Fidelity National Title

Understanding the Language of Title and Escrow

To the unfamiliar, it can often confuse and bewilder. Fannie Mae and Freddie Mac. ARMS and APR. Clear title and Clouded title. Though these terms have special meaning to real estate professionals, they may often be meaningless to the consumer. To help you better understand the language of real estate, the California Land Title Association has defined some of today's most common title, escrow, real estate and lending terms.

Abstract of Judgment: A summary of the essential provisions of a court judgment. When recorded, an abstract of judgment creates a general lien on all of the real property of the judgment debtor in the county in which it is recorded.

Acknowledgment: A formal declaration made before a duly authorized officer (usually a notary public) by a person who has executed an instrument that such execution is his or her act and deed.

Adjustable Rate Mortgage (ARM): A mortgage in which the interest rate is adjusted periodically according to a preselected index. The terms, adjustment schedule and index to be used can vary based on the particular lender.

Agency: A relationship created when one person (the principal) delegates to another (the agent) the right to act on his or her behalf in business transactions.

All-inclusive Trust Deed (wrap-around mortgage): A financing technique which involves the creation of a new trust deed which includes the balance due on the existing note plus any new funds advanced.

American Land Title Association (ALTA): A national association of title insurance companies, abstractors, and agents. The association adopts standard title policy forms.

Amortization: The process of paying off a debt in installments over a given period of time without a final balloon payment.

Annual Percentage Rate (APR): An expression of the percentage relationship of the total finance charges to the total amount to be financed, as required under the federal Truth-in-Lending Act.

Appraisal: An opinion of the value of property resulting from an analysis of facts affecting market value.

Assessed Valuation: The value that a taxing authority places upon real or personal property for the purpose of taxation.

Assumable: A mortgage loan which can be transferred to another person without a change in the terms of the loan.

Balloon Payment: The unpaid principal amount of a loan due on a specific date in the future. Usually the amount that must be paid in a lump sum at the end of the term.

Beneficiary: The person who is entitled to receive funds or property under the terms and provisions of a will, trust, insurance policy or security instrument. In connection with a mortgage loan the beneficiary is the lender.

Beneficiary's Statement: The statement of a lender which gives the remaining principal balance due on a note and other information concerning the loan. It is usually obtained in escrow when the owner wishes to sell or refinance.

Bill of Sale: An instrument by which title to personal property is transferred or conveyed.

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

Broker: A person licensed to act as an agent for another in negotiating the sale, purchase, of real property in return for a fee or commission.

Buydown: A financing technique used to reduce the monthly payment for the home buying borrower during the initial years of ownership. Under some buydown plans, a residential developer, builder, or the seller will make subsidy payments (in form the of points) to the lender that "buydown," or lower, the effective interest rate paid by the home buyer, thus reducing monthly payments for a set period of time.

California Land Title Association (CLTA): A statewide association of title insurers and underwritten title companies. The association adopts standard title policy forms.

CC&Rs (Covenants, Conditions and Restrictions): Limitations placed on the use and enjoyment of real property. These are found most often in condominiums and planned unit developments.

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Chain of Title: A chronological list of recorded instruments tracing title to land, from the original owner to the present owner.

Cap: The maximum which an adjustable rate mortgage may increase, regardless of index changes.

Clear Title: Title to property which is free from liens, defects of other encumbrances.

Closing: The process of completing a real estate transaction during which the seller delivers title to the buyer in exchange for payment of the purchase price. Called a "settlement" in some areas.

Closing Costs: Expenses, beyond the selling price, such as loan fees, title fees, etc. Paid when documents are executed and/or recorded and the sale is complete.

Closing Statement: A summary, in the form of a balance sheet, showing the amounts of debits and credits to which each party to a real estate transaction is entitled upon closing.

Cloud on Title: Any document, claim, unreleased lien or encumbrance, which, if valid, would affect or impair title to a property.

Commission: Compensation due a real estate broker for acting on behalf of the principal.

Community Property: Property acquired during a marriage by either a husband or wife, or both, which is not separate property.

