Glossary of Real Estate Terms:

Abandonment:
The voluntary relinquishment of rights of ownership or another interest (such as an easement) by failure to use the property, coupled with an intent to abandon (give up the interest).

Abstract:
A summary.

Abstract of Judgement:
A summary of money judgment obtained in court. (When this summary or abstract is recorded in the county recorder's office, in some states the judgment becomes a lien on the debtor's property, both presently owned or after-acquired.)

Abstract of Title:
A summary prepared by a licensed abstractor of all documents recorded in the public records of the political subdivision where the land is located. An abstract in some states or areas is reviewed by an attorney or other experienced title examiner to determine the status of title. Virtually every abstractor today provides actual copies of the records rather than an abstract of each document.

Abatement:
A reduction or decrease. Usually applies to a decrease of assessed valuation of ad valorem taxes after the assessment, and levy.

Acceleration Clause:
Clause in a deed of trust or mortgage, which "accelerates," or hastens, the time when the indebtedness becomes due. For example, some deeds of trust contain a provision (an acceleration clause) stating that the note shall become due immediately upon the sale of the land or upon failure to pay interest or an installment of principal and interest.

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

Acknowledgement:
A formal declaration before a duly authorized officer (such as a notary public) by a person who has executed an instrument that such execution is his own act and deed. An acknowledgment is necessary to entitle an instrument (with certain specific exceptions) to be recorded, to impart constructive notice of its contents and to entitle the instrument to be used as evidence without further proof. The certificate of acknowledgment is attached to the instrument or incorporated therein.

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

Loans, Variable Rate Loans. (See also: Indexing, Rate Index).

Administrator:
A person appointed by the probate court to carry out the administration of a decedent's estate when the decedent has left no will. If a woman is appointed, she is called an administratrix.

Adverse Possession:
A process of acquiring title to real property by possession for a certain (statutory) period of time, in addition to fulfilling other conditions.

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

Agent:
One who has authorization, either expressed or implied, to act for or represent another party, usually in business matters, such as issuing title insurance policies on behalf of a title insurer for a portion of the premium.

Agreement of Sale:
A written contract entered into between the seller (vendor) and buyer (vendee) for sale of real property (land) on an installment or deferred payment plan. It is also known as an agreement to convey, a long form Security Agreement or a real estate installment contract.

All-Inclusive Rate:
Rate which includes charges for title insurance, searching or abstract fees and examination fees.

ALTA: (American Land Title Association)
Organization composed of title insurance firms which sets standards for the industry, including title insurance policy forms used on a national basis.

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

Amortized Loan:
A loan that is paid off, both interest and principal, by regular payments that are equal or nearly equal.

Annual Percentage Rate (A.P.R.):
The yearly interest percentage of a loan, as expressed by the actual rate of interest paid. For example: 6% add-on interest would be much more than 6% simple interest, even though both would say 6%. The A.P.R. is disclosed as a requirement of federal truth in lending statutes.

Appraisal:
An estimate of value of property resulting from analysis of facts about the property; an opinion of value.

Approved Attorney:
An attorney whose opinion is acceptable to a title company as the basis for

issuance of a title insurance policy by the insurer. The insurer, rather than the attorney, executes the policy.

Assumption:
The act of conveying real property; taking title to a property with the Buyer assuming liability for paying an existing note secured by a deed of trust against the property.

Back Title Letter or Certificate:
See Starter.

Bankruptcy:
A special proceeding under federal, or in some instances state, laws by which the property of a debtor is protected by the court and may be divided among the debtor's creditors and the debtor.

Beneficiary:
See Deed of Trust.

Blanket Mortgage or Trust Deed:
A mortgage or trust deed that covers more than one lot or parcel of real property, and often an entire subdivision. As individual lots are sold, a partial reconveyance from the blanket mortgage is ordinarily obtained.

Bona Fide Purchaser:
One who buys property in good faith, for fair value, and without notice of any adverse claim or right of third parties.

Branch:
A subordinate or division office of First American Title Insurance Company, as opposed to an affiliate, agent, subsidiary or underwritten firm associated with the Company.

