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Glossary of Real Estate (and Finance).

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Terms mostly associated with Real Estate listed in black.

Terms mostly associated with Finance and Loans listed in green.

- A -

Abstract (of title) - A written summary of the title history (recorded instruments and proceedings) of a particular piece of real estate which affect the title to property, arranged in the order in which they were recorded

Acceleration Clause - A provision of a mortgage or note which provides that the entire outstanding balance will become due and payable in the event of default.

Accretion - The addition of land through processes of nature, as by water or wind.

Accrued Interest - Accrue; to grow; to be added to. Accrued interest is interest that has been earned but not due and payable.

Acknowledgment - A formal declaration before a duly authorized officer by a person who has executed an instrument that such execution is the person's act and deed. **Acquisition** - An act or process by which a person procures property.

Acre - A measure of land equaling 43,560 square feet. **Action for Specific Performance** - A court action to compel a defaulting principal to comply with the provisions of a contract.

Adjacent - Lying near to but not necessarily in actual contact with. **Adjoining** - Contiguous; attaching, in actual contact with.

ARM (Adjustable Rate Mortgage) - A mortgage in which the interest rate is adjusted periodically, based on the movement of a financial index. The interest rate charged is calculated based on an Index (which changes over time + Margin (which remains constant during the loan term). The result of adding those two factors together is known as the “fully indexed rate” which is charged if the interest “rate cap” for that period is not exceeded. Traditional ARMs have initial “teaser” interest rates that are much lower than the fully indexed rate, and usually have initial adjustments after 6 or 12 months. This differs from “short term fixed rate ARMS” which have initial rates of 3, 5, 7 or 10 years before the rate is adjusted.

Administrator - A person appointed by court to administer the estate of a deceased person who left no will; i.e., who died intestate.

Ad Valorem - According to valuation.

Adverse Possession - A means of acquiring title where an occupant has been in actual, open, notorious, exclusive, and continuous occupancy of property under a claim of right for the required statutory period.

Affidavit - A statement or declaration reduced to writing, and sworn to or affirmed before some officer who is authorized to administer an oath or Affirmation.

Affirm - To confirm, to ratify, to verify. **Agency** - That relationship between principal and agent which arises out of a contract either expressed or implied, written or oral, wherein an agent is Employed by a person to do certain acts on the person’s behalf in dealing with a third party.

Agent - One who undertakes to transact some business or to manage some affair for another by authority of the latter. Usually refers to a Real Estate Broker (Buyer agent or Sellers agent) or a Mortgage Broker.

Agreement of Sale - A written agreement between seller and purchaser in which the purchaser agrees to buy certain real estate and the seller agrees to sell upon terms and conditions set forth therein.

Air Rights - Rights in real property to use the space above the surface of the land. **Alienation** - A transferring of property to another; the transfer of property and possession of lands, or other things, from one person to another. **Alienation Clause** - Allows lender to require the balance of a loan to be paid in full if the collateral is sold (also known as a “due on sale” clause).

Amortization - Repayment of loan by periodic installments (payments). With loans other than “negative amortization” or “interest only” loans, a portion of the payment is the interest charged and the payment portion above the interest earned will be applied to the principal balance. As these payment portions are applied to the principal balance, the balance declines and for a “fully amortized loan” – the principal balance will be zero at the end of the loan term.

APR (Annual Percentage Rate) - The annual percentage rate refers to the total cost of the loan, expressed as a yearly rate. It is a standard and required method of disclosing to consumers the effective costs of obtaining financing (that is, the note rate plus certain closing plus “points”). This enables consumers to more easily compare the total cost of borrowing money. The actual rate charged on a loan is known as the “note rate” and will always be lower or equal to the annual percentages rate.

Application Fee - That part of the closing costs pre-paid to the lender at time of application to cover initial expenses.

Apportionment - Adjustment of the income, expenses or carrying charges of real estate usually computed to the date of closing of title so that the seller pays all expenses to that date. The buyer assumes all expenses commencing the date the deed is conveyed to the buyer.

Appraisal - An estimate of a property's value by a professional appraiser that is expert at estimating property values. Appraisals are usually conducted by using either a capitalization (income) approach, a cost to build the property new (cost approach) – or more often by using a comparable sales (market) approach - The estimated value pertains to the value of a property as of a given date. Most lenders require appraisals before granting a loan to a borrower, and most .

Appraisal by Market Approach (Sales Comparison Approach) – The subject property is compared with comparable properties and then adjustments are made to how the subject property compares to the comparable properties. Adjustment categories include size, bedroom and bathroom count, age and condition of properties, location of properties, views, amenities, etc. .

Appraisal by Cost Approach - Adding together all parts of a property separately appraised to form a whole: e.g., value of the land considered as vacant added to the cost of reproduction of the building, less depreciation.

Appraisal by Income Approach – Estimated income, expenses and net operating income (profit) are determined for the subject property by using actual rent rolls if available and by comparing income streams of similar properties to the subject property, adjustments to net income can be made. Estimated net income (profit) on the subject property is then used with average capitalization rates of similar properties in order to determine an estimated value.

Appurtenance - Something which is outside the property itself but belongs to the land and adds to its greater enjoyment such as a right-of-way or a barn or a dwelling.

Assessed Valuation - A valuation placed upon property by a public officer or a board, as a basis for taxation. **Assessment** - A charge against real estate made by a unit of government to cover a proportionate cost of an improvement such as a street or sewer.

Assessor - An official who has the responsibility of determining assessed values. **Assignee** - The person to whom an agreement or contract is assigned.

Assets (liquid asset) – As it relates to real estate or finance, a liquid asset is anything which has a cash value. Some examples of liquid assets include: Checking, savings and certificates of deposit (CD) accounts, 401(k) and IRA accounts, Bonds, Mutual funds, etc. Lenders will verify assets to ensure the borrower has enough to cover the down payment and closing costs, plus enough for reserves to cover the mortgage payments for a certain amount of time. Gifts from family members are often considered by lenders to be liquid assets.

