

REAL ESTATE DEFINITIONS

Abandon - To give up rights, property, or a family relationship by desertion without intention to return or reclaim.

Abstract (of Title) - A historical summary of all the recorded transactions that affect the title to the property. An attorney or a title company will review an abstract of title to determine if there are any problems affecting the title to the property. All such problems must be cleared before the buyer can be issued a clear and insurable title.

Acceleration Clause - A loan provision giving the lender the power to declare all sums owing lender immediately due and payable upon the violation of a specific loan provision, such as the sale of the property, or the failure to make loan payments on time.

Example: John sells his property to Mary who takes over John's mortgage payments. They do not notify the lender of this transaction. The lender finds out that the title to the property has transferred and calls the loan, since the loan document states that the loan is due on the sale of the property. John is now liable to pay his lender in full.

Accretion - The addition to land through natural forces like wind or water.

Example: deposit of soil carried by a river

Acknowledgment - Formal declaration before a public official (typically a Notary Public) that one has signed a document. Required before recording real estate legal documents, such as a deed of trust.

Acre - A measure of land equal to 43,560 square feet.

Adjustable Rate Mortgage (ARM) - Also known as a variable rate mortgage. The interest rate on these mortgages changes periodically.

Adjustment Period - This is the length of time for which the interest rate is fixed on an adjustable. Therefore if the adjustment period is six months, then the interest rate will remain fixed for six months, after which time it will adjust.

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 titled to another person based on open, notorious and hostile possession and use of the land to the exclusion of the titled owner.

Affiant - A person who swears and signs an affidavit.

Affidavit - A written and signed statement sworn under oath.

agency - A legal relationship between two or more persons whereby one person (the agent) is authorized to act on behalf of the other(s).

agent - One who represents, does business for, or acts on behalf of another with the other's permission.

Agent - Generally, someone who acts on behalf of another for a fee. In real estate, the term refers to a person with a real estate license who works under the authority of a real estate broker.

Agreement of Sale - A written signed agreement between the seller and the purchaser in which the purchaser agrees to buy certain real estate and the seller agrees to sell upon terms of the agreement. Also known as contract of purchase, purchase agreement, offer and acceptance, earnest money contract or sales agreement.

Air Rights - The right to the air space above the real property.

Amend - To revise, change, or alter.

Amortization - A gradual paying off of a debt by periodic installments which pay principal and interest.

Annual Percentage