

Mortgage Terms

ABSTRACT The notes made by a title examiner based on his examination of the land records. These notes are a concise summary of the transactions affecting the property. The title agency produces a BINDER from the information in the abstract.

ACCELERATION CLAUSE A condition in a real estate financing instrument giving the lender the power to declare all sums owing lender immediately due and payable upon the happening of an event, such as the sale of the property, or a delinquency in the repayment of the note.

ACCRETION The buildup of land from natural forces such as wind or water.

ACKNOWLEDGMENT As a verb, the confirmation by a party executing a legal document that this is his/her signature and voluntary act. This confirmation is made to an authorized officer of the Court or notary public who signs a statement also called as acknowledgement.

ACRE 43,560 square feet of land.

ADJUSTMENT INTERVAL On an adjustable rate mortgage, the time between changes in the interest rate and/or monthly payment, typically one, three or five years, depending on the index.

ADMINISTRATOR A person appointed by the Court to settle the estate of a person who dies without a will. The feminine form is Administratrix. Compare, **Executor**.

ADVERSE POSSESSION A claim made against land titles to another person based on open, notorious and hostile possession and use of the land to the exclusion of the titles owner.

AGENCY A relationship in which the agent is given the authority to act on behalf of another person (Principal).

AGREEMENT A meeting of minds. A change to the correct or alteration to the original document/agreement without changing its principal essence.

AMORTIZED LOAN A loan to be repaid, interest and principal, by a series of regular payments that are equal, without any special balloon payment prior to maturity.

AMORTIZATION The periodic principal pay down of a loan.

ANNUAL PERCENTAGE RATE (A.P.R.) Is an interest rate reflecting the cost of a mortgage as a yearly rate. This rate is likely to be higher than the stated note rate or advertised rate on the mortgage, because it takes into account point and other credit costs. The APR allows homebuyers to compare different types of mortgages based on the annual cost for each loan.

APPRAISAL An estimate of the value of property made by a qualified professional called an "appraiser." Most states require licenses. Various lenders have their own lists of approved appraisers.

APPROVED ATTORNEY An attorney authorized by a title insurance company to handle closings and render title opinions.

APPURTENANCE Anything attached to the land or used with it passing to the new owner.

ASSESSMENT A local tax levies against a property for a specific purpose, such as a sewer or streetlights.

ASSIGN To transfer interest.

ASSIGNEE One who receives an assignment or transfer of rights. An assignment of a contract transfers the right to buy property.

ASSIGNOR The one who assigns to another person.

ASSUMPTION The agreement between buyer and seller where the buyer takes over the payments on an existing mortgage from the seller. Assuming a loan can usually save the buyer money since this is an existing mortgage debt, unlike a new mortgage where closing costs and new, possibly higher, market-rate interest charges will apply.

ATTACHMENT Seizure of property through Court process to repay a debt.

ATTORNEY IN FACT A type of agency relationship where one person holds a POWER OF ATTORNEY (POA) allowing him/her to execute legal documents on behalf of another. Decisions made by the attorney in fact are binding on the principal.

BALLOON (payment) mortgage Usually a short-term fixed rate loan which involves small payments for a certain period of time and one large payment for the remaining amount of the principal at a time specified in the contract.

BANKRUPTCY A provision of Federal Law whereby a debtor surrenders his/her assets to the Bankruptcy Court and is relieved of the future obligation to repay his unsecured debts. A Trustee in Bankruptcy administers the assets,

selling them to pay as much of the debt as possible. If your seller is in bankruptcy, the Trustee in Bankruptcy owns the property and is the party to sign the contract and make decisions. After bankruptcy, the debtor is discharged and his/her unsecured creditors may not pursue further collection efforts against him/her. Secured creditors, those holding deeds of trust or judgment liens, continue to be secured by the property but they may not take other action to collect from the debtor.

BENCHMARK A permanent reference mark for surveyors.

BENEFICIARY A person named to receive a benefit from a TRUST. A contingent beneficiary has conditions attached to his/her rights; usually someone else must die first.

BID An offer

BINDER A title insurance binder is the written commitment of a title insurance company to insure title to the property subject to the conditions and exclusions shown on the binder.

BLANKET MORTGAGE A mortgage covering at least two pieces of real estate as security for the same mortgage. This sort of loan is more common for commercial property or "special case" loans.