Assignment - The method or manner by which a right or contract is transferred from one person to another.

Assignor - A party who assigns or transfers an agreement or contract to another.

Assumption of Mortgage - The taking of title to property by a grantee, wherein the grantee assumes liability for payment of an existing note or bond secured by a mortgage against a property and becomes personally liable for the payment of such mortgage debt. The purchaser takes over mortgage payments for the balance of the loan, assuming primary liability. Unless specifically released by the lender, the seller (borrower on the previous loan) remains secondarily liable.

Avulsion - A sudden and perceptible loss or addition to land by the action of water, or a sudden change in the bed or course of a stream.

- B -

Balloon Payment Mortgage - A mortgage with periodic payments that do not fully amortize the loan. The outstanding balance of the mortgage is due in a lump sum at the end of the term. Balloon loan types include interest-only payments and payments which cover interest and principal during the initial period.

Beneficiary - The person who receives or is to receive the benefits resulting from certain acts.

Bequeath - To give or hand down by will; to leave by will. **Bequest** - That which is given by the terms of a will.

Bill of Sale - A written instrument given to pass title of personal property from vendor to vendee.

Binder - An agreement to cover the down payment for the purchase of real estate as evidence of good faith on the part of the purchaser.

Blanket Mortgage - A mortgage covering more than one property. A blanket mortgage is often used for subdivision financing.

Blockbusting - The practice of inducing homeowners in a particular neighborhood to sell their homes quickly, often at below market prices, by creating the fear that the entry of a minority group or groups into the neighborhood will cause a precipitous decline in property values.

Bona Fide - In good faith, without fraud.

Bond - The evidence of a personal debt which is secured by a mortgage or other lien on real estate.

Bridge Loan (Interim Financing) - A short-term loan secured by the equity in an as-yet-unsold house, with the funds to be used for a down payment and/or closing costs on a new house. There is no payment of principal until the house is sold or the end of the loan term, whichever comes first. Interest payments may or may not be deferred until the house is sold.

Broker - The person who, for a commission or a fee, brings parties together and assists in negotiating contracts between them. Usually refers to a Real Estate Broker or a Mortgage Broker.

Buydown - Money advanced by an individual (e.g. builder, seller, buyer, lender, developer) to lower monthly mortgage payments for a few years or the whole term.

Building Code - Regulations established by state or local governments stating fully the structural requirements for building.

Building Line - A line fixed at a certain distance from the front and/or sides of a lot, beyond which no building can project.

Building Loan Agreement - An agreement whereby the lender advances money to an owner primarily in the erection of buildings. Such funds are commonly advanced in installments as the structure is completed.

Building Permit - Written governmental permission for the construction, renovation or substantial repair of a building.

- C -

Cancellation Clause - A provision in a lease or other contract which confers upon one or more of all of the parties to the lease the right to terminate the party's or parties' obligations thereunder upon the occurrence of the condition or contingency set forth in the said clause.

Cap (interest rate) - The maximum interest rate increase allowable on an adjustable rate mortgage. Does not result in negative amortization. See Negative amortization.

Cap (payment rate) - The maximum payment amount increase allowable on an adjustable rate mortgage. May result in negative amortization. See Negative amortization.

Capital Appreciation - The appreciation accruing to the benefit of the capital improvement to real estate.
Capital Asset - Any asset of a permanent nature used for the production of income.

Capital Gain - Income that results from the sale of an asset not in the usual course of business. (Capital gains may be taxed at a lower rate than ordinary income.)

Capital Improvement - Any structure erected as a permanent improvement to real estate, usually extending the useful life and value of a property. (The replacement of a roof would be considered a capital improvement.)

Capital Loss - A loss from the sale of an asset not in the usual course of business.

Caveat Emptor - Let the buyer beware. The buyer must examine the goods or property and buy at the buyer's own risk.

Cease and Desist List - Upon the establishment of a cease and desist zone by the Secretary, a list of homeowners who have filed owner's statements expressing their wish not to be solicited by real estate brokers or salespersons. Soliciting of listed homeowners by licensees is prohibited. Violators of such prohibition are subject to licensure suspension or revocation.

Cease and Desist Zone - A rule adopted by the Secretary of State which prohibits the direct solicitation of homeowners whose names and addresses appear on a cease and desist list maintained by the Secretary. Such

rule may be adopted upon the Secretary's determination that some homeowners within a defined Geographic area have been subject to intense and repeated solicitation by real estate brokers and salespersons.

Certificate of Occupancy (C of O) - A document issued by a governmental authority that a building is ready and fit for occupancy.

Certificate Of Title - A statement that shows ownership of property, stating that the seller has clear legal title.

Chain of Title - A history of conveyances and incumbrances affecting a title from the time the original patent was granted, or as far back as records are available.

Chattel - Personal property, such as household goods.

Client - The one by whom a broker is employed.

Closing - The concluding day of the real estate transaction, when title and deed pass from seller to buyer, the buyer signs the mortgage and pays the purchase price and closing costs.

Closing Costs - Expenses (over and above the price of the property) incurred by buyers and sellers in transferring ownership of a property. Also called "settlement costs." Common closing costs include appraisal fees, loan origination points, lender fees, title insurance, escrow company fees and building inspection or pest inspection fees, and prorated charges for interest, property tax and property insurance. . The specific costs you'll need to cover depend on your location and property type. Closing costs usually range from 2% – 5% of the total loan amount (not including origination points).

Closing Date - The date upon which the property is conveyed by the seller to the buyer.

Closing Disclosure - Replaces the HUD-1 Settlement Statement. It is the final disclosure generated by the lender for use in comparing the Loan Estimate against the final costs and fees for the loan scenario. It includes the loan amount, interest rate, closing costs and credits associated with the transaction. Lenders are required to provide the Closing Disclosure to all borrowers at least 3 days before final loan documents can be signed.