Breach of Contract:
Failure to perform a contract, in whole or part, without legal excuse.

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

Buydown:
A payment to the lender from the seller, buyer, third party, or some combination of these, causing the lender to reduce the interest rate during the early years of a loan. The buydown is usually for the first one to five years of the loan. (See also: Certificate Backed Mortgage).

Capitalization Rate:
The percentage (acceptable to an average buyer) used to determine the value of income property through capitalization.

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

Close of Escrow:
The date the documents are recorded and title passes from Seller to Buyer. On this date, the Buyer becomes the legal owner, and title insurance becomes effective.

Closing:
The final procedure in the real estate sales process, where the sale and pertinent loan are completed by the execution of documents for recording. In some areas, this procedure is known as the closing of escrow.

Cloud on Title:
An irregularity, possible claim, or encumbrance which, if valid, would adversely affect or impair the title.

Coinsurance:
Ordinary coinsurance is defined as a transaction under which each of two or more insurers assumes a designated portion of the liability for the total risk and is liable for only such portion of any loss beginning at the first dollar of loss. (See Reinsurance.)

Collateral:
By or at the side, additional or auxiliary. Mistakenly used to mean collateral security.

Collateral Security:
Most commonly used to mean some security in addition to the personal obligation of the borrower.

Commitment:
A binding contract with a title company to issue a specific title policy, showing only those exceptions contained in the commitment and any intervening matters after the date of the commitment and prior to the effective date of the policy. The commitment contains all information included in the preliminary title report, plus a list of the title company's requirements to insure the transaction. It also includes the standard exceptions from coverage that will appear in the policy.

Community Driveway:
A driveway which is jointly owned, used and maintained by two or more persons. Usually, a portion of each owner's property is burdened by the driveway.

Community Property:
Property acquired by husband, wife or both during marriage which gives each spouse an interest in the property whether each appears in title or not.

Comparable Sales:
Sales that have similar characteristics as the subject property, used for analysis in the appraisal. Commonly called "comps."

Condemnation:
The taking of private property by the government for public use - as for a street or a storm drain - upon making just compensation to the owner. This right or power of government to take property for a necessary public use is

called "eminent domain."

Conservator:
A person appointed by the court to care for the person and/or property of an incompetent adult or an adult unable to care for their person or property because of health.

Constructive Notice:
Notice imparted by the public records of the county when documents entitled to recording are recorded.

Conveyance:
An instrument in writing, such as a deed or trust deed, used to transfer (convey) title to property from one person to another.

Corporation:
An entity authorized by law and established by a group of people, the stockholders, which is endowed with certain rights, privileges and duties similar to an individual.

Covenant:
(1) A formal agreement or contract between two parties in which one party gives the other certain promises and assurances, such as the covenant of warranty in a warranty deed. (2) Agreements or promises contained in deeds and other instruments for performance or nonperformance of certain acts, or use or nonuse of property in a certain manner.

Covenants, Conditions and Restrictions:
Commonly called "CC & R's" the term usually refers to a written recorded declaration which sets forth certain covenants, conditions, restrictions, rules or regulations established by a subdivider or other landowner to create uniformity of buildings and use within tracts of land or groups of lots. The restrictions also can be established by deed. CC & R's are sometimes referred to as private zoning.

Debt:
Money owing from one person to another.

Debtor:
One who owes a debt.

Decree of Distribution:
A probate court decree which determines how the estate of a decedent shall be distributed.

Deed:
Written document by which an estate or interest in real property is transferred from one person to another. The person who transfers the interest is called the "grantor." The one who acquires the interest is called the "grantee." Examples of deeds are grant deeds, administrators' deeds, executors' deeds, quitclaim deeds, etc. The deed to use depends on the language of the deed, the legal capacity of the grantor and other circumstances.

