



# Glossary

## A

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### **Abstract**

A history of all transactions shown in the public records affecting a particular tract of land.

### **Abstract Plant**

Also called "Title Plant" in some areas. A geographically filed assemblage of title information that helps in expediting title examinations, such as copies of previous attorneys' opinions, abstracts, tax searches, and copies of take-offs of the public records.

### **Acceleration Clause**

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

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

Mortgage loans under which the interest rate is periodically adjusted, in accordance with some market indicator, to more closely coincide with the current rates. The extent and number of these adjustments are agreed to at the inception of the loan.

### **Adverse Possession**

The possession, by one person, of land belonging to another in a manner deemed adverse to the interest of the owner. In most states, by operation of law, title to the land becomes vested in such person after a fixed number of years if the owner fails to assert his or her rights.

### **Affidavit**

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

### **Agreement**

A legally binding contract made between two or more persons.

### **ALTA (American Land Title Association)**

The trade association of the title insurance industry, which has adopted certain insurance policy forms to standardize coverage on a national basis.

## **Amortization**

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

## **Appraisal**

A report from an independent third party detailing the estimated value of real estate.

## **Appurtenance**

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

## **Assessment**

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

## **Assignment**

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

## **Assumption of Mortgage**

An obligation undertaken by the purchaser of property to be personally liable for payment of an existing mortgage. In an assumption, the purchaser is substituted for the original mortgagor in the mortgage instrument and the original mortgagor is to be released from further liability in the assumption, the mortgagee's consent is usually required. The original mortgagor should always obtain a written release from further liability if he desires to be fully released under the assumption. Failure to obtain such a release renders the original mortgagor liable if the person assuming the mortgage fails to make the monthly payments. An "Assumption of Mortgage" is often confused with "Purchasing Subject to a Mortgage". When one purchases subject to a mortgage, the purchaser agrees to make the monthly mortgage payments on an existing mortgage, but the original mortgagor remains personally liable if the purchaser fails to make the monthly payments. Since the original mortgagor remains liable in the event of default, the mortgagee's consent is not required to a sale subject to a mortgage. Both "Assumption of Mortgage" and "Purchasing Subject to a Mortgage" are used to finance the sale of property. They may also be used when a mortgagor is in financial difficulty and desires to sell the property to avoid foreclosure.

## **Attorney's Opinion**

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

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## **B**

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## **Back Title Letter**

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

## **Balloon Note**

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

## **Bankruptcy**

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

## **Binder**

Sometimes called a “Preliminary Certificate” or “Commitment”. (1) A preliminary report as to the condition of a title and a commitment to issue a title insurance policy in a certain manner when certain conditions are met. (2) A deposit in escrow of a small part of the purchase price of real estate as evidence of good faith and to bind an agreement to purchase.

## **Broker**

Also known as a “Real Estate Broker”. A middleman or agent who buys and sells real estate for a company, firm, or individual on a commission basis. The broker does not have title to the property, but generally represents the owner.

## **Building Line or Setback**

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

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# **C**

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## **Certificate of Title**

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

## **Chain**

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

## **Chain of Title**

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

## **Claim**

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

## Clear Title

Real property ownership free of liens, defects, encumbrances or claims.

## Closing

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

## Closing Costs

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

### Buyer's Expenses

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

### Seller's Expenses

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

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## D

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### Dedication

The setting aside of certain land by the owner and declaring it to be for public use. Examples: Streets, Sidewalks, Parks, Etc.

### Deed

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

### Deed of Trust

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

## **Deed Restriction**

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

## **Default**

Failure to make mortgage payments as agreed to in a commitment based on the terms and at the designated time set forth in the mortgage or deed of trust. It is the mortgagor's responsibility to remember the due date and send the payment prior to the due date, not after. Generally, thirty days after the due date if payment is not received, the mortgage is in default. In the event of default, the mortgage may give the lender the right to accelerate payments, take possession and receive rents, and start foreclosure. Defaults may also come about by the failure to observe other conditions in the mortgage or deed of trust.

## **Defect**

A blemish, imperfection or deficiency. A defective title is one that is irregular and faulty.

## **Depreciation**

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

## **Devise**

A gift of real estate made by a will.

## **Documentary Stamps**

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

## **Dominant Estate**

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

## **Dower**

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

## **Down Payment**

The amount of money to be paid by the purchaser to the seller upon the signing of the agreement of sale. The agreement of sale will refer to the down payment amount and will acknowledge receipt of the down payment. Down payment is the difference between the sales price and maximum mortgage amount. The down payment may not be refundable if the purchaser fails to buy the property without good cause. If the purchaser wants the down payment to be refundable, he should insert a clause in the agreement of sale specifying the conditions under which the deposit will be refunded, if the agreement does not already contain such clause. If the seller cannot deliver good title, the agreement of sale usually requires the seller to return the down payment and to pay interest and expenses incurred by the purchaser.