BOND An amount of money, often posted with the Court, to guarantee against loss as a result of a possible claim. For example, if there is a LIEN against the property, the owner may post a bond and the lien is removed from the property and the parties argue over the money rather than the property.

BRANCH OF CONTRACT Failure to perform provisions of a contract.

BROKER An individual in the business of assisting in arranging funding or negotiating contracts for a client buy who does not loan the money himself/herself. Brokers usually charge a fee or receive a commission for their services.

BUILDING RESTRICTIONS LINE A required setback a certain distance from the road within which no building may take place. This restriction may appear in the original plat of subdivision, restrictive covenants or by building codes and zoning ordinances.

BUYDOWN When a lender and/or the homebuilder subsidized the mortgage by lowering the interest rate during the first few years of the loan. While the payments are initially low, they will increase when the subsidy expires. These are sometimes used to qualify borrowers for a loan amount that they would not

otherwise qualify for but will be able to pay in subsequent years as their income increases.

BY-LAWS Rules and regulations governing an association or corporation.

CAPITAL GAINS Profit earned from sale a sale or real estate.

CAPITALIZATION A method used to estimate value of a property based on the rate of return on investment.

CASHFLOW The amount of cash derived over a certain period of time from an income-producing property. The cash flow should be large enough to pay the expenses of the income-producing property (mortgage payment, maintenance, utilities, etc.).

CAVEAT EMPTOR Buyer beware. The buyer must inspect the property and satisfy himself/herself that it is adequate for his/her needs. The seller is under no obligation to disclose defects but may not actively conceal a known defect or lie if asked.

CERTIFICATE OF ELIGIBILITY The document given to qualified veterans which entitles them to VA guaranteed loans for homes, business, and mobile homes. Certificates of eligibility may be obtained by ending DD-214 (Separation Paper) to the local VA office with VA form 1880 (request for Certificate of Eligibility).

CERTIFICATE OF OCCUPANCY A certificate issued by a local governmental body stating that the building is in a condition to be occupied.

CERTIFICATE OF SATISFACTION A document signed by the Note Holder and recorded in the land records evidencing release of a DEED OF TRUST, MORTGAGE or other lien on the property.

CERTIFICATE OF TITLE A written opinion by an attorney setting forth the status of title to the property as shown on the public records. The certificate does not certify as to matters not of record and affords no protection unless the author was negligent. Compare, TITLE INSURANCE.

CHAIN OF TITLE The series of transactions from GRANTOR to GRANTEE as evidenced in the land records.

CHATTEL Personal property.

CLASS ACTION A claim brought up on behalf of a group of people.

CLOSING The meeting between the buyer, seller and lender or their agents where the property and funds legally change hands. Also called settlement. Closing costs usually includes an origination fee, discount points, appraisal fee, title search and insurance, survey, taxes, deed recording fee, credit report and notary fees.

CLOUD ON TITLE An evidence of encumbrances.

CONDEMNATION A judicial proceeding through which a governmental body takes a private property for public use.

CC&R's Covenants, conditions, and restrictions. The basic rules establishing the rights and obligations of owners of real property within a subdivision or other tract of land in relation to other owners within the same subdivision or tract and in relation to an association of owners organized for the purpose of operating and maintaining property commonly owned by the individual owners.

COINSURANCE When more than one insurance company shares the risk of a particular transaction or series of transactions. Lenders may require co-insurance on large commercial projects.

COLLATERAL Property pledged to secure a loan.

CONDEMNATION Taking of private property for a public use through exercise of the power of EMINENT DOMAIN. The Constitution protects against taking without fair compensation.

CONDOMINIUM A system of individual FEE SIMPLE ownership of portions (units) in a multi-unit structure, combined with joint ownership of common areas. Each individual may sell or encumber his own unit. Compare, COOPERATIVE.

CONSERVATOR Also called a Committee or Guardian, a person designated by the Court to protect and preserve the property of someone who is not able to manage his or her own affairs. Examples include the mentally incompetent, minors and incarcerated persons.

CONSTRUCTION LOAN A short-term interim loan to pay for the construction of buildings or homes. These are usually designed to provide periodic disbursements to the builder as he progresses. These are generally done by lenders with offices local to the site of the construction. This enables the lender or their agent to monitor the progress of the construction.

