

- A -

**Abstract of Title** — A condensed history or summary of all transactions affecting a particular tract of land.

**Access** — The right to enter and leave a tract of land from a public way. Can include the right to enter and leave over the lands of another.

**Accretion** — The slow build-up of lands by natural forces such as wind or water.

**Acknowledgment** — The act by which a party executing a legal document goes before an authorized officer or notary public and declares the same to be his or her voluntary act and deed.

**Acre** — A tract of land 208.71 feet square and containing 43,560 square feet of land.

**Administrator** — A person appointed by a probate court to settle the affairs of an individual dying without a will. The term is "administratrix" if such a person is a woman.

**Adverse Possession** — A claim made against the lands of another by virtue of open and notorious possession of said lands by the claimant.

**Affidavit** — A sworn statement in writing.

**Agent** — A person or company that has the power to act on behalf of another or to transact business for another, e.g., a title agent under contract with Old Republic Title to issue policies of title insurance.

**Air Rights** — The right to ownership of everything above the physical surface of the land.

**ALTA** — American Land Title Association, a national association of title insurance companies, abstractors and attorneys specializing in real property law. Its headquarters are in Washington, D.C.

**Appurtenance** — Anything so annexed to land or used with it that it will pass with the conveyance of the land.

**ARM** — Adjustable Rate Mortgage. See "**Variable Rate Mortgage.**"

**Assessment** — The imposition of a tax, charge or levy, usually according to established rates.

**Assessor** — A public official who evaluates property for the purpose of taxation.

**Assignee** — One to whom a transfer of interest is made. For example, the assignee of a mortgage or contract.

**Assignor** — One who makes an assignment. For example, the assignor of a mortgage or contract.

**Assumable Mortgage** — A mortgage which, by its terms, allows a new owner to take over its obligations.

**Attachment** — Legal seizure of property to force payment of a debt.

**Attorney in Fact** — One who holds a power of attorney from another allowing him or her to execute legal documents such as deeds, mortgages, etc., on behalf of the grantor of the power.

## - B -

**Balloon Mortgage** — A mortgage that is amortized over a specific period of years, but requires a lump sum payment in full at an earlier date.

**Bankruptcy** — A federal court proceeding in which debtors are relieved of liability for their debts after surrender of their assets to a court appointed trustee .

**Bureau of Land Management** — The branch of government in charge of surveying and managing public lands.

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## - C -

**C & R ' s** — Covenants, Conditions and Restrictions.

See "**Conditions and Restrictions** ."

**Chain** — A term of land measurement that is 66 feet in length.

**Chain of Title** — A term applied to the past series of transactions and documents affecting the title to a particular parcel of land.

**Clear Title** — One which is not encumbered or burdened with defects.

**Closing** — Also known as "escrow" or "settlement." The process of executing legally binding documents, such as deeds and mortgages most commonly associated with the purchase of real estate and the borrowing of money to assist in the purchase .

**Clouded Title** — An encumbered title.

**Commitment to Insure** — A report issued by a title insurance company, or its agent, committing the title insurance company to issue the form of policy designated in the commitment upon compliance with and satisfaction of requirements set forth in the commitment.

**Common Interest Community (CIC)** — Ownership characterized by mutual ownership of common areas, either jointly or through membership in an association, e.g., condominiums, planned unit developments, and townhomes.

**Company Loan** — Loan by employer to facilitate relocation of employee. Usually short term .

**Condemnation** — Taking private property for public use through court proceedings .

**Condition or Conditions** — A proviso in a deed or will that, upon the happening or failure to happen of a certain event, limits, enlarges, changes or terminates the title of the purchaser or devisee.

**Conditions and Restrictions** — A common term used to designate conditions and restrictions on the use of land. Includes penalties for failure to comply. Commonly used by land subdividers on newly platted areas.

**Condominium** — A system of individual fee ownership of units in a multi-unit structure, combined with joint ownership of common areas of the structure and land.

**Conservator** — See "**Guardian** . "

**Contract for Deed** — An agreement to sell and purchase under which title is held as security by the seller until such time as the required payments to the seller have been completed.