Closing Statement - A financial disclosure giving an account of all funds received and expected at closing, including the escrow deposit for taxes, hazard insurance and mortgage insurance for the escrow account.

Cloud on Title - An outstanding claim or incumbrance which, if valid, would affect or impair the owner's title.

Collateral - Additional security pledged for the payment of an obligation.

Color of Title - That which appears to be good title, but which is not title in fact.

Commingling - To mingle or mix, for example, a client's funds in the broker's personal or general account.

Commission - An agent's or broker's fee for bringing the principals together and helping to negotiate a real estate transaction, often a percentage of the sales price or flat fee.

Commitment - An agreement, pledge or promise or affirmation agreement. Frequently in writing, between a lender and a borrower to loan money at a future date, subject to certain conditions.

Comparables (Comps / Sales comps) - Refers to similar properties used for comparison purposes in the appraisal process. These properties will be reasonably the same size and location, with similar amenities and characteristics, so that the approximate fair market value of the subject property can be determined.

Completion Bond - A bond used to guarantee that a proposed subdivision development will be completed.

Condemnation - Taking private property for public use, with fair compensation to the owner; exercising the right of eminent domain.

Conditional Sales Contract - A contract for the sale of property stating that delivery is to be made to the buyer, title to remain vested in the seller until the conditions of the contract have been fulfilled.

Condominium - Ownership of a single unit in a multiunit building or complex of buildings. Along with this goes a share of ownership of the common areas.

Conforming loan – Loan which conforms to Fannie Mae and Freddie Mac underwriting guidelines. Such guidelines include maximum loan amount depending on property type and property location, occupancy requirements, debt to income ratios, credit history, asset and reserve requirements and property condition and use requirements,.

Consideration - Anything given to induce another to enter into a contract such as money or personal services.
Constructive Notice - Information or knowledge of a fact imputed by law to a person because the person could have discovered the fact by proper diligence and inquiry (e.g. via public records).

Contingency - A provision in a contract that requires the occurrence of a specific event before the contract can be completed. Common purchase contract contingencies for buyers include “loan”, “appraisal” and “inspection” contingencies.

Conventional Mortgage - Any mortgage loan that is not insured by FHA, guaranteed by VA, or funded by a government authorized bond sale or grant.

Contract - An agreement between competent parties to do or not to do certain things which is legally enforceable, whereby each party acquires a right.

Conversion - Change from one character or use to another.

Conveyance - The transfer of the title of land from one to another. The means or medium by which title of real estate is transferred.

Covenants - Agreements written into deeds and other instruments promising performance or nonperformance of certain acts, or stipulating certain uses or non uses of the property.

Credit Repair – the process of improving a borrower’s credit score. This can be done by the borrower themselves or through an agency which specializes in that service. Typically credit repairs are done to correct information that was incorrectly reported by creditor(s) to the credit bureau. Such corrections can improve borrower’s credit scores.

Credit Report (and Credit Scores) - The report to a prospective lender on the credit standing of a prospective borrower. The report identifies current loan and revolving balances owed by the borrower and credit terms of

previous loans or revolving accounts. Can also show collection accounts, tax liens, judgements etc. Most credit reports can include credit scores assigned to each borrower by one of three credit reporting agencies for the perceived risk of that borrower (the higher the credit score, generally the better loan terms offered by a new lender).

Cul-de-sac - A blind alley: a street with only one outlet.

- D -

Damages - The indemnity recoverable by a person who has sustained an injury, either to his/her person, property, or relative rights, through the act or default of another.

Debit - The amount charged as due or owing.

Debt Capital - Money borrowed for a particular business purpose.

Debt Ratios (Debt to Income Ratios): Guidelines used by lenders to determine how much of a loan a home buyer qualifies for. Often referred to as debt-to-income ratios (or DTI). The DTI is equal to borrowers Total fixed (recurring) monthly debts on credit report plus proposed mortgage payments (piti) divided by Total gross monthly income for all borrowers. Typical maximum debt ratios allowed for conventional conforming financing is 43-49%, and DTI of 38-45% for most non-conforming financing.

Debt Service - Annual amount to be paid by a debtor on an obligation to repay borrowed money.

Decedent - One who is dead.

Decree - Order issued by one in authority; an edict or law; a judicial decision.

Dedication - A grant and appropriation of land by its owner for some public use, accepted for such use, by an authorized public official on behalf of the public.

Deed - A written document by which title to property is duly executed and delivered, that conveys title to real property

Deed Restriction - An imposed restriction in a deed for the purpose of limiting the use of the land such as: 1. A restriction against the sale of liquor thereon. 2. A restriction as to the size, type, value or placement of improvements that may be erected thereon.

Default - Failure to fulfill a duty or promise, or to discharge an obligation; omission or failure to perform any acts. As it relates to a real estate loan, such a state may lead to foreclosure.

Defeasance Clause - The clause in a mortgage that permits the mortgagor to redeem his or her property upon the payment of the obligations to the mortgagee.

Deficiency Judgment - A judgment given when the security for a loan does not entirely satisfy the debt upon its default.

Delivery - The transfer of the possession of a thing from one person to another. **Demand Note** - A note which is payable on demand of the holder.

Demising Clause - A clause found in a lease whereby the landlord (lessor) leases and the tenant (leasee) takes the property.

Depreciation - Loss of value in real property brought about by age, physical deterioration, or functional or economic obsolescence.

Descent - When an owner of real estate dies intestate, the owner's property descends, by operation of law, to the owner's distributees.

Devise - A gift of real estate by will or last testament.

Devisee - One who receives a bequest of real estate made by will.

Devisor - One who bequeaths real estate by will.

Discount Points (points)- Optional closing costs paid "buy" a lower interest rate. One discount point is equal to 1% of your loan amount and on average, one discount point can buy a 30-year fixed rate down by .25%. Points are paid at closing.