CONTRACT A legally enforceable agreement between two parties.

CONTRACTED FOR DEED Also known as a Land Contract or Land Installment Contract. A method of financing where title remains in the Seller's name until the

Buyer has paid the full purchase price. A contract for Deed will normally trigger the DUE ON SALE CLAUSE in a DEED OF TRUST or MORTGAGE but Veterans Administration regulations specifically allow Contracts for Deed without invoking the DUE ON SALE CLAUSE.

CONVENTIONAL LOAN A mortgage not insured by FHA or guaranteed by the VA.

COOPERATIVE A system of individual ownership of stock in a corporation that in turn, owns the structure. Each owner has an exclusive right to use his/her individual unit and must pay his/her portion of the debt encumbering the entire building. Compare, CONDOMINIUM

COST APPROACH A method used by an appraiser to estimate replacement costs of improvements less depreciation.

COTENANCY Ownership in the same land by more than one person. See, TENANTS IN COMMON, JOINT TENANTS, TENANTS BY THE ENTIRETY.

COVENANT A written agreement or restriction on the use of land or promising certain acts. Homeowner Associations often enforce restrictive covenants governing architectural controls and maintenance responsibilities. However, land could be subject to restrictive covenants even if there is no homeowner's association.

CREDIT REPORT A report documenting the credit history and current status of a borrower's credit standing.

DEBT-TO-INCOME RATIO The ratio, expressed as a percentage, which results when a borrower's monthly payment obligation on long-term debts is divided by his/her gross monthly income. See housing expenses-to-income ratio.

DEED The written document conveying real property. The Deed must be executed (signed), ACKNOWLEDGED and DELIVERED to the Grantee. Once recorded at the Courthouse, the original piece of paper is not needed to convey title in the future.

DEED OF TRUST A voluntary lien to secure a debt deeding the property to Trustees who foreclose, sell the property at public auction, in the event of default on the Note the Deed of Trust secures. Compare, MORTGAGE.

DEFAULT Failure to meet legal obligations in a contract, specifically, failure to make the monthly payments on a mortgage.

DEFERRED INTEREST When a mortgage is written with a monthly payment that is less than required to satisfy the note rate, the unpaid interest is deferred by adding it to the loan balance. See *negative amortization*

DEFICIENCY JUDGEMENT If the foreclosure sale does not bring sufficient proceeds to pay the costs of sale and the note in full, the holder of the note may obtain a judgment against the maker for the difference.

DELIVERY The final, unconditional and absolute transfer of a DEED to the Grantee so that the Grantor may not revoke it. A Deed, signed but held by the Grantor, does not pass title.

DOWER A spouse's interest in the property of a deceased spouse.

DOWN PAYMENT Money paid to make up the difference between the purchase price and the mortgage amount.

DUAL AGENCY Representation of opposing parties (buyer and seller) at the same time in the same transaction. This situation most often refers to cases where the Realtor is the agent for both parties.

DUE ON SALE CLAUSE A clause in the MORTGAGE that makes the loan non-assumable by providing the note holder may call the loan immediately due and payable upon a sale or conveyance of an interest in the property. The FNMA/FHLMC form provides that a lease of more than three years or a lease with an option to buy also triggers this provision.

EARNEST MONEY A good faith deposit.

EASEMENT The right to use the land of another for a specific limited purpose. Examples include utility lines, driveways, and INGRESS AND EGRESS. Easements can be temporary or permanent.

EMINENT DOMAIN The power of the state to take private property for public use upon payment of just compensation.

ENCROACHMENT The physical intrusion of a structure or improvement on the land of another. Examples include a fence or driveway over the property line.

ENCUMBRANCE Any lien, liability or charge against a property.

EQUAL CREDIT OPPORTUNITY ACT (ECOA) Is a federal law that requires lenders and other creditors to make credit equally available without discrimination based on race, color, religion, national origin, age, sex, marital status or receipt of income from public assistance programs.

EQUITY The difference between the fair market value and current indebtedness, also referred to as the owner's interest. The value an owner has in real estate over and above the obligation against the property.