Deed of Trust or Trust Deed:
A written document by which the title to land is conveyed as security for the repayment of a loan or other obligation. It is a form of mortgage. The landowner or debtor is called the "trustor." The party to whom the legal title is conveyed (and who may be called on to conduct a sale thereof if the loan is not paid) is the "trustee." The lender is the "beneficiary." When the loan is paid off, the trustee is asked by the beneficiary to issue a "recon" or reconveyance. This reconveyance corresponds to the release that the holder of a mortgage executes when the mortgage is paid off.

Deed Restrictions:
Limitations in the deed to a property that dictate certain uses that may or not be made of the property.

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

Defective Title:
(1) Title to a negotiable instrument obtained by fraud. (2) Title to real property which lacks some of the elements necessary to transfer good title.

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

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

Description:
The exact location of a piece of real property stated in terms of lot, block, tract, part lot, metes and bounds, recorded instruments, or U.S. Government survey (sectionalized). This is also referred to as legal description of property.

Earnest Money Deposit:
Down payment made by a purchaser of real estate as evidence of good faith; a deposit or partial payment.

Easement:
A right or interest in the use of the land of another which entitles the holder to some use, privilege or benefit, such as to place pole lines, pipe lines or roads thereon.

Effective Demand:
A qualifying term meaning the ability to pay as well as desire to buy.

Eminent Domain:
The right of a government to take privately owned property for public purposes under condemnation proceedings upon payment of its reasonable value. See Condemnation.

Encroachment:

The presence of an improvement such as a building, a wall, a fence or other fixture which overlaps onto the property of an adjoining owner.

Encumbrance:
A right or claim upon real property (land) held by one other than the property owner. Encumbrances are divided into two classes, as follows:

> b) Encumbrances other than liens which are limitations on the ownership of the land (such as conditions, restrictions, reservations, easements, etc.).

Endorsement:
Addition to or modification of a title insurance policy which expands or changes coverage of the policy, fulfilling specific requirements of the insured.

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

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

Escrow:
An independent third party, such as First American Title, who acts as the agent for buyer and seller, or for borrower and lender, carrying out instructions of both and disbursing documents and funds. Escrow closes and the transfer of property or document is completed upon fulfillment of certain conditions specified in the written instructions, whereupon the necessary deeds and other instruments are recorded.

Estate:
(1) The interest or nature of the interest which one has in property, such as a life estate, the estate of a decreased, real estate, etc. (2) A large house with substantial grounds surrounding it, giving the connotation of belonging to a wealthy person.

Execution:
An order directing a sheriff, constable, marshal or court-appointed commissioner to enforce a money judgment against the property of a debtor. This officer, if necessary, may sell the property to satisfy the judgment.

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

Fee Simple:
An estate under which the owner is entitled to unrestricted powers to

dispose of the property, and which can be left by will or inherited. Commonly, a synonym for ownership.

File and Use:
In most states, title insurers file rate schedules, title insurance policies and endorsement forms with the State Insurance Department or other state agency and then may use such items or rates starting within a specified period of time after filing. Rates so filed usually are mandatory.

Fixed Rate Mortgage:
A mortgage having a rate of interest which remains the same for the life of the mortgage.

Foreclosure:
The sale of property used as security for a debt after default in payment.

Forfeiture of Title:
A common penalty for the violation of conditions or restrictions imposed by the seller upon the buyer in a deed or other proper document. For example, a deed may be granted upon the condition that if liquor is sold on the land, the title to the land will be forfeited (that is, lost) by the buyer (or some later owner) and will revert to the seller.

Full Disclosure:
In real estate, revealing all the known facts which may affect the decision of a buyer or tenant. A broker must disclose known defects in the property for sale or lease.

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

Good Faith Purchaser or Mortgagee:
A person who buys or lends in good faith, that is, without notice of any existing problem, where value is paid or lent.

Grant:
A transfer of real estate, between individuals, by deed. A transfer of real estate from a sovereign is accomplished by patent or royal decree.

Grantee:
See Deed.

Grantor:
See Deed.

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

Guardian:

A person appointed by a court to manage the person and/or property of one who is legally incompetent to handle his/her own affairs.