Comparables (comps): An abbreviation for comparable properties used for comparative purposes in the appraisal process.

Consideration: A required element in all contracts by which something of value, including a promise, is exchanged for the act or promise of another.

Contingency: Action conditioned upon a certain event. Acceptance of the terms of a contract based on something else happening or certain conditions being met.

Conveyance: The transfer of title or an interest in real property by means of a written instrument such as a deed of trust.

Deed of Trust: A security agreement creating a lien by which title to real property is transferred to a third-party trustee as security for an obligation owed by the trustor (borrower) to the beneficiary (lender).

Demand: The lender's statement of the amount due to pay off a loan.

Documentary Transfer Tax: The tax, based on sales price, less loans which are being assumed, which is charged by the city and/or county on the transfer of real property.

Due-on-Sale-Clause: A clause in a mortgage loan which gives the lender the right to demand payment in full when the property changes ownership. Not applicable to FHA or VA loans.

Earnest Money: The cash deposit paid by a prospective buyer as evidence of good faith to bind a sale of real estate.

Easement: A limited right or interest in land of another that entitles the holder of the right to some use, privilege or benefit over the land.

Encumbrance: A claim, right or lien upon real property, held by someone other than the owner.

Endorsement: A rider attached to an insurance policy to expand or limit coverage. Also spelled indorsement.

Equity: The value of a person's interest in real property after all liens and charges have been deducted.

Escrow: The process in which a disinterested third party holds money and documents for delivery to the respective parties in a transaction on performance of established conditions.

Exception: A provision in a title insurance binder or policy which excludes liability for a specified title defect or an outstanding lien or encumbrance.

Fair Market Value: An appraisal term for the price which a property would bring in a competitive market given a willing seller and willing buyer, each of whom has a reasonable knowledge of all pertinent facts, with neither being under any compulsion to buy or sell.

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Fee Simple: An estate under which the owner owns a complete interest in the property and is entitled to the unrestricted use and enjoyment of the property, including the right to dispose of the property.

Federal Home Loan Mortgage Corporation (FHLMC, Freddie Mac): A quasi-governmental agency that purchases conventional mortgages in the secondary mortgage market from depository institutions and Department of Housing and Urban Development (HUD) approved mortgage bankers.

Federal Housing Administration (FHA): A division of the Department of Housing and Urban Development (HUD). Its main activity is the insuring of residential mortgage loans by private lenders.

Federal National Mortgage Association (FNMA, Fannie Mae): A tax paying corporation created by Congress to support the secondary mortgage market. It purchases and sells residential mortgages insured by FHA or guaranteed by VA as well as conventional home mortgages.

Finance Charge: A total of all costs imposed directly or indirectly by the creditor and payable either directly or indirectly by the customer, as defined by the federal Truth-in-Lending laws.

First Mortgage: A mortgage on property that is superior in right to any other mortgage.

Fixed Rate Loan: A loan on which the same rate of interest is charged for the life of the loan.

Fixture: Personal property which is permanently attached to real property, and, as such, becomes part of the real property.

Grantee: One to whom a grant is made. The purchaser of real property.

Grantor: One who has made a grant. The seller of real property.

Hidden Defect: An encumbrance on a title that is not apparent in the public records; for example, unknown heirs, secret marriages and forged instruments.

Impound Account: An account held by a lender for the payment of taxes, insurance or other periodic debts against real property.

Joint Tenancy: A means of ownership in which two or more persons own equal shares in real property. Upon the death of one tenant, his/her share passes to the remaining tenant(s) until title is vested in the last survivor.

Legal Description: A description by which property can be definitely located by reference to surveys or recorded maps. Sometimes referred to simply as the legal.

Lien: A recorded document which claims an interest in real property as security for a debt owed. Such liability may be created by contract, such as a deed of trust, or by a court judgment.

Lis Pendens: Legal notice that a lawsuit is pending. Also called a notice of action.