EQUITY SHARING A form of joint ownership between an owner/occupant and an owner/investor. The investor takes depreciation deductions for his share of the ownership. The occupant receives a portion of the tax write-offs for interest and taxes and a part of his monthly payment is treated as rent. The co-owners divide the profit upon sale of the property. Compare, JOINT OWNERSHIP AGREEMENT.

ESCHEAT Property that reverts to the state when an individual dies without heir and without a will.

ESCROW A disinterested third party holds funds or documents on behalf of others and subject to their instructions.

EXECUTOR A person named in a will to carry out its terms and administer the estate. The feminine form is Executrix. Compare, ADMINISTRATOR.

FEE SIMPLE The absolute total interest in real property. Compare, LIFE ESTATE, REVERSION.

FEDERAL HOME LOAN MORTGAGE CORPORATION Affiliate of the Federal Home Loan Bank which creates a secondary money market in conventional residential loans and in FHA and VA loans by purchasing mortgage loans from members of the Federal Reserve System and the Federal Home Loan Bank Systems.

FIDUCIARY RELATIONSHIP A relationship of trust and confidence between principal and agent; lawyer and client; doctor and patient; etc.

FIXTURE An item of personal property attached to real property so that it cannot be removed without damage to the real property. A FIXTURE becomes part of the real property.

FORECLOSURE The process by which a lender sells property securing a loan in order to repay the loan. Under a DEED OF TRUST, foreclosure is by public auction after appropriate advertisement. A MORTGAGE may require the lender to obtain Court approval prior to sale.

FULLY INDEXED NOTE RATE As related to adjustable rate mortgages, the index value at the time of application plus the gross margin stated in the note.

GENERAL WARRANTY DEED The Grantor warrants title against all claims.

GRANTEE The person receiving an interest in property. Compare, GRANTOR.

GRANTOR The person granting, selling or giving up an interest in property. Compare, GRANTEE

GRADUATED PAYMENT MORTGAGE (GPM) A type of flexible-payment mortgage where the payments increase for a specified period of time and then level off.

GROSS INCOME Income before expenses.

GROSS MARGIN With regard to an adjustable rate mortgage, an amount expressed as percentage points, stated in the note which is added to the current index value on the rate adjustment date to establish a new note rate.

GROUND LEASE The owner grants a long-term lease of the land (usually 99 years) and allows the lessee to build and use the land as agreed. At the end of the term, the land and all improvements revert to the owner.

GUARDIAN One appointed by the Court to administer the affairs of a minor. A guardian ad litem is appointed to protect one's interest in a particular legal action. See, CONSERVATOR.

HAZARD INSURANCE A form of insurance in which the insurance company protects the insured from specified losses, such as fire, windstorm and the like.

HIATUS A gap or space left between two parcels of land and not included in the legal description of either parcel. Similar terms are Gaps and Gores.

HOMESTEAD DEED A declaration filed in the land records that an individual is asserting his/her homestead exemption. That exemption allows one to protect some assets (amount varies by state) against the claims of creditors.

HOUSING RATIO The ratio, expressed as a percentage, which results when a borrower's housing expenses are divided by his/her gross monthly income. See DEBT-TO-INCOME RATIO.

IMPOUND That portion of a borrower's monthly payments held by the lender or servicer to pay for taxes, hazard insurance, mortgage insurance, lease payments, and other items as they become due. Also known as reserves.

INCOME APPROACH A method used by an appraiser to estimate the value of a property by calculating its generated income.

INDEMNITY A protection against actual loss or damage as a result of the matter mentioned. An indemnity is not an absolute guarantee that something

won't happen; it states the terms under which an actual loss will be compensated.

INDEX A published interest rate against which lenders measure the difference between the current interest rate on an adjustable rate mortgage and that earned by other investments (such as one-, three-, and five year U.S. Treasury security yields, the monthly average interest rate on loans closed by savings and loan institutions, and the monthly average cost-of-funds incurred by savings and loans), which is then used to adjust the interest rate on an adjustable mortgage up or down.

INGRESS AND EGRESS Applied to EASEMENTS, meaning the right to go in and out over a piece of property but not the right to park on it.

INSURABLE TITLE Title subject to a defect or claim which a title insurance company is willing to insure against. Compare, MARKETABLE TITLE.