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

Homestead:
A statutory protection from execution or the establishment of title by occupation of real property in accordance with the laws of various states or the Federal Government.

Impounds:
A trust type of account established by lenders for the accumulation of borrower's funds to meet periodic payments of taxes, mortgage insurance premiums, and/or future insurance policy premiums, required to protect their security.

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

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

Land Contract:
An installment contract for the sale of land whereby the seller (vendor) holds legal title and the buyer (vendee) has equitable title until the sales price is paid in full.

Lease:
An agreement by which an owner of real property (lessor) gives the right of possession to another (lessee), for a specified period of time (term) and for a specified consideration (rent).

Legal Description:
A description of land recognized by law, based on government surveys, spelling out the exact boundaries of the entire piece of land. It should so thoroughly identify a parcel of land that it cannot be confused with any other.

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

Lien:
An encumbrance against property for money, either voluntary or involuntary. All liens are encumbrances but all encumbrances are not liens.

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, and which attaches to the

land as well as the improvements.

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

Mortgagee:
The party lending the money and receiving the mortgage.

Mortgagor:
The party who borrows the money and gives the mortgage.

Note:
A unilateral agreement containing an express and absolute promise of the signer to pay to a named person, or order, or bearer, a definite sum of money at a specified date or on demand. Usually provides for interest and, concerning real property, is secured by a mortgage or trust deed.

Obligee:
One to whom an obligation (promise) is owned.

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

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

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

Parcel:
Any area of land contained within a single description.

Partnership:
An association of two or more persons who have contracted to join in business and share the profits.

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

Patent:
A conveyance of title to land by the Federal or State Government.

Personal Property (movable):
Any property that is not designated by law as real property (i.e., money, goods, evidences of debt, rights of action, furniture, automobiles).

"P.I.Q.":
A title term referring to Property In Question.

PITI:
A payment that combines Principal, Interest, Taxes, and Insurance.

PLAT:
A plan, map or chart of a tract or town site dividing a parcel of land into lots.

Power of Attorney:
A document by which one person (called the "principal") authorizes another person (called the "attorney-in-fact") to act for him/her in a specific manner in designated transactions.

"PRE," "PRELIM" OR Preliminary Report:
A written report issued by a title company, preliminary to issuing title insurance, which shows the recorded condition of title of the property in question. See Commitment.

Priority:
The order of preference, rank or position of the various liens and encumbrances affecting the title to a particular parcel of land. Usually, the date and time of recording determine the relative priority between documents.

Priority Inspection:
A title term referring to the type of inspection made in connection with insuring a new construction loan. In making the inspection of the property, the title company must be assured that the work of improvement had not yet begun when the lender's deed of trust was recorded.

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

Public Records:
The transcriptions in a recorder's office of instruments which have been recorded, including the indexes pertaining to them.

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

Quiet Title:
To free the title to a piece of land from the claims of other persons by means of a court action called a "quiet title" action. The court decree obtained is a "quiet title" decree.

Real Property (immovable):
Land, from the center of the earth and extending above the surface indefinitely, including all inherent natural attributes and any man-made improvements of a permanent nature place thereon. For example: minerals, trees, buildings, appurtenant rights.

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

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

Reinsurance:
A contract which one insurer makes with another to protect the first insurer, wholly or partially, against loss or liability by reason of a risk under a separate and distinct contract as insurer of a third party. Reinsurance differs from coinsurance in that, in the case of reinsurance, only one insurer has a direct contractual relationship with the insured, and that insurer (commonly referred to as the "lead insurer") purchases reinsurance in order to lessen or spread the risk. The "lead insurer" will assume a risk up to a limit (the amount of which is referred to as the "retention") and any loss which exceeds this limit would be borne by the reinsurers. In the case of coinsurance, each coinsurer has a direct contractual relationship with the insured, and the risk is shared in agreed-upon proportions from the first dollar of loss.

Restrictions:
Often called restrictive covenants. Provisions in a deed or other instrument whereby an owner of land prohibits or restricts certain use, occupation or improvement of the land.