**Convey** — The act of deeding or transferring title to another.

**Conveyance** — An instrument by which title is transferred; a deed. Also, the act of transferring title.

**Cooperative** — A residential multi-unit building owned by a corporation in which each unit is occupied by a member of the corporation pursuant to a lease or occupancy agreement .

**Covenant** — An agreement written into deeds and other instruments promising performance or non-performance of certain acts, or stipulating certain uses or non-uses of the property.

**Cul-de-Sac** — The terminus of a street or alley. Usually laid out by modern engineers to provide a circular turn around for vehicles.

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## - D -

**Deed** — A written document by which the ownership of land is transferred from one person to another.

**Deed of Trust** — See "**Mortgage.**"

**Delivery** — The final and absolute transfer of a deed from seller to buyer in such a manner that it cannot be recalled by the seller. A necessary requisite to the transfer of title.

**Devise** — The disposition of real property by will.

**Due on Sale Clause** — Provision in a mortgage or deed of trust which requires loan to be paid in full if property is sold or transferred.

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## - E -

**Earnest Money** — Advance payment of part of the purchase price to bind a contract for property.

**Easement** — An interest in land owned by another that entitles its holder to a specific limited use, such as laying a sewer, putting up electric power lines, or crossing the property.

**Egress** — The right to leave a tract of land. Often used interchangeably with "**access.**"

**Eminent Domain** — The power of the state to take private property for public use upon payment of just compensation.

**Encroachment** — A trespass or intrusion onto another's property, usually by a structure, wall or fence.

**Encumber** — To burden a parcel of land with a lien or charge, e.g., a mortgage.

**Encumbrance** — A lien, liability or charge upon a parcel of land.

**Escheat** — A reversion of property to the state in those cases where an individual dies without heirs or devisees, and, in some states, without a will.

**Escrow** — A procedure whereby a disinterested third party handles legal documents and funds on behalf of a seller and buyer, and delivers them upon performance by the parties.

**Estate** — A person's possessions. The extent of a person's interest in real property.

**Examination of Title** — The investigation and interpretation of the record title to real property based on the title search or abstract.

**Exception** — In legal descriptions, that portion of land to be deleted or excluded. The term often is used in a different sense to mean an objection to title or encumbrance on title.

**Executor** — A person appointed by the probate court to carry out the terms of a will. The term is "executrix" if that person is a woman.

**Extended Mortgage** — One in which the due date of a mortgage is extended for a longer period, often at a higher interest rate than the original mortgage.

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## - F -

**Fannie Mae** — Federal National Mortgage Association (also FNMA) is a private corporation, federally chartered to provide financial products and services that increase the availability and affordability of housing by purchasing mortgage loans.

**Fee Simple Estate** — The greatest interest in a parcel of land that it is possible to own. Sometimes designated simply as "Fee."

**Federal Housing Administration (FHA) Guarantee** — An insurance contract in which HUD through FHA insures that the named lender will recover a specific percentage of the loan amount from the insurer (FHA) in the event that the loan goes bad.

**Financing Statement** — A document filed with the Register of Deeds or Secretary of State securing the title to personal property.

**Fixtures** — Any item of property so attached to real property that it becomes a part of the real property.

**Flood Certification** — A common term for a Federal Emergency Management Agency (FEMA) Standard Flood Hazard Determination Form (SFHDF). This determines whether land or a building is located within a Special Flood Hazard Area for purposes of flood insurance requirements under the National Flood Insurance Program.

**Forfeiture of Title** — Provision in a deed creating a condition which will cause title to be passed to another should certain circumstances occur.

**Freddie Mac** — Federal Home Loan Mortgage Corporation (also FHLMC) is a stockholder owned corporation chartered by Congress that purchases mortgage loans.

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## - G -

**Ginnie Mae** — Government National Mortgage Association (also GNMA) is a wholly-owned United States corporation that guarantees privately issued securities backed by pools of mortgages insured by FHA (Federal Housing Administration), FMHA (Farm e r s Home Administration) or VA (Veterans Administration).