INSURED CLOSING LETTER An indemnity given to a lender from a title insurance company, agreeing to be responsible is the closing agent does not follow the lender's instructions or misappropriates the loan proceeds. Lenders usually require an insured closing letter be on file for each settlement.

INTERIM FINANCING A construction loan made during completion of a building or a project. A permanent loan usually replaces this loan after completion.

INITIAL NOTE RATE With regard to an adjustable rate mortgage, the note rate upon origination. This rate may differ from and is usually less than the fully indexed rate.

INTESTATE An estate without a Will. Compare, TESTATE

JOINT OWNERSHIP AGREEMENT An agreement between owners defining their right, ownership, monetary obligations and responsibilities. This could be between an investor and an occupant or the occupants. If an investor is involved, the investor does not take depreciation deductions and none of the occupant's payment is deemed rent for tax purposes. Compare, EQUITY SHARING.

JOINT TENANTS Two or more persons own a property. Joint tenants with the common law right of survivorship means the survivor inherits the property without reference to the decedent's will. Creditors may sue to have the property divided to settle claims against one of the owners. Compare, TENANTS IN COMMON, TENANTS BY THE ENTIRETY.

JUDGEMENT LIEN A judgment is a lien against all real property owned by the judgment debtor in the county where the judgment is docketed (recorded).

JUMBO LOAN A loan which is larger (more than \$207,000.00 as of 1/1/96) than the limits set by the *Federal National Mortgage Association* and the *Federal Home Loan Mortgage Corporation*. Because jumbo loans cannot be funded by these two agencies, they usually carry a higher interest rate.

JUNIOR MORTGAGE Mortgage of lesser priority than the prior recorded mortgage.

LAND CONTRACT See, CONTRACT FOR DEED.

LEASE HOLD ESTATE Tenant's right of possession for a specific period of time under a lease agreement. (Common in Hawaii.)

LIEN A claim or charge against property. Property is said to be encumbered by a lien and the lien must be removed to clear title.

LIFE CAP With regard to an adjustable rate mortgage, a ceiling the note rate cannot exceed over the life of the loan.

LIFE ESTATE The right to use, occupy and own for the life of an individual. Compare, FEE SIMPLE.

LOAN TO VALUE RATIO (LTV) The relationship between the amount of the mortgage loan and the appraised value of the property expressed as a percentage.

LIS PENDENS Recorded document showing a pending litigation files in the Court. These show up on the preliminary title report and must be dealt with when transferring ownership or refinancing.

LOAN APPLICATION The loan application is the source of information on which the lender bases a decision to make the loan; defines the term of the loan, gives the name(s) of the borrowers(s), place of employment, salary, bank accounts and credit references, and describes the real estate that is to be mortgaged. It also stipulates the amount of the loan being applied for and repayment terms.

MAJORITY The age at which a person may handle his/her own affairs.

MARGIN The amount a lender adds to the index on an adjustable rate mortgage to establish the adjusted interest rate.

MARKETABLE TITLE Title without defects or claims so as to be readily accepted without fair or reasonable doubt. Compare, INSURABLE TITLE

MARKET VALUE The highest price that a buyer would pay and the lowest price a seller would accept on a property. Market value may be different from the price a property could actually be sold for at a given time.

MECHANIC'S LIENS The right of an unpaid contractor, laborer or supplier to file a lien against property to recover the value of his work.

METES AND BOUNDS A means of describing land by directions and distances rather than references to a lot number. Generally used when land has not been subdivided into lots.

MORTGAGE A voluntary lien filed against property to secure a debt, usually a loan. To foreclose, the lender must often institute a court action and the borrower may have the right to reclaim the property after foreclosure. Compare, DEED OF TRUST.

MORTGAGE INSURANCE Money paid to insure the mortgage when the down payment is less than 20 percent. See PRIVATE MORTGAGE INSURANCE, FHA MORTGAGE INSURANCE.

MORTGAGEE The lender

MORTGAGOR The borrower or homebuyer

NEGATIVE AMORTIZATION Occurs when your monthly payments are not large enough to pay all the interest due on the loan. This unpaid interest is added to the unpaid balance of the loan. The danger of negative amortization is that the homebuyer ends up owing more than the original amount of the loan.

NET EFFECTIVE INCOME The borrower's gross income minus federal income tax.