Loan-to-Value Ratio: The ratio of the mortgage loan's principal to the property's appraised value or its sales price, whichever is lower.

Marketable Title: Title which is free from defects which would allow a purchaser to be released from his obligation to purchase.

Market Value: An appraisal term denoting the highest price that a buyer, willing but not compelled to buy, would pay, and the lowest a seller, willing but not compelled to sell, would accept.

Mechanic's Lien: A lien on real estate which secures the payment of debts due to persons who perform labor or services or furnish materials incident to the construction of buildings and improvement on real estate.

Metes and Bounds: A form of land description in which boundaries are described by courses, directions, distances and monuments.

Mortgage: A legal document used to secure the performance of an obligation.

Notarization: The certification by a Notary Public that a person signing a document has been properly identified. Notarization does not certify the content of a document, only validity of signature.

Perfecting Title: Process involving the elimination of any adverse claims against a title.

PITI: Refers to principal, interest, taxes and insurance, the four major components of a usual monthly mortgage payment.

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PITI Ratio: The principal, interest, tax and insurance payment to income ratio. Used in mortgage lending decisions.

Points: A fee charged by the lender to fund a loan, in addition to and separate from other fees charged. One point equals one percent of the amount of the loan.

Principal: The sum of money outstanding upon which interest is payable. Also refers to one who is served by an agent.

Private Mortgage Insurance (PMI): Insurance written by a private mortgage insurance company protecting the mortgage lender against loss occasioned by a mortgage default and foreclosure.

Proration: The method used in dividing charges into that portion which applies only to a party's ownership up to a particular date.

Qualification: The process of reviewing a prospective borrower's credit and payment capacity prior to approving a loan.

Quitclaim Deed: A deed relinquishing all interest, title or claim in a property by a grantor. Accomplished without representing that such title is valid, nor containing any warranty or covenants of title.

Real Estate Settlement Procedures Act (RESPA): A federal statute requiring disclosure of certain costs in the sale of residential, improved property which is to be financed by a federally insured lender.

Reconveyance: The conveyance to the landowner of the title, held by a trustee under a deed of trust, when the performance of the debt is satisfied.

Recordation: Involves filing for record in the office of the county recorder for the purpose of giving constructive notice of title, claim or interest in real property.

Record Owner: The owner of property as shown by an examination of the public record.

Statement of Information (SI): A confidential information statement completed by the buyer, seller and borrower in every transaction where a policy or policies of title insurance are requested. Allows the title company to competently search documents affecting the property to be insured, documents which may not refer to said property. Allows title companies to differentiate between parties with similar names when searching matters such as liens and court decrees.

"Subject To" Clause: A clause in a contract of sale setting forth any contingencies or special conditions of purchase and sale, such as an offer made and accepted subject to financing, securing certain zoning or similar requirements.

Subordination Agreement: An agreement under which a prior or superior lien is made inferior or subject to an otherwise junior lien.

Tax Lien: A statutory lien imposed against real property for nonpayment of taxes.

Tenancy in Common: Co-ownership in a property by two or more persons, each of whom has an undivided interest in the whole property.

Title Plant: The information warehouse of a title company in which it has accumulated and is constantly updating title records of properties in its area which it can use to search title to real property.

Trustee: A person who holds title in trust for the benefit of another. In a deed of trust, the trustee is the person named to hold title in trust for the benefit of the lender until the loan is paid off.

Trustor: The borrower under a deed of trust. One who deeds their property to a trustee as security for repayment of a loan.

Uniform Settlement Statement: The standard HUD Form 1 required to be given to the borrower, lender and seller at, or prior to, settlement.

Unmarkable Title: Title which contains defects that would allow a purchaser to be released from his obligation to purchase.

Vesting: Denotes the manner in which title is held. Examples of common vestings are: Community Property, Joint Tenancy and Tenancy in Common.

Veterans Administration (VA): VA has power and authority to guarantee or insure payment of loans made to veterans by private lending institutions. This function is similar to that of FHA. VA also makes direct loans to veterans in non-urban areas where private loan funds are not available.