**Graduated Payment Mortgage** — A loan in which monthly payments are relatively small in the beginning and gradually increase in dollar amount over the life of the mortgage.

**Grantee** — A person who acquires an interest in land by deed, grant, or other written instrument.

**Grantor** — A person, who, by a written instrument , transfers to another an interest in land.

**Guardian** — One appointed by the court to administer the affairs of an individual not capable of administering his or her own affairs.

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## - H -

**Harbor Line** — An arbitrary line set by authorities on navigable rivers, beyond which wharves and other structures may not be built. Also designated as line of navigation.

**Heir** — One who might inherit or succeed to an interest in land of an individual who dies without leaving a will (intestate).

**Hiatus** — A gap or space unintentionally left, when attempting to describe adjoining parcels of land.

**Home Equity Conversion Mortgage** — A reverse or reverse annuity mortgage in which HUD through FHA guarantees that the borrower will receive monthly payments from the insurer (FHA) in the event the lender is unable to make payments to the borrower.

**Home Repair Loan** — Used for repairs and additions to existing structures without affecting existing mort g a g e . Typically 10 years or less in length.

**HUD 1** — A form settlement (closing) statement required by the U.S. Department of Housing and Urban Development (HUD) where federally related mortgages are being made on residential properties. It is a balance sheet showing the source of funds and the distribution of funds in connection with the purchase and/or mortgaging of residential property.

- I -

**Improvements** — Those additions to raw lands tending to

**Inchoate Dower** — The imperfect interest which the law gives a wife in the lands of her husband. This is an interest which upon the death of the husband may ripen into possession and use. Most states have abolished dower rights.

**Inchoate Curtesy** — The imperfect interest which the law gives a husband in the lands of his wife. This is an

**Indemnify** — To make payment for a loss.

**Ingress** — The right to enter a tract of land. Often used

**Insurance** — A contract of indemnity against specified perils.

**Insurance Loan** — When cash value of a life insurance policy is borrowed by the insured.

**Interim Financing** — Temporary or short term loans. Often used with new construction. Usually replaced with a permanent long-term mortgage.

**Intestate** — Designates the estate or condition of failing to leave a will at death. "To die intestate."

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- J -

**Joint Tenancy** — An estate where two or more persons hold real estate jointly for life, the survivors to take the

**Judgment** — A decree of a court. In practice this is the lien or charge upon the lands of a debtor resulting from the Court's award of money to a creditor.

See "**Judgment Lien.**"

**Judgment Docket** — The record book of a County Clerk where a judgment is entered in order that it may become a lien upon the property of the debtor.

**Judgment Lien** — The charge upon the lands of a debtor resulting from the decree of a court properly entered into the judgment docket.

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- L -

**Land Contract** — See "**Contract for Deed .**"

**Landmark** — Any conspicuous object that helps establish land boundaries.

**Lease** — A grant of the use of lands for a term of years in consideration of the payment of a monthly or annual rental.

**Lender's Policy** — A form of title insurance policy which insures the validity, enforceability and priority of a lender's lien. This form does not provide protection for the owner.

**Lessee** — One who takes lands upon a lease.

**Lessor** — One who grants lands under a lease.

**Lien** — A hold, claim, or charge allowed a creditor upon the lands of a debtor. Some examples are mortgage liens, judgment liens, mechanics' liens.

**Life Estate** — A grant or reservation of the right of use, occupancy and ownership for the life of an individual.

**Link** — A term of land measurement being 1/100th of a chain or 66/100ths of a foot.

**Lis Pendens** — A notice recorded in the official records of a county to indicate that a suit is pending affecting the lands where the notice is recorded.

**Loan Policy** — See " **Lender's Policy** ."

**Loss Payable Clause** — Provision added to a Fire and Casualty Policy which says any loss will be paid to two or more parties as their interest may appear. Usually the owner and the mortgage lender.

**Lot** — A part of a subdivision or block having fixed boundaries ascertainable by reference to a plat or survey.

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## - M -

**Majority** — The age at which a person is entitled to handle his or her own affairs.

**Marketable Title** — A good title about which there is no fair or reasonable doubt.

**Mechanic's Lien** — A lien allowed by statute to contractors, laborers and material suppliers on buildings or other structures upon which work has been performed or materials supplied.

