.

**In testate**

Someone who has died without leaving a valid will.

**Investment Property**

A property that is not occupied by the owner and in most cases produces income or is held for gains from appreciation.

**J**oint and Several Liability

A liability which allows the creditor to sue any one of the debtors or sue all together.

**Joint Tenancy**

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

**Judgment**

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

**Junior Mortgage**

A mortgage subordinate to another mortgage.

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**L**and

In a legal sense, the solid part of the surface of the earth, as distinguished from water; any ground, soil or earth whatsoever regarded as the subject of ownership and everything annexed to it, whether by nature, e.g., trees and everything in or on it, such as minerals and running water, or annexed to it by man; e.g., buildings, fences, etc. In an economic sense, land consists of all those elements in the wealth of a nation which is supposed to be furnished by nature as distinguished from those improvements which owe their value to the labor and organizing power of man.

**Land Contract**

Installment plan for buying a house. It is used as an alternative to obtaining a loan from a traditional, source such as a mortgage banker or savings and loan.

**Late Charge**

A penalty for failure to pay an installment on time.

**Latent Defect**

Hidden structural defect.

**Lease with Option to Purchase**

A lease under which the lessee has the right to purchase the property. The option may run for the length of the lease or only for a portion of the lease period.

**Legal Description**

An expanded and unique description of a property that is used on legal documents, such as deeds and deeds of trust. Recorded documents generally require a legal description.

**Lender**

A general term encompassing all mortgages, and beneficiaries under deeds of trust.

**Lender's Instructions**

A document that lenders prepare for the closing agent that outlines the requirements for loan closing.

**Lessee**

One who possesses the right to use or occupy a property under lease agreement.

**Lessor**

One who holds title to and conveys the right to use and occupy a property under lease agreement.

**Letter of Intent**

A formal method of stating that a prospective developer, buyer or lessee is interested in property.

**Lien**

An encumbrance against property for the payment of debt; a lien may be a mechanic's lien, mortgage, unpaid taxes or judgment.

**Life Estate**

An estate in real property for the life of a living person. The estate then reverts back to the grantor or to a third party.

**Limited Partnership**

A partnership consisting of one or more general partners who conduct the business and are responsible for losses, and one or more special partners, who contributes capital and are liable only to the amount contributed.

**Lis Pendens**

A public notice that litigation is pending on a property.

**Listing**

A record of property for sale by a broker who has been authorized by the owner to sell. Also used to denote the property so listed.

**Listing Agreement**

Agreement between a property owner and a real estate broker, authorizing the broker to find a buyer for the property. If the sale is consummated, the listing broker will be paid a fee.

**Loan Discount/Premium Fees**

Fees that borrowers pay (sometimes seller will pay for borrower) that adjust to the yield requirement of the investor. Loan discount denotes an investor yield requirement higher than the note rate. Loan premium denotes an investor yield requirement lower than the note rate.

**Loan Lock**

Guarantee from a lender that a borrower will receive the interest rate in effect at the time of loan application.

**Loan Officer**

A person that helps borrowers through the loan selection, processing, and closing of a mortgage loan. Loan officers can be paid a commission or salary for their services and can work for mortgage brokers, mortgage bankers, or depository institutions.

**Loan Origination Fees**

The cost to obtain a loan that is paid to the originating lender or broker.

**Loan Package**

The information regarding a borrower and property necessary which is the basis for a lender's credit decision to extend or deny credit.

**Loan Ratio**

The amount of a loan to the value or selling price of real property.

**Loan Servicing**

The function of collecting loan payments, managing the property tax and insurance escrows, foreclosing on defaulted loans and remitting payments to the investor/beneficiary.

**Loan-to-Value Ratio**

The ratio of the mortgage loan amount to the property's appraised value or selling price, whichever is less.

**M**argin

The number of percentage points the lender adds to the index rate to calculate the adjustable rate mortgage (ARM) interest rate at each adjustment.

**Market Value**

The most likely price a given property will bring if widely exposed on the market, assuming fully informed buyer and seller.

**Marketable Title**

A title that is free and clear of objectionable liens, clouds or other title defects. A title which enables an owner to sell his property freely to others and which others will accept without objection.

**Marketing**

The management process through which efforts to conceive, develop and deliver goods and services are integrated to satisfy the needs and wants of selected customers as a means of achieving company objectives.

**Market Price**

The price paid for a property; the amount of money that must be given or which can be obtained at the market in exchange under the immediate conditions existing at a certain date. To be distinguished from market value.