NET WORTH The difference between total assets and total liabilities.

NON-ASSUMPTION CLAUSE A statement in a mortgage contract forbidding the assumption of the mortgage without the prior approval of the lender. Note: The signed obligation to pay a debt, as a mortgage note. A loan default. A loan of which no payments are being made and in danger of resulting in foreclosure.

NOTE A written promise to pay a certain sum of money at a certain time. A negotiable note starts "Pay to the order of" and is transferable by endorsement similar to a check.

NOTARY PUBLIC One authorized by law to acknowledge and certify documents and signatures.

OFFER A proposal; after acceptance it becomes a contract.

OPTION A right given for a consideration to keep an offer to purchase or lease open for specific time.

PARTITION The forced division of land among parties who were formerly co-owners. A partition suit may ask to divide the land, or if that is not practical, sell the land and divide the proceeds.

PAY-OFF AMOUNT A total balance; amount of a full payment on existing loan or lien.

PLAT A map showing the division of a piece of land with lots, streets and, if applicable, common area.

PIPESTEM LOT A lot connected to a public street by a narrow strip of land. Usually several adjacent pipestems are combined to form one driveway with each owner having a mutual-reciprocal easement to use and maintain the driveway to the street.

PITI Principal, Interest, Taxes and Insurance. Also called monthly housing expense.

POINTS (LOAN DISCOUNT POINTS) Prepaid interest assessed at closing by the lender. Each point is equal to 1 percent of the loan amount (e.g., two points on a \$100,000.00 mortgage would cost \$2,000.00).

POWER OF ATTORNEY A written document authorizing another to act on his/her behalf as an ATTORNEY IN FACT. One does not need to be a licensed attorney to act as an attorney in fact, but power of attorney forms are powerful legal documents that should be used only under advice of a licensed attorney at law.

PREPAYMENT PENALTY An additional charge imposed by the lender for paying off a loan before the due date.

PRIME RATE The most favorable interest rate charged by lenders on short-term loans to qualified customers.

PRIVATE MORTGAGE INSURANCE (PMI) In the event that you do not have a 20 percent down payment, lenders will allow a smaller down payment – as low as 3 percent in some cases. With the smaller down payment loans, however, borrowers are usually required to carry private mortgage insurance. Private mortgage insurance will usually require an initial premium payment and may require an additional monthly fee depending on your loan's structure.

PROBATE Court process to prove a valid will.

PROMISSORY NOTE A written unsecured note promising to pay a specified amount of money on demand, transferable to a third party.

PUBLIC SALE Sale, auction open to the public.

PURCHASE MONEY MORTGAGE (PMM) Seller financing as a part of the purchase price.

QUIET TITLE A suit brought to remove a claim or objection on title.

QUITCLAIM DEED A deed releasing whatever interest you may hold in a property but making no warranty whatsoever. Compare, SPECIAL WARRANTY DEED and GENERAL WARRANTY DEED.

REALTOR A member of the National Association of Realtors.

REISSUE RATE A discounted rate for title was previously insured with an owner's title insurance policy issued within the last ten years.

RECISSION The cancellation of a contract. With respect to mortgage refinancing, the law that gives the home owner three days to cancel a contract in some cases once it is signed if the transaction uses equity in the home as security.

RECORDING FEES Money paid to the lender for recording a home sale with the local authorities, thereby making it a part of the public records.

REFINANCE Obtaining a new mortgage loan on property already owned, often to replace existing loans on the property.

REMAINDER An interest in land that is postponed until the termination of some other interest such as a LIFE ESTATE. Compare, FEE SIMPLE.

RESPA Short for the Real Estate Settlement Procedures Act. RESPA is a federal law that allows consumers to review information on known or estimated settlement costs once after application and once prior to or at a settlement. The law requires lenders to furnish the information after application only.

REVERSION A provision in a conveyance that the land will return to the grantor upon the happening of an event or contingency. Compare, FEE SIMPLE.

RIPARIAN RIGHTS The rights of an owner of land adjacent to water.

SBA Small Business Administration.

SECONDARY MORTGAGE A market for the purpose of purchase and sale of existing mortgages usually at discounted prices to provide greater liquidity to the mortgagee/lender.

SECOND MORTGAGE A mortgage recorded after a First mortgage ranks second in priority.