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## **Earnest Money**

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

## **Easement**

A right to use all or part of the land owned by another for a specific purpose. An easement may, for example entitle its holder to install and maintain sewer or utility lines.

## **Eminent Domain**

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

## **Encroachment**

Any building, improvement or structure located on one property (such as a wall, fence, or driveway) that intrudes upon the property of another.

## **Encumbrance**

Any interest, right, lien, or liability attached to a parcel of land (such as unpaid taxes or an unsatisfied mortgage) that constitutes or represents a burden or charge upon the property.

## **Equity**

The value of a homeowner's unencumbered interest in real estate. Equity is computed by subtracting from the property's fair market value the total of the unpaid mortgage balance and any outstanding liens or other debts against the property. A homeowner's equity increases as he pays off his mortgage or as the property appreciates in value. When the mortgage and all other debts against the property are paid in full the homeowner has 100% equity in his or her property.

## **Escheat**

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

## **Escrow**

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

## **Estoppel**

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

## **Examination**

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

## **Exception**

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

## **Execute**

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

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## **F**

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### **Fannie Mae (FNMA)**

Federal National Mortgage Association. A private corporation dealing in the purchase of first mortgages.

### **Fee Simple Deed**

The absolute ownership of a parcel of land. The highest degree of ownership that a person can have in real estate, which gives the owner unqualified ownership and full power.

### **FHA (Federal Housing Administration)**

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

### **Fixed Rate Mortgage**

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

## **Fixtures**

Personal property that is attached to real property and is legally treated as real property while it is so attached. Examples: Medicine Cabinets, Window Blinds, and Chandeliers.

## Foreclosure

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

## Forgery

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

## Freddie Mae (FHLMC)

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

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## G

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## General Warranty Deed

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

## Ginnie Mae (GNMA)

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

## Grant

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

## Grantee

One to whom a grant is made.

## Grantor

One who makes a grant.

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## H

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## Hereditaments

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

## Homeowners Insurance



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

## **HUD (Department of Housing and Development)**

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

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### **Index**

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

### **Instrument**

Any written document having a legal effect.

### **Interest**

A charge paid for borrowing money. (Also See Mortgage Note)

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## **J**

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### **Judgment**

The determination of a court regarding the rights of parties in an action. A judgment of debt on a property owner can create a lien on all of that owner's land within a certain jurisdiction.

### **Junior Mortgage**

A mortgage lower in lien priority than another.

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## **K**

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## **L**

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### **Leasehold**

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

## **Lessee**

A tenant holding a leasehold.

## **Lessor**

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

## **License**

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

## **Lien**

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

## **Lien Waiver**

Also called a "Waiver of Liens." A waiver of mechanics' lien rights, signed by contractors or subcontractors.

## **Link**

In surveying, a link is 7.92 inches.

## **Loan Policy**

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

## **Lis Pendens**

A legal notice intending to bind third parties of litigation claiming an interest in real estate.

## **Lot**

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

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# **M**

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## **Market Value**

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

## **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.

## **Mechanic's Lien**

A lien on real estate, created by operation of law, that secures the payment of debts due to persons who perform labor or services or furnish materials incident to the construction of buildings and improvements on the real estate.

## **Metes and Bounds**

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

## **Mortgage**

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

## **Mortgage Commitment**

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

## **Mortgage Insurance**

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

## **Mortgage Insurance Premium**

The payment made by a borrower to the lender for transmittal to HUD to help defray the cost of the FHA mortgage insurance program and to provide a reserve fund to protect lenders against loss in insured mortgage transactions. In FHA insured mortgages this represents an annual rate of one- half of one percent paid by the mortgagor on a monthly basis.

## **Mortgage Note**

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

## **Mortgage (Open End)**

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

## **Mortgagee**

The holder of a mortgage. The party to whom a mortgage is made, generally the lender.

## **Mortgagee Policy**

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

## **Mortgager**

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

## **Multiple Listing Service (MLS)**

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

## **Muniments of Title**

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

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# **N**

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## **Note**

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

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# **O**

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## **Owner’s Policy**

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

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# **P**

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## **Plat**

Also called a “Plat Map”. A map dividing a parcel of land into lots, as in a subdivision. A plat book contains the plat maps for a given area.

## **Points**

Sometimes called “Discount Points”. A point is one percent of the amount of the mortgage loan. For example, if a loan is for \$25,000, one point is \$250. Points are charged by a lender to raise the yield on his loan at a time when money is tight, interest rates are high, and there is a legal limit to the interest rate that can be charged on a

mortgage. Buyers are prohibited from paying points on HUD or Veterans' Administration guaranteed loans (sellers can pay, however). On a conventional mortgage, points may be paid by either buyer or seller or split between them.

## **Premium**

The amount payable for an insurance policy.