Right of Way:
(1) The right to pass over property owned by another, usually based upon an easement. (2) A path or thoroughfare over which passage is made. (3) A strip of land over which facilities such as highways, railroads or power lines are built.

Sale and Leaseback
A situation in which the grantor in a deed to a parcel of property sells it and retains possession by simultaneously leasing it from the grantee.

Search
In title industry parlance, a careful exploration and examination of the public records in an effort to find all recorded instruments relating to a particular chain of title.

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

Squatter:
One who settles upon unoccupied land without legal claim or authority. (See Adverse Possession.)

Starter:
A copy of the last policy or report issued by a title insurer which described the title to land upon which a new search is to be made. In some states, this is called a back title letter or back title certificate.

Street Improvement Bonds:
Interest-bearing bonds issued, usually by a city or county, to secure the payment of assessments levied against land to pay for street improvements. The property owner may pay off the particular assessment against the property, or may allow the assessment to "go to bond" and pay installments of principal and interest over a period of years, usually at the city or county treasurer's office. The holder of a bond received payments from these offices.

Subdivision:
An area of land laid out and divided into lots, blocks, and building sites, and in which public facilities are laid out, such as streets, alleys, parks, and easements for public utilities.

Subordination Agreement:
An agreement by which one encumbrance (for example, a mortgage) is made subject to another encumbrance (perhaps a lease). To "subordinate" is to "make subject to," or to make of lower priority.

Surface Rights:
Rights to enter upon and use the surface of a parcel of land, usually in connection with an oil and gas lease or other mineral lease. They may be "implied" by the language of the lease (no explicit reservation or exception of the surface rights) or "explicitly" set forth.

Survey:
The measurement by a surveyor of real property which delineates the boundaries of a parcel of land. An ALTA survey additionally delineates the exact location of all improvements, encroachments, easements and other matters affecting the title to the property in question. A survey may be required by a title insurance company whenever the company is requested to issue an ALTA Extended Coverage Policy.

Tax Deed:
A deed executed by the tax collector to the state, county or city when no redemption is made from a tax sale.

Tax Sale:
Property on which current county taxes have not been paid is "sold to the state." No actual sale takes place - the title is transferred to the state and the owner may redeem it by paying taxes, penalties and costs. If it has not been redeemed within five years, the property (referred to as "tax sold property") is actually deeded to the state. (Similar "sales" to cities take place for unpaid city taxes.)

Testate:
Leaving a legally valid will at death. See Intestate.

Title:

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

Title Insurance:
Insured statement of the condition of title or ownership of real property. For a one-time-only premium, the named insured and their heirs are protected against title defects, liens and encumbrances existing as of the date of the policy and not specifically excluded from it. In the event of a claim, the title company provides legal defense from the policyholder and pays any covered losses incurred as a result of such claim.

Title Report:
See Preliminary Report.

Title Search :
A review of all recorded documents affecting a specific parcel of land to determine the present condition of title. An experienced title officer or attorney reviews and analyzes all material relating to the search, then determines the sufficiency and status of title for insurance of a title insurance policy.

Trustee:
See Deed of Trust.

Trustor:
See Deed of Trust.

Underwritten Company:
A title firm which conducts title searches but is not qualified to insure, and therefore issues policies of a qualified title insurer (underwriter) in return for a portion of the premium.

Variable Interest Rate:
An interest rate that fluctuates with the current cost of money; subject to adjustment if the prevailing rate moves up or down.

Vendee:
See Agreement of Sale.

Vendor:
See Agreement of Sale.

Vendor's Lien:
An implied lien given by law to a vendor for the remaining unpaid and unsecured part of a purchase price.

Venue:
Neighborhood; often used to refer to the county or place in which an acknowledgment is made before a notary; also refers to the county in which a lawsuit may be filed or tried.

Vesting:
The names, status and manner in which title of ownership is held with a

fixed or determinable interest in a particular parcel of real property; also that portion of a title report or policy setting forth the above.

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

Warranty Deed:
A deed used in many states to convey fee title to real property.

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