**Metes and Bounds** — A description of land by courses and distances.

**Minor** — One who because of insufficient age or status is legally incapable of making contracts.

**Monument of Survey** — Visible marks or indications left on natural or other objects indicating the lines and boundaries of a survey. May be posts, pillars, stones, cairns, and other such objects. May also be fixed natural objects, blazed trees, roads and even a water course.

**Mortgage** — An instrument used to encumber land as security for a debt.

**Mortgage-Backed Security** — A security evidencing either the ownership of an interest in a mortgage loan or pools of mortgage loans, or a separate obligation secured by a mortgage loan or pool of mortgage loans.

**Mortgage Banker** — A specialized lending institution that lends money solely with respect to real estate and secures its loans with mortgages on the real estate.

**Mortgage Broker** — A person or company that buys and sells mortgages for another on commission or who arranges for and negotiates mortgage contracts.

**Mortgage Revenue Bonds** — Issued by communities as a means of providing lower cost mortgage funds to certain qualified borrowers.

**Mortgagee** — The mortgage lender.

**Mortgagee's Policy** — See "Lender's Policy ."

**Mortgagor** — The mortgage borrower.

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## - N -

**Negative Amortization** — An actual increase in the principal amount of real estate loan because of the addition of matured but unpaid interest to the loan balance. Usually the result of monthly payments which are temporarily set at a lower than needed level.

**Notary** — One authorized to take acknowledgments.

See "Acknowledgment."

**Note** — The instrument evidencing the indebtedness secured by a security instrument such as a mortgage or deed of trust.

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## - O -

**Owner's Policy** — A policy of title insurance which

**Ownership** — The right to possess and use property to the exclusion of others.

## - P -

**Patent** — A document or grant by which the federal or state government originally transferred title to public lands to an individual. The first in the series of transfers by which title comes down to present owners.



**Personal Representative** — A person appointed by the probate court to administer a decedent's estate.

See also "**Executor**" or "**Administrator**."

**Plat or Plot** — A map representing a piece of land subdivided into lots with streets shown there on.

**P.M.I.** — Private Mortgage Insurance. An insurance contract which insures that the named lender will re cover a specific percentage of the loan amount from the insurer in the event the loan goes bad. Many lenders require this on higher percentage loans.

**Points** — A one-time special fee or extra charge paid to a lender in order to secure a loan. Expressed as a percentage of face amount of mortgage.

**Policy** — A written contract of title insurance.

**Policy Owner** — The insured on a title insurance policy.

**Power of Attorney** — An instrument authorizing another to act on one's behalf as his or her agent or attorney.

**Power of Sale** — A clause in a will, mortgage, deed of trust or trust agreement authorizing the sale or transfer of land in accordance with the terms of the clause.

**Prorate** — To allocate between seller and buyer their proportionate share of an obligation paid or due. For example, a proration of real property taxes or fire insurance premiums.

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- Q -

**Quiet Title** — An action in a proper Court to remove record defects or possible claims of other parties named in the action.

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- R -

**Range** — A part of the government survey, being a strip of land six miles in width, and numbered east or west of the principal meridian.

**Real Property** — Land, together with fixtures, improvements and appurtenances.

**Realtor®** —A federally registered collective membership mark which identifies a real estate professional who is a member of the National Association of Realtors ® a n d subscribes to its strict Code of Ethics.

**Realty** — A brief term for real property.

**Redeem** — Literally "to buy back." The act of buying back lands after a mortgage foreclosure, tax foreclosure, or other execution sale.

**Registered Land** — See " **Torrens Title** ."

**Reinsurance** — To insure again by transferring to another insurance company all or part of an assumed liability, thus spreading the loss risk any one company has to carry.

**REIT** — Real Estate Investment Trust. A product of federal tax legislation formed as a business trust, under a special state REIT statute or as a corporation for the purpose of investing in real estate or mortgages on real estate.