SPECIAL ASSESSMENT Additional tax imposed by the local government for public improvements such as new streets, etc.

SPECIAL WARRANTY DEED The seller warrants he/she has done nothing to impair title but makes no warranty before his/her ownership. Compare, GENERAL WARRANTY DEED and QUITCLAIM DEED.

SPECIFIC PERFORMANCE A legal action to complete the performances of a contract.

STATUTE OF LIMITATIONS The time period to file a law suit to enforce a claim or it is barred by law.

SUBDIVISION Dividing land into lots and streets. The owner signs a PLAT and DEED of Resubdivision, which is recorded among the land records. The state and county have strict requirements for subdivision of land.

SUBJECT TO Taking title to property with a lien but not agreeing to be personally responsible for the lien, if the holder who forecloses the lien can take the property but may not collect any money from the owner who took "subject to." Compare, ASSUMPTION.

TENANTS BY THE ENTIRETY A husband and wife own the property with the common law right of survivorship so, if no one dies, the other automatically inherits. One may not sue the other to PARTITION the property. A creditor of one may not claim the property or the proceeds of sale. Compare, TENANT IN COMMON, JOINT TENANTS.

TENANTS IN COMMON Two or more persons own the property with no right of survivorship. If one dies, his/her interest passes to his/heirs, not necessarily the co-owner. Either party, or a creditor of one, may sue to PARTITION the property. Compare, TENANTS BY THE ENTIRETY, JOINT TENANTS.

TESTATE To die with a Will. Compare, INESTATE

TESTATOR One who makes out a last will and testament. The feminine form is Testatrix.

TITLE A document that gives evidence of an individual's ownership of property.

TITLE INSURANCE Insurance that provides an INDEMNITY against loss or damage as a result of defect in title ownership to a particular piece of property. Title insurance covers mistakes made during TITLE SEARCH as well as matter which could not be found or discovered in the public records such as missing heirs, mistakes, fraud, and forgery. Compare, CERTIFICATE OF TITLE.

TITLE SEARCH An examination of the public records, including court decisions, to disclose facts concerning the ownership of real estate. The title examiner prepares an ABSTRACT and the title agent prepares a BINDER but decisions regarding the legal sufficiency of title or questions requiring legal interpretation must be resolved by a licensed attorney at law.

TRUST A right to or in property held for the benefit of another. A trust may be written or implied. A trust may be written or implied. An implied trust is called a Constructive Trust.

TRUSTEE One who holds property in Trust for another.

TRUTH-IN-LENDING A federal law requiring disclosure of the Annual Percentage Rate to homebuyers shortly after they apply for the loan. Also known as Regulation Z.

TWO-STEP MORTGAGE A mortgage in which the borrower receives a below-market interest rate for a specified number of years (most often five or seven), and then receives a new interest rate adjusted (within certain limits) to market conditions at that time. The lender sometimes has the option to call the loan due with 30 days' notice at the end of five or seven years.

UNDERWRITING The decision whether to make a loan to a potential homebuyer based on credit, employment, assets, and other factors and the matching of this risk to an appropriate rate and term or loan amount.

USURY Charging more than the maximum legally permitted rate of interest.

VA LOAN A long-term, low-or no-down-payment loan guaranteed by the Department of Veterans Affairs. Restricted to individuals qualified by military service or other entitlements.

VARIABLE RATE MORTGAGE (VRM) See ADJUSTABLE RATE MORTGAGE

VERIFICATION OF DEPOSIT (VOD) A document signed by the borrower's financial institution verifying the status and balance of his/her financial accounts.

VERIFICATION OF EMPLOYMENT (VOE) A document signed by the borrower's employer verifying his/her position and salary.

WAIVER Relinquishment of a right.

WARRANTY DEED A deed conveying the title to a property with a warranty of clean, clear marketable title.

WRAPAROUND The debt secured includes an existing debt already on the property. The payments made to the holder of the wraparound includes payments due on the existing loan and the holder must forward the appropriate portion of each payment to the existing note holder. Often used to avoid a PREPAYMENT PENALTY or a DUE ON SALE CLAUSE. Can refer to a wraparound DEED OF TRUST or CONTRACT FOR DEED.

ZONING Regulation of private land use and development by local government.