Dispossess Proceedings - Summary process by a landlord to oust a tenant and regain possession of the premises for nonpayment of rent or other breach of conditions of the lease or occupancy.

Documentary Evidence - Evidence in the form of written or printed papers.

Down Payment: The difference between the sale price of a property and the mortgage amount. Many loan programs require 20% down payment unless Private Mortgage Insurance (PMI) is allowed for that program. Loan programs are available with down payments as low as 3% (FHA loan) or 5% (conventional conforming loan). The down payment is paid at closing, less any amount already paid for the earnest money deposit.

Dual Agency - Representing both principals (seller and buyer) to a transaction.

Due-On-Sale: A clause in a mortgage which gives the lender the right to require immediate repayment of a mortgage balance if the property changes hands.

Duress - Unlawful constraint exercised upon a person whereby the person is forced to do some act against the person's will

- E -

Earnest Money (Earnest Money Deposit) - The deposit money given to seller or his agent by the potential buyer at the time of the purchase offer. If the offer is accepted, the money will become part of the down payment. Typical earnest money deposit amounts range from 1% – 3% of the property purchase price and since some or all of the earnest money deposit may be at risk if the transaction doesn't close, it helps ensure for the seller that the buyer is serious. The earnest money deposit is applied to the down payment at closing.

Easement - A right to the limited use of land owned by another. An electric company, for example, could have an easement to put up electric power lines over someone's property.

Economic Life - The period over which a property will yield the investor a return on the investment.

Economic Obsolescence - Lessened 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 ratios.

Ejectment - A form of action to regain possession of real property, with damages for the unlawful retention; used when there is no relationship of landlord and tenant.

Eminent Domain - A right of the government to acquire property for necessary public use by condemnation; the owner must be fairly compensated.

Encroachment - A building, part of a building, or obstruction which intrudes upon or invades a highway or sidewalk or trespasses upon the property of another.

Encumbrance (also Incumbrance) - Any right to or interest in the land interfering with its use or transfer, or subjecting it to an obligation. Examples are outstanding mortgages, easement rights or unpaid property taxes.

Endorsement - An act of signing one's name on the back of a check or note, with or without further qualifications.

Equity - The value which the owner has in real estate over and above the mortgages against it. When the mortgage and all other debts against the property are paid in full, the owner has 100% equity in his property.

Equity Loan - Junior loan based on a percentage of the equity.

Equity of Redemption - A right of the owner to reclaim property before it is sold through foreclosure proceedings, by the payment of the debt, interest and costs.

Erosion - The wearing away of land through processes of nature, as by water and winds.

Escheat - The reversion to the State of property in event the owner thereof abandons it or dies, without leaving a will and has no distributees to whom the property may pass by lawful descent.

Escrow (Escrow Company)- A written agreement between two or more parties providing that certain instruments or property be placed with a third party to be delivered to a designated person upon the fulfillment or performance of some act or condition.

Escrow Funds (Impound Account) - Funds and/or deed left in trust to a third party. Generally, a portion of the monthly mortgage payment is held in escrow by the lender to pay for taxes, hazard insurance and yearly mortgage insurance premiums.

Estate - The degree, quantity, nature and extent of interest which a person has in real property.

Estate in Reversion - The residue of an estate left for the grantor, to commence in possession after the termination of some particular estate granted by the grantor.

Estate at Will - The occupation of lands and tenements by a tenant for an indefinite period, terminable by one or both parties at will.

Estoppel Certificate - An instrument executed by the mortgagor setting forth the present status and the balance due on the mortgage as of the date of the execution of the certificate.

Eviction - A legal proceeding by a lessor landlord to recover possession of real property.

Eviction, Actual - Where one is either by force or by process of law, actually put out of possession.

Eviction, Constructive - Any disturbance of the tenant's possession of the leased premises by the landlord whereby the premises are rendered unfit or unsuitable for the purpose for which they were leased.

Exclusive Agency - An agreement of employment of a broker to the exclusion of all other brokers; if sale is made by any other broker during term of employment, broker holding exclusive agency is entitled to commissions in addition to the commissions payable to the broker who effected the transaction.

Exclusive Right to Sell - An agreement of employment by a broker under which the exclusive right to sell for a specified period is granted to the broker; if a sale during the term of the agreement is made by the owner or by any other broker, the broker holding such exclusive right to sell is nevertheless entitled to compensation.

Executor (male) or Executrix (female) person or a corporate entity or any other type of organization named or designed in a will to carry out its provisions as to the disposition of the estate of a deceased person.

Extension Agreement - An agreement which extends the life of a mortgage to a later date. Can also refer to extending purchase contingencies such as: loan contingency, appraisal contingency, inspection contingency.

- F -

Fair Lending: Federal law which requires lenders to not discriminate (deny loans or offer worse loan terms) to minority groups, or those who live in less wealthy areas.

Fee; Fee Simple; Fee Absolute - Absolute ownership of real property; a person has this type of estate where the person is entitled to the entire property with unconditional power of disposition during the person's life and descending to the person's heirs or distributees.

Fiduciary - A person who on behalf of or for the benefit of another transacts business or handles money or property not the person's own; such relationship implies great confidence and trust.

First Mortgage - A mortgage that has a primary lien against a property.

Fixed-Rate Mortgage - A mortgage with an interest rate and monthly payments that remain constant over the life of the loan. Borrowers often choose fixed rate mortgages for the stability provided by the constant monthly payments.

Fixtures - Personal property so attached to the land or improvements as to become part of the real property, such as a hot water heater or plumbing fixture.

Flood Certification: An independent agency report required by the lender to determine whether a property is located in a flood hazard zone, which would then require a federally mandated flood insurance policy.

Flood Insurance: Insurance policy which protects insurance holder or lender from damages caused by flooding. Required by most lenders for properties located in certain types of flood zones.

Foreclosure - A legal procedure whereby property pledged as security for a debt is sold to pay the debt in the event of default in payments or terms by a borrower.