**REMIC** — Real Estate Mortgage Investment Conduit. A product of 1986 federal tax legislation in which a business entity such as a corporation, partnership, or trust in which substantially all of the assets consist of qualified mortgages and permitted investments, elects to be treated as a REMIC. Qualification avoids treatment as a corporation for tax purposes.

**Reverse or Reverse Annuity Mortgage** — A mortgage for which the borrower pledges home equity in return for regular (monthly) payments, rather than a lump sum distribution of loan proceeds. Repayment is usually not required until the home is sold or the borrower's estate is settled, provided the borrower continues to live in the home and keeps current all taxes and insurance.

See also "**Home Equity Conversion Mortgage**."

**Right - of - Way** — The right which one has to pass across the lands of another. An easement.

**Riparian** — Rights to use of water and waterways in adjoining lakes or rivers.

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## - S -

**Second Mortgage** — A second loan on real estate that a l ready has a mortgage. It is subordinate to the first mortgage. Usually of shorter term and often at a higher interest rate.

**Section or Section of Land** — A parcel of land comprising one square mile or 640 acres.

**Set Back Lines** — Those lines which delineate the required distances for the location of structures in relation to the perimeter of the property.

**Sub-surface Right** — The right of ownership to things lying beneath the physical surface of the property.

**Survey** — The process of measuring land to determine its size, location and physical description and the resulting drawing or map.

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## - T -

**Tenancy by the Entirety** — Ownership by married persons where each owns the entire estate, with the survivor taking the whole upon the other's death.

**Tenancy in Common** — An estate or interest in land held by two or more persons, each having

equal rights of possession and enjoyment, but without any right of succession by survivorship between the owners.

**Tenant** — Any person occupying real property with the owner's permission.

**Testament** — Another term for a will. Commonly referred to as "last will and testament."

**Testate** — The estate or condition of leaving a will at death. "To die testate."

**Testator** — A man who makes or has made a testament or will.

**Testatrix** — A woman who makes or has made a testament or will.

**Title** — The evidence of right which a person has to the ownership and possession of land. Commonly considered as a history of rights.

**Title Defect** — Any legal right held by others to claim property or to make demands upon the owner.

**Title Insurance** — Insurance against loss or damage resulting from defects or failure of title to a particular parcel of real property.

**Title Plant** — The total facilities — records, equipment, fixtures, and personnel — required to function as a title insurance operation. Technically, the organization of official records affecting real property into a system which allows quick and efficient recovery of title information.

**Title Search** — An examination of public records, laws, and court decisions to disclose the current facts regarding ownership of real estate.

**Torrens Title** — A system whereby, after court proceedings, a certificate is issued setting forth the extent of the applicant's estate in land subject to the exceptions shown. Most popular in the early 1900's, the system was adopted in 19 states. It is presently used only in parts of six states.

**Township** — A division of territory six miles square, containing 36 sections or 36 square miles.

**Tract** — A particular parcel of land.

**Trust** — A property right held by one as a fiduciary for the benefit of another.

**Trustee** — A person holding property in trust as a fiduciary for the benefit of another.

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- U -

There are no items in this category.

- V -

**VA Guarantee** — An insurance contract in which the Veterans Administration (VA) insures that the named lender will recover a specific percentage of the loan amount from the insurer in the event the loan goes bad.

**Variable Rate Mortgage** — A loan in which the interest rate fluctuates with the cost of funds or some other index.

**Vendee** — A purchaser of real property under land contract.

**Vendor** — A seller of real property under land contract.

**Vest** — To pass to a person an immediate right or interest. Title may be said to vest in John Smith.

**Vestee** — A nonlegal term used by title insurers to indicate the owner of real property in a policy or report.

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## - W -

**Warranty** — A promise by the grantor of real property that he or she is the owner and will be responsible to the buyer if title is other than as represented.

**Will** — A written document providing for the distribution of property owned by a person after his or her death.

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## - Z -

**Zoning** — The right of a municipality to regulate and determine the compatible character and use of property.

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## - Note -

The terms contained in this booklet are defined in their most commonly used form. Should more precise interpretations of these terms be necessary, we advise you to seek the counsel of an attorney.