## **Prepayment**

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

## **Prescriptive Easement**

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

## **Principal**

(1) A sum of money owed as a debt on which interest is payable. (2) A person who empowers another to act as his representative or agent. (3) The person having prime responsibility for an obligation as distinguished from one who acts as a surety or endorser.

## **Purchase Money Mortgage**

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

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## **Q**

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### **Quitclaim Deed**

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

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## **R**

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### **Real Estate**

Also called "Real Property". (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. (2) May refer to rights in real property as well as the property itself.

### **Real Estate Broker**

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

## **Recording**

The noting in a public office of the details of a legal document – such as a deed or mortgage – affecting the title to real estate. When such an instrument is properly recorded, it is considered to be a matter of public record. Legally, that means that all subsequent purchasers are deemed to have constrictive knowledge of that information.

## **Refinancing**

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

## **Reinsurance**

The noting in a public office of the details of a legal document – such as a deed or mortgage – affecting the title to real estate. When such an instrument is properly recorded, it is considered to be a matter of public record. Legally, that means that all subsequent purchasers are deemed to have constrictive knowledge of that information.

## **Release**

The noting in a public office of the details of a legal document – such as a deed or mortgage – affecting the title to real estate. When such an instrument is properly recorded, it is considered to be a matter of public record. Legally, that means that all subsequent purchasers are deemed to have constrictive knowledge of that information.

## **Restrictions**

The noting in a public office of the details of a legal document – such as a deed or mortgage – affecting the title to real estate. When such an instrument is properly recorded, it is considered to be a matter of public record. Legally, that means that all subsequent purchasers are deemed to have constrictive knowledge of that information.

## **Restrictive Covenants**

Restrictive covenants are private restrictions limiting the use of real property. They are created by deed and may “run with the land,” binding all subsequent purchasers of the land, or may be “personal” and binding only between the original seller and buyer. The determination whether a covenant runs with the land or is personal, is governed by the language of the covenant, the intent of the parties, and the law in the State where the land is situated. Restrictive covenants that run with the land are encumbrances and may affect the value and marketability of title. Restrictive covenants may limit the density of buildings per acre, regulate size, style or price range of buildings to be erected, or prevent particular businesses from operating or minority groups from owning or occupying homes in a given area. (This latter discriminatory covenant is unconstitutional and has been declared unenforceable by the U.S. Supreme Court)

## **Riparian Rights**

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

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# **S**

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## **Sales Agreement**

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

## **Sale and Leaseback**

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

## **Search**

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

## **Second Mortgage**

A mortgage ranking in priority immediately below a first mortgage.

## **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.

## **State Stamps**

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

## **Subordination**

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

## **Surety**

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

## **Survey**

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

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# T

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## **Tax**

As applied to real estate, an enforced charge imposed on persons, property or income, to be used to support the State. The governing body in turn utilizes the funds in the best interest of the general public.

## **Title**

(1) A combination of all the elements that constitute the highest legal to right to own, possess, use, control, enjoy and dispose of real estate or an inheritable right or interest therein. (2) The rights of ownership recognized and protected by law.

## **Title Covenants**

Covenants ordinarily inserted in conveyance and in transfers of title to real estate for the purpose of giving protection to the purchaser against possible insufficiency of the title received. A group of such covenants known as "Common Law Covenants" includes: covenants against encumbrances; covenants for further assurance (in other words, to do whatever is necessary to rectify title deficiencies); covenants of good right and authority to convey; covenants of quiet enjoyment; covenants of seisin; covenants of warranty. (See also Covenant or Warranty)

## **Title Defect**

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

## **Title Insurance Policy**

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

## **Title Plant**

Also called "Abstract Plant" in some areas. A geographically filed assemblage of title information that helps in expediting title examinations, such as copies of previous attorneys' opinions, abstracts, tax searches and copies of take-offs of the public records.

## **Title Search or Examination**

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

## **Trustee**



A party who is given legal responsibility to hold property in the best interest of or “for the benefit of” another. The trustee is one placed in a position of responsibility for another, a responsibility enforceable in a court of law. (See also Deed of Trust)

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## U

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### **Underwriter**

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

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## V

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### **Variable Interest**

Also called “Flexible Interest Rate”. An interest rate that fluctuates as the prevailing rate moves up or down. In mortgages, there are usually maximums as to the frequency and amount of fluctuation.

### **Veterans’ Administration Loans (VA Loans)**

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

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## W

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### **Waiver**

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

### **Warranty**

In a broad sense, an agreement or undertaking by a seller to be responsible for present or future losses of the purchaser occasioned by deficiency or defect in the quality, condition or quantity of the thing sold. In a stricter sense, the provision or provisions in a deed, lease or other instrument conveying or transferring an estate or interest in real estate under which the seller becomes liable to the purchaser for defects in or encumbrances on the title. (See also Title Covenants)

### **Will**

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

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## **Zoning**

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

### **Zoning Ordinances**

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

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