- G -

Grace Period - Additional time allowed to perform an act or make a payment before a default occurs.

Graduated Lease - A lease which provides for a graduated change at stated intervals in the amount of the rent to be paid; used largely in long-term leases.

Graduated Payment Mortgage (GPM): A fixed rate loan with monthly payments that start low, increasing by a fixed amount for a specific number of years. After that period, the payments typically remain constant for the duration of the loan.

Grant - A technical term used in deeds of conveyance of lands to indicate a transfer. Grantee - The party to whom the title to real property is conveyed.

Grantor - The person who conveys real estate by deed; the seller. Gross Income - Total income from property before any expenses are deducted.

Gross Lease - A lease of property whereby the lessor is to meet all property charges regularly incurred through ownership.

Gross Income: Normal income, including overtime, prior to any payroll deductions, that is regular and dependable. This income may come from more than one source.

Ground Rent - Earnings of improved property credited to earnings of the ground itself after allowance made for earnings of improvements.

- H -

Hazard Insurance (Homeowner's Insurance): Insurance protection for the owner of the property against damage to a property from fire, windstorms, and other common hazards. A homeowners insurance policy covers the dwelling and can often also include coverage for its contents, theft liability and personal liability. In exchange for insurance coverage, property owners pay a monthly premium. Property owners are not required

to purchase hazard insurance to own a property, but lenders require a certain level of insurance coverage to close the loan and until the loan is paid off.

Habendum Clause - The “to have and to hold” clause which defines or limits the quantity of the estate granted in the premises of the deed.

Holdover Tenant - A tenant who remains in possession of leased property after the expiration of the lease term.

HUD-1 Form Closing Statement (Real Estate Settlement Statement): A breakdown of transaction costs for Buyer and/or Seller. For purchase transactions, includes sales price, earnest money deposit, fees for both buyers and sellers, and the items from this list for refinance loans: Loan amount, points, closing costs, pro-rated expenses of interest, property taxes and insurance, etc. This estimate is helpful for buyers and refinance clients to be able to determine the amount of money to bring into escrow / title for the transaction to close. This form is helpful for sellers to estimate the proceeds from their sale.

- I -

Incompetent - A person who is unable to manage his/her own affairs by reason of insanity, imbecility or feeble-mindedness.

In Rem - A proceeding against the realty directly; as distinguished from a proceeding against a person. (Used in taking land for nonpayment of taxes, etc.)

Income Property: Real estate that is owned for investment purposes and not used as the owner's residence.

Installments - Parts of the same debt, payable at successive periods as agreed; payments made to reduce a mortgage.

Instrument - A written legal document; created to effect the rights of the parties.

Interim Financing (Bridge Loan): A short-term loan secured by the equity in an as-yet-unsold house, with the funds to be used for a down payment and/or closing costs on a new house. There is no payment of principal until the house is sold or the end of the loan term, whichever comes first. Interest payments may or may not be deferred until the house is sold.

Interest Rate - The percentage of a sum of money charged for its use, charge based on principal balance.

Intestate - A person who dies having made no will, or leaves one which is defective in form, in which case the person's estate descends to the person's distributees in the manner prescribed by law.

Involuntary Lien - A lien imposed against property without consent of the owner, e.g., taxes, special assessments.

Irrevocable - Incapable of being recalled or revoked; unchangeable; unalterable.

- J -

Joint Tenancy - Ownership of realty by two or more persons, each of whom has an undivided interest with the "right of survivorship."

Judgment - A formal decision issued by a court concerning the respective rights and claims of the parties to an act or suit.

Junior Mortgage - A mortgage subordinate to a previous mortgage. Aka "Second Mortgage".

- K -

- L -

Laches - Delay or negligence in asserting one's legal rights. **Landlord** - One who rents property to another.

Land Contract: When the buyer agrees to make payments directly to the seller at pre-negotiated terms. The seller agrees to deed the property to the buyer upon completion of the agreement. The buyer becomes the owner of equity in this type of sale. (Also see *Owner Financing*.)

Lease - A contract whereby, for a consideration, usually termed rent, one who is entitled to the possession of real property transfers such rights to another for life, for a term of years, or at will.

Leasehold - The interest or estate which a lessee of real estate has therein by Virtue of the lessee's lease.

Lender - is an individual, a group (public or private), or a **financial institution** that makes funds available to a person or business with the expectation that the funds will be repaid.

Lessee - A person to whom property is rented under a lease.

Lessor - One who rents property to another under a lease.

Lien - A legal right or claim upon a specific property which attaches to the property until a debt is satisfied.

Life Estate - The conveyance of title to property for the duration of the life of the grantee.

Life Tenant - The holder of a life estate.

Lis Pendens - A legal document, filed in the office of the county clerk giving notice that an auction or proceeding is pending in the courts affecting the title to the property. (Not applicable in commission disputes.)

Listing - An employment contract between principal and agent, authorizing the agent to perform services for the principal involving the latter's property.

Littoral Rights - The right of a property owner whose land borders on a body of water, such as a lake, ocean or sea, to reasonable use and enjoyment of the shore and water the property borders on.

Loan: Money lent from one party (often a bank) to a borrower, usually with interest charged on the loan balance.

Loan Estimate: Disclosure required within 3 days of loan application that lists all of the costs and fees associated with a particular loan scenario. The Loan Estimate replaces the Good Faith Estimate (GFE). This disclosure is required to be delivered to all borrowers within 3 days of loan application and must list all of the costs and fees associated with a particular loan scenario. The Loan Estimate replaces the Good Faith Estimate (GFE), and the “LE” must be acknowledged by all borrowers before collecting fees from the borrowers and before ordering an appraisal.

Loan-To-Value Ratio: The relationship between the amount of the mortgage and property value, usually shown as a percentage. For a refinance loan, the appraised value is used. For a purchase loan, the lesser of the purchase price and appraised value is used.