**Market Value**

The highest price estimated in terms of money which a buyer would be warranted in paying and a seller justified in accepting, provided both parties were fully informed, acted intelligently and voluntarily and, further, that all the rights and benefits inherent in or attributable to the property were included in the transfer.



**Mechanics 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.

**Misrepresentation**

False statement made to or concealment of knowledge from another party with the intent to provoke action from that party.

**Mortgage**

A lien or claim against real property given as security for a loan. It is a two party agreement as apposed to the three-party agreement of a deed of trust.

**Mortgage Broker**

A professional that helps consumers through the loan selection, processing and closing of a mortgage loan. Most mortgage brokers have access to a wide range of mortgage products through many mortgage lenders. Mortgage brokers are paid a fee by the borrower when a suitable mortgage is found and closed.

**Mortgage Commitment**

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

**Mortgagee**

The lender of money or the receiver of the mortgage document.

**Mortgage Insurance**

Insurance required for a loan-to-value ratio above 80.01%.

**Mortgage Banker**

Financial intermediaries that originate mortgage loans through loan officers or independent mortgage brokers and sell the mortgages into the secondary mortgage market.

**Mortgage Note**

The document outlining the amount of the debt, the terms and payments, the interest rate, margins and caps for ARMs, the name of the lender and the borrower, and any other material item required by the lender.

**Mortgage Warehousing**

A funding facility, such as a commercial bank, that is used by mortgage companies to fund loans which are sold to an investor shortly thereafter. The mortgage notes are used as collateral for this interim financing.

**Mortgagor**

The borrower of money or the giver of the mortgage document.

**Multiple Listing Service**

A means of making possible the orderly dissemination and correlations of listing information to its members so that REALTORS may better serve the buying and selling public.

## **N**ATIONAL ASSOCIATION OF REALTORS

The association of REALTORS dedicated to the protection and the preservation of the free enterprise system and the right of the individual to own real property as guaranteed by the Constitution of the United States of America. Each member of the NATIONAL ASSOCIATION OF REALTORS must adhere to a strict Code of Ethics and Standards of Practice designed to provide assurances to the public of the REALTORS integrity and professionalism.

### **Negative Amortization**

An increase in principal balance which occurs when the monthly payments do not cover all of the interest cost. The interest cost which is not covered by the payment is added to the unpaid principal balance.

### **Net Listing**

An arrangement whereby the Broker receives as commission all monies received above a minimum sales price agreed to by the owners and the Broker.

### **Non-conforming Loan**

Loans that are above the loan limits set by FNMA and FHLMC. Also known as jumbo loans.

### **Nonconforming Use**

A property which does not conform to the zoning of an area.

### **Note**

A written promise to repay a certain sum of money on specified terms.

## **O**bsolence

Impairment of desirability and usefulness brought about by changes in the art, design or process or from external influencing circumstances that make a property less desirable and valuable for a continuity or use.

### **Offer**

A promise by one party to do a specified deed as the other party in turn performs a specific deed.

### **Office of Comptroller Currency**

A federal government regulatory agency that oversees some commercial banks.

### **Office of Thrift Supervision**

A federal government regulatory agency that oversees savings and loans.

### **Open End Mortgage**

A mortgage permitting the mortgagor to borrow additional money under the same mortgage, with certain conditions.

### **Open Listing**

An authorization given by a property owner to a real estate Broker wherein said Broker is given the nonexclusive right to secure a purchaser; open listings may be given to any number of Brokers without liability to compensate any except the one who first secures a buyer ready, willing and able to meet the terms of the listing, or secures the acceptance by the seller of a satisfactory offer.

### **Origination Fee**

A fee or charge for work involved in the evaluation, preparation and submission of a proposed mortgage loan.

### **Owner of Record**

The individual (s) named on a deed that has been recorded at the local municipality.

**Owners Policy**

Title insurance for the owner of property, rather than a lien holder.

**Ownership**

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

**P**ackage Mortgage  
Mortgage covering both real and personal property.

**Paper**

A mortgage, deed of trust or land contract which is given instead of cash.

**Parole Evidence**

The legal rule which prevents previous oral or written negotiations to a signed contract from changing the contract.

**Partial Release**

A release of a portion of property covered by a mortgage.

**Permanent Mortgage**

A mortgage on completed construction on the same property under one mortgage or trust deed.

**Personal**

Property which is movable. All property is either personal, realty or mixed.

**Physical Depreciation**

A term that is frequently used when physical deterioration is intended. In a broad concept it may relate to those elements contributing to depreciation that are existent or inherent in the physical property itself, as distinguished from other and external circumstances that may influence its utilization. Not a clear or proper term without qualification and explanation.