Loan Term – The number of years which a borrower must pay on the loan before it will be paid off, or before another event will take place (such as a balloon payment due date). Common examples of mortgage terms are 40, 30, 20, 15 and 10 years.

- M -

Market Allocation - An agreement between members of a trade to refrain from competition in specific market areas.

Market Price - The actual selling price of a property.

Market Value - The most probable price that a property should bring if exposed for sale in the open market for a reasonable period of time, with both the buyer and seller aware of current market conditions, neither being under duress.

Marketable Title - A title which a court of equity considers to be so free from defect that it will enforce its acceptance by a purchaser.

Mechanic's Lien - A lien given by law upon a building or other improvement upon land, and upon the land itself, to secure the price of labor done upon, and materials furnished for, the improvement.

Meeting of the Minds - Whenever all parties to a contract agree to the substance and terms thereof.

Metes and Bounds - A term used in describing the boundary lines of land, setting forth all the boundary lines together with their terminal points and angles. Minor - A person under an age specified by law; usually under 18 years of age.

Monument - A fixed object and point established by surveyors to establish land locations.

Mortgage - An instrument in writing, duly executed and delivered, that creates a lien upon real estate as security for the payment of a specified debt, usually on an installment basis.

Mortgage Commitment - A formal indication by a lending institution that it will grant a mortgage loan on property in a certain specified amount and on certain specified terms.

Mortgage Note: A written promise to pay a debt at a stated interest rate during a specified term. The agreement is secured by a mortgage.

Mortgage Reduction Certificate - An instrument executed by the mortgagee, setting forth the present status and the balance due on the mortgage as of the date of the execution of the instrument.

Mortgagee (Lender)- The party who lends money and takes mortgage to secure the payment thereof.

Mortgagor (Borrower) - A person who borrows money and gives a mortgage on the person's property as security for the payment of the debt.

Multiple Listing - An arrangement among Real Estate Board of Exchange Members, whereby each broker presents the broker's listings to the attention of the other members so that if a sale results, the commission is divided between the broker bringing the listing and the broker making the sale

- N -

Negative Amortization: A loan in which the outstanding principal balance goes up instead of down because the monthly payments are not large enough to cover the full amount of interest due. Also called deferred interest.

Net Listing - A price below which an owner will not sell the property, and at which price a broker will not receive a commission; the broker receives the excess over and above the net listing as the broker's commission.

Non-solicitation Order - A rule adopted by the Secretary of State which prohibits any or all types of solicitation directed towards homeowners within a defined geographic area.

Notary Public - A public officer who is authorized to take acknowledgments to certain classes of documents, such as deeds, contracts, mortgages, and before whom affidavits may be sworn

Notice of Default - A public notice filed with a court that states that the borrower of a mortgage is in default on a loan. The lender may file a notice of default when a mortgagor falls behind on their mortgage payments, and it contains various information about the borrower, lender, property, the nature of the default and other pertinent details. A notice of default is often considered the first step toward foreclosure.

- O -

Obligee - The person in whose favor an obligation is entered into.

Obligor - The person who binds himself/herself to another; one who has engaged to perform some obligation; one who makes a bond.

Obsolescence - Loss in value due to reduced desirability and usefulness of a structure because its design and construction become obsolete; loss because of becoming old fashioned, and not in keeping with modern means, with consequent loss of income.

Offer to Purchase: A written proposal to buy a piece of real estate that becomes binding when accepted by the seller. Also called a sales contract.

Open Listing - A listing 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; the sale of the property automatically terminates the listing.

Option - A right given for a consideration to purchase or lease a property upon specified terms within a specified time; if the right is not exercised the option holder is not subject to liability for damages; if exercised, the grantor of option must perform.

Origination Fee: A fee charged for the work involved in the evaluation preparation and submission of a proposed mortgage loan. Usually charges as "points"

Owner Financing: A purchase in which the seller provides all or part of the financing.

- P -

Partition - The division which is made of real property between those who own it in undivided shares.

Party Wall - A wall built along the line separating two properties, partly on each, which wall either owner, the owner's heirs and assigns has the right to use; such right constituting an easement over so much of the adjoining owner's land as is covered by the wall.

Percentage Lease - A lease of property in which the rental is based upon the percentage of the volume of sales made upon the leased premises, usually provides for minimum rental.

Performance Bond - A bond used to guarantee the specific completion of an endeavor in accordance with a contract.

Personal Property - Any property which is not real property.

PITI: An acronym for payments to lender that cover principal, interest, taxes and insurance on a property.

Plat: A map of a piece of land showing boundary lines, streets, actual measurements and easements.

Plat Book - A public record containing maps of land showing the division of such land into streets, blocks and lots and indicating the measurements of the Individual parcels.

Plottage - Increment in unity value of a plot of land created by assembling smaller ownerships into one ownership.

Points (discount points): A fee paid to the lender on closing day to increase the effective yield of the mortgage. A point is one percent of the amount of the mortgage loan.

Police Power - The right of any political body to enact laws and enforce them, for the order, safety, health, morals and general welfare of the public.

Power of Attorney - A written instrument duly signed and executed by a person which authorizes an agent to act on his/her behalf to the extent indicated in the instrument.

Prepayment Clause - A clause in a mortgage which gives a mortgagor the privilege of paying the mortgage indebtedness before it becomes due.

Prepayment Penalty: A charge paid to the lender by the borrower if a mortgage loan is repaid before its term is over.

Pre-Approval - A commitment made by a lender to extend credit provided that specific conditions are met. Usually the letter will identify maximum purchase price, loan amount and other details about a borrower's ability to qualify for a loan. Pre-approvals are issued after analyzing a borrower's income, assets and credit and is a stronger verification of a borrower's ability to qualify for a loan than a pre-qualification. Making an offer with a pre-approval can improve a buyer's likelihood of having the purchase offer accepted by the seller. This is not a guarantee or commitment by a lender to extend credit.

Pre-qualification - Usually doesn't include analysis of borrower's income, assets and credit which may mean they aren't considered to be as strong as pre-approval letters. Buyers are more likely to have an offer accepted by a seller if they present an offer with a pre-approval or a pre-qualification letter since they are an assessment of a buyer's ability to secure a loan based on specific lending guidelines and buyer representations made. This is not a guarantee or commitment by a lender to extend credit.

Price Fixing - Conspiring to establish fixed fees or prices for services or products.

Prime Rate: The interest rate charged by banks to their preferred corporate customers, it tends to be an estimator for general trends in short term interest rates.

Principal (loan) - The amount borrowed or remaining unpaid. Also, the portion of the monthly payment that reduces the outstanding balance of a mortgage.

Principal (person) - The employer of an agent or broker; the broker's or agent's client.

Private Mortgage Insurance (PMI): Insurance written by a private mortgage insurance company to protect the lender against losses caused by mortgage default. This is commonly required on loan transactions involving less than a 20% down payment or equity position. Upfront (at closing) premiums are required to cover the initial loan period and some loans allow that premium to be included in the loan amount. After the initial premium is paid, a lower "renewal" rate is charged on the loan balance and is paid with the monthly mortgage payment. PMI is required for the life of the loan on an FHA loan, but for a conventional loan PMI may be waived during the loan term if the LTV is reduced to below 80% and subject to additional borrower requirements.

Probate - To establish the will of a deceased person.

Probate Court - A court having jurisdiction over the proof of wills, the settling of estates and of citations.

Property Inspection - This report identifies details about the property and especially any specific health, safety or structural problems with the property. An inspector will walk through the property and will often test the systems. They often list any defects or depreciation which may require repairs or replacement. Most lenders don't require an inspection as a condition of providing a loan, but many buyers request an inspection to verify the condition before closing the sale. .

Property Taxes – Property taxes are charged by local and county governments to cover expenses incurred or anticipated for public services provided to the populace in that region. The amount charged is based on a particular rate times the assessed property value. California has maximum annual increases (not often lower than the actual appreciation of the property) while other states offer no such annual caps, and instead reassess property values each year and raise the property taxes accordingly.

Proration - Allocation of closing costs and credits to buyers and sellers.

Purchase Money Mortgage - A mortgage given by a grantee in part payment of the purchase price of real estate.

-Q -

Qualifying Ratios (Debt Ratios): Guidelines used by lenders to determine how much of a loan a home buyer qualifies for. Often referred to as debt-to-income ratios (or DTI).

Quiet Enjoyment - The right of an owner or a person legally in possession to the use of property without interference of possession.

Quiet Title Suit - A suit in court to remove a defect, cloud or suspicion regarding legal rights of an owner to a certain parcel of real property.

Quit Claim Deed - A deed which conveys simply the grantor's rights or interest in real estate, without any agreement or covenant as to the nature or extent of that interest, or any other covenants; usually used to remove a cloud from the title.

- R -

Racial Steering - The illegal practice of influencing a person's housing choice based on his/her race.

Real Estate Board - An organization whose members consist primarily of real estate brokers and salespersons.

Real Estate Syndicate - A partnership formed for participation in a real estate venture. Partners may be limited or unlimited in their liability.

Real Property - Land, and generally whatever is erected upon or affixed thereto.

Realization of Gain - The taking of the gain or profit from the sale of property.

Real Estate Agent (Realtor): A real estate broker or sales associate affiliated with the National Association of Realtors. Real estate agents for buyers (aka Sellers Agent) show properties to buyers, write purchase offers and negotiate prices and other terms on behalf of buyers. Real estate agents for sellers (aka Listing Agent) help property owners sell properties and negotiate prices and other terms on behalf of sellers. In exchange for working with buyers and sellers, real estate agents earn commissions, usually based on a percentage of the sales price.

Recording Fee: The charges made by the register of deeds to record the legal documents.

Reconciliation - The final stage in the appraisal process where the appraiser reviews the data and estimates the subject property's value.

Recording - The act of writing or entering in a book of public record instrument affecting the title to real property.

Recourse - The right to a claim against a prior owner of a property or note.

Redemption - The right of a mortgagor to redeem the property by paying a debt after the expiration date and before sale at foreclosure; the right of an owner to reclaim the owner's property after the sale for taxes.

Red-Lining - The illegal practice of refusing to lend money within a specific geographical area for various reasons, usually due to the demographics of an area.

Referee's Deed - Used to convey real property sold pursuant to a judicial order, in an action for the foreclosure of a mortgage or for partition.

Refinancing: Repaying a debt with the proceeds of a new loan, using the same property as collateral or security. Common motivations for a refinance loan: obtaining a lower interest rate; lowering the monthly payment; decreasing the remaining loan term; changing loan types (such as from an adjustable-rate mortgage to a fixed rate mortgage); obtaining cash proceeds from the equity of the property.

Release - The act or writing by which some claim or interest is surrendered to another.

Release Clause - A clause found in a blanket mortgage which gives the owner of the property the privilege of paying off a portion of the mortgage indebtedness, and thus freeing a portion of the property from the mortgage.

Rem - (Remainder) - An estate which takes effect after the termination of a prior estate, such as a life estate.

Remainderman - The person who is to receive the property after the termination of the prior estate.

Rent - The compensation paid for the use of real estate.

Reproduction Cost - Normal cost of exact duplication of a property as of a certain date.

Restraint of Trade - Business practices designed to restrict competition, create a monopoly, control prices and otherwise obstruct the free operation of business.

Restriction - A limitation placed upon the use of property contained in the deed or other written instrument in the chain of title.

Reversionary Interest - The interest which a grantor has in lands or other property upon the termination of the preceding estate.

Revocation - An act of recalling a power of authority conferred, as the revocation of a power of attorney; a license, an agency, etc.

Right of Survivorship – Right of the surviving joint owner to succeed to the interests of the deceased joint owner, distinguishing feature of a joint tenancy or tenancy by the entirety.