**PITI**

Abbreviation for principal, interest, taxes and insurance, often combined in a single monthly mortgage payment.

**Plat**

A map or chart of a lot, subdivision or community, showing boundary lines, buildings and easements.

**PMI**

Abbreviation for private mortgage insurance: insurance issued by a company, which insures the lender against loss in the event that the borrower defaults on the mortgage.

**Points**

Origination fees charged by the originating lender or broker and/or discount fees charge by lenders to increase the overall yield. A point is equal to one percent of the principal amount of your mortgage.

**Portfolio Loan**

Loans held as an investment by a bank, savings and loan or credit union.

**Power of Attorney**

A written instrument authorizing a person to act as the agent of the person granting it, and a general power authorizing the agent to act generally in behalf of the principle. A special power limits the agent to a particular or specific act as: a landowner may grant an agent special power of attorney to convey a single and specific parcel of property. Under the provisions of a general power of attorney, the agent having the power may convey any or all property of the principal granting the general power of attorney..

**Prepaid Interest**

Prepaid interest is the interest charged to borrowers at loan closing to pay for the cost of borrowing for a partial month. For example, if a loan closes on the 15th of the month and the first payment is due 45 days later, the lender will charge 15 days of prepaid interest.

**Prepaid Items of Expense**

Perorations of prepaid items of expense which are credited to the seller in the closing statement.

**Prepayment**

Full payment of the principal before the due date; occurs when a property is sold or the borrower refinances the existing loan.

**Prepayment Penalty**

Charge levied by the lender for paying off a mortgage loan before its maturity date.

**Primary Mortgage Market**

The process of obtaining a real estate loan, including the consumer's completion of a loan application form, validation of the credit and property information, loan underwriting by the lender and closing of the mortgage loan.

**Primary Residence**

Considered the permanent location of residency.

**Principal**

1) The outstanding balance of a loan. 2) A party to a real estate transaction. 3) The head of a real estate firm.

**Private Mortgage Insurance (PMI)**

Insurance which covers the portion of a mortgage loan above 80% thereby reducing the lenders risk to principal loss in the event of a borrowers default. The insurance coverage allows lenders to make higher loan-to-value ratios (95% LTV).

**Processing, Underwriting and Document Fees**

Charges for the lender's services associated with making the loan.

**Property**

The rights of ownership. The right to use, possess, enjoy, and dispose of a thing in every legal way and to exclude everyone else from interfering with these rights. Property is generally classified into two groups, personal property and real property.

**Property Tax**

A tax levied by the local municipality or county on real and personal property.

**Perorations**

The allocation of expenses, such as taxes between buyer and seller at closing based on the number of days the property is owned during the month of closing.

**Prorate**

To divide in proportionate shares, such as taxes, insurance, rent, or other items.

**Planned Unit Development (PUD)**

A housing development where there is a homeowners association and common areas owned by the homeowners.

**Purchase Money Mortgage**

A mortgage used to finance the purchase of real property.

**Quit Claim Deed**

A deed operating as a release; intended to pass any title, interest or claim which the grantor may have in the property.

**Real Estate**

Land and anything permanently affixed to the land and those things attached to the building.

**Real Estate Broker**

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

**Real Estate Tax**

A pecuniary charge laid upon real property for public purposes.

**REALTOR**

Registered name for a member of the NATIONAL ASSOCIATION OF REALTORS.

**REALTOR ASSOCIATE**

Salesperson associated with a broker who is a member of a the NATIONAL ASSOCIATION OF REALTORS.

**Realty**

A synonym for real estate.

**Recital**

Setting forth in a deed or other writing some explanation for the transaction.

**Recording**

The act of writing or entering an instrument in a book or public record, usually in the office of the county clerk and recorder. Such recording constitutes notice to all persons of the rights or claims contained in the instrument. This type of notice is called "constructive notice" or "legal notice."

**Recourse**

The right of the holder of a note secured by a mortgage or deed of trust to look personally to the borrower or endorser for payment.

**Redlining**

The practice of refusing to provide loans or insurance in a certain neighborhood.

**Refinancing**

The repayment of a debt from the proceeds of a new loan using the same property as security.

**Reissue rate**

A charge for a title insurance policy if a previous policy on the same property was issued within a specified period of time. Reissue is less than the original charge.

**REIT (Real Estate Investment Trusts)**

A method in investing real estate in a group, with certain tax advantages.

**Recession of Contract**

Annulling a contract and placing the parties to it in a position as if there had not been a contract.

**Release**

An instrument releasing property from the lien of the mortgage, judgment, etc.

**RESPA (Real Estate Settlement Procedures Act)**

A federal regulation that requires lenders and mortgage brokers to disclose to borrowers, in advance, the fees required to obtain a mortgage loan.

**Restrictive Covenants**

Private restrictions limiting the use of real property. Restrictive covenants are created by deed and may "run with the land," binding all subsequent purchasers of the land, or may be "personal" and be binding only between the original seller and buyer.

**Revenue Stamps**

Formerly, federal tax on a sale of real property. Canceled and replaced by state tax stamps.

**Reverse Mortgage**

A special program for the elderly that provides income until death. Payment requirements are arranged through the increase in the principal amount of the loan.

**Riparian**

Pertaining to the banks of a river, stream, waterway, etc.

**S**ales Agreement  
See agreement of sale.

**Satisfaction of Mortgage**

Document issued by mortgagee when the mortgage is paid off.

**Second Home**

Commonly known as a vacation home. This home is not rented and is occupied occasionally by the owners.

**Secondary Financing**

A loan secured by a mortgage or trust deed, which lien is junior to another mortgage or trust deed.

**Secondary Market**

The buying and selling of mortgage notes between sophisticated investors such as pension funds, commercial banks, savings and loans and wall street firms.

**Secondary Market Investor**

An entity, such as FNMA or FHLMC, that buys mortgage loans for investment or sells them again to another secondary market investor. Secondary market investors do not service loans and do not collect payments from borrowers.

**Secondary Mortgage Market**

The buying and selling of first mortgages of trust deeds by banks, insurance companies, government agencies, and other mortgagers.

**Security**

Real or personal property pledged by a borrower as additional protection for the lender's interest.

**Seller's Broker**

Agent who takes the seller as a client, is legally obligated to a set of fiduciary duties and is required to put the seller's interests above all other's.

**Septic Tank**

An Underground tank in which sewage from the house is reduced to liquid by bacterial action and drained off.

**Set Back Ordinance**

Regulates the distance from the lot line to the point where improvements may be constructed.

**Settlement**

See "closing".

**Settlement Cost, a HUD Guide**

This booklet gives an overview of the lending process and is required by HUD. It is provided to consumers after the loan application is completed.

**Settlement Statement**

A statement prepared by broker, escrow or lender giving a complete breakdown of the cost associated with a real estate transaction.

**Sheriff's Deed**

A deed given at the sheriff's sale in foreclosure of a mortgage.

**Single Family Detached Home**

A residential home that is not attached physically to another home.

**Special Assessments**

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

**Special Lien**

A lien that binds a specified piece of property, unlike a general lien, which is levied against all one's assets. It creates a right to retain something of value belonging to another person as compensation for labor, material, or money expended in that person's behalf. In some localities it is called "particular" lien or "specific" lien. (See lien).

**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. In a special warranty deed the grantor guarantees to the grantee that he has done nothing during the time he held title to the property which has, or which might in the future, impair the grantee's title.

**Specific Performance**

Lawsuit requesting that a contract be exactly carried out, usually asking that the seller be ordered to convey the property as previously agreed.

**Standard Uniform Application**

An application developed by FNMA and FHLMC that is widely used in the mortgage industry.

**State and Local Housing Programs**

Unique housing finance programs to assist first time home buyers and low to moderate housing groups. Each state and local group has different sets of criteria.

**Statute of Frauds**

The law requires that certain contracts, such as agreements of sale, to be in writing in order to be enforceable.

**Statutory Lien**

An involuntary lien, includes tax liens, judgment liens, mechanic liens, etc.

**Substitute of Trustee**

A document which is recorded to change the trustee under the deed of trust.



**Survey**

Map or plat made by a licensed surveyor who measures land and charts its boundaries, improvements, and relationship to the property surrounding it. A survey is often required by the lender to assure him that a building is actually sited on the land according to its legal description.

**Survivorship**

All rights of a joint tenant passes to the surviving joint tenant.

**Sweat Equity**

Equity created by the labor of the purchaser or borrower that increases the value of the property.

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**U**<sup>ury</sup>

On a loan, claiming a rate of interest greater than permitted by law.

**V**<sup>aluation</sup>

The act or process of estimating value; the amount of estimated value.

**W**<sup>arranty Deed</sup>

Most valuable type of deed in which the grantor makes formal assurance of title.

**W2 Form**

Income tax form that is provided by employers to employees that states the income and taxes paid in a calendar year.

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**Y**<sup>ield</sup>

The interest earned by an investor on his investment (or bank on the money it has lent). Also called Return.

**Z**<sup>oning Ordinances</sup>

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