Right-of-Way - The right to pass over another's land pursuant to an easement or license.

Riparian Owner - One who owns land bounding upon a river or watercourse. **Riparian Rights** - The right of a property owner whose land borders a natural water course, such as a river, to reasonable use and enjoyment of the water that flows past the property. Riparian literally means "riverbank."

- S -

Sales Contract - A contract by which the buyer and seller agree to terms of sale.

Second Mortgage - A loan issued on property that is already encumbered by an existing mortgage (ie: the first mortgage). The second mortgage is subordinate to the first.

Secondary Mortgage Market - The market wherein home loans are sold by the lender after closing to Fannie Mae, Freddie Mac or a variety of other institutional investors.

Seller Concessions - Certain closing costs paid by the seller and identified in the purchase offer and agreement. Common seller concessions include fees for pest inspections and/or fumigation, lender fees, origination points, escrow or title insurance fees. Limitations on the percentage of closing costs allowed to be paid by sellers vary by property type and lender program.

Setback - The distance from the curb or other established line, within which no buildings may be erected.

Situs - The location of a property.

Special Assessment - An assessment made against a property to pay for a public improvement by which the assessed property is supposed to be especially benefitted.

Specific Performance - A remedy in a court of equity compelling a defendant to carry out the terms of an agreement or contract.

Statute - A law established by an act of the Legislature.

Statute of Frauds - State law which provides that certain contracts must be in writing for it to be enforceable at law.

Statute of Limitations - A statute barring all right of action after a certain period of time from the time when a cause of action first arises.

Subagent - An agent of a person already acting as an agent of a principal.

Subdivision - A tract of land divided into lots or plots.

Subletting - A leasing by a tenant to another, who holds under the tenant.

Subordination Clause - A clause which permits the placing of a mortgage at a later date which takes priority over an existing mortgage. A new loan (such as a new second mortgage) can also subordinate to an existing lien (first mortgage) so that the loan terms of the first mortgage can remain. The first mortgage lender must agree to that new second mortgage

Surety - One who guarantees the performance of another; guarantor.

Surrender - The cancellation of a lease by mutual consent of the lessor and the lessee.

Survey - The process by which a parcel of land is measured and its area ascertained; also the blueprint showing the measurements, boundaries and area.

- T -

Tax Sale - Sale of property after a period of nonpayment of taxes.

Tenancy in Common - An ownership of realty by two or more persons, each of whom has an undivided interest, without the "right of survivorship."

Tenancy by the Entirety - An estate which exists only between husband and wife with equal right of possession and enjoyment during their joint lives and with the "right of survivorship."

Tenancy at Will - A license to use or occupy lands and tenements at the will of the owner.

Tenant - One who is given possession of real estate for a fixed period or at will.

Tenant at Sufferance - One who comes into possession of lands by lawful title and keeps it afterwards without any title at all.

Testate - Where a person dies leaving a valid will.

Tie-in Arrangement - A contract where one transaction depends upon another.

Title: Evidence of ownership of a property. A clear title is one without any outstanding liens or encumbrances. A cloud on title refers to any outstanding liens or encumbrances which could impair the title.

Title Insurance Policy - A policy of insurance which indemnifies the holder of the policy for any loss sustained by reason of defects in the title (even those which may have occurred prior to purchase). Title insurance

protects lenders and buyers for claims to the property not listed on the “preliminary title report”. Title insurance is a common closing cost paid at closing and is required by lenders and different policy coverages are paid by both the buyer and seller.

Title Insurance Report (Preliminary Title Report) - A report which lists encumbrances and liens on a property. The report is used as the basis for identifying the losses the insurance provider will cover for the policy holder (usually the buyer or the lender).

Title Search - An examination of the public records to determine the past and current facts regarding ownership and incumbrances affecting real property.

Torrens Title - System of title records provided by state law; it is a system for the registration of land titles whereby the state of the title, showing ownership and incumbrances, can be readily ascertained from an inspection of the “register of titles” without the necessity of a search of the public records.

Tort - A wrongful act, wrong, injury; violation of a legal right.

Transfer Tax - A tax charged under certain conditions on the property belonging to an estate. Charged by one or more governmental districts such as cities, counties or states.

Truth-In-Lending: Federal law which requires lenders to disclose the terms and conditions of a mortgage, including the APR, based on certain charges incurred by the borrower. If the charges were \$0, the APR would be equal to that actual interest rate on the loan.

- U -

Underwriting: The process of evaluating a loan application to determine the risk involved for the lender.

Urban Property - City property; closely settled property.

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

- V -

Valuation - Estimated worth or price. The act of valuing by appraisal.

Variance - The authorization to improve or develop a particular property In a manner not authorized by zoning.

Vendee's Lien - A lien against property under contract of sale to secure deposit paid by a purchaser.

Vesting: The conveying of rights to a property to an owner.

Violations - Act, deed or conditions contrary to law or permissible use of real property.

Void - To have no force or effect; that which is unenforceable.

Voidable - That which is capable of being adjudged void, but is not void unless action is taken to make it so.

- W -

Waiver - The renunciation, abandonment, or surrender of some claim, right or privilege.

Warranty Deed - A conveyance of land in which the grantor warrants the title to the grantee.

Water Rights - The right of a property owner to use water on, under or adjacent to the land for such purposes as irrigation, power or private consumption.

Will - The disposition of one's property to take effect after death. **Wraparound Loan** - A new loan encompassing any existing loans.

- X -

- Y -

- Z -

Reg Z - Regulation Z is part of the Truth in Lending Act (TILA), which Congress passed in 1968 (people often use the two terms interchangeably). It's designed to protect consumers against misleading and predatory lending practices and to promote transparency.

Zone - An area set off by the proper authorities for specific use; subject to certain restrictions or restraints.

Zoning Ordinance - Act of city or county or other authorities specifying type and use to which property may be put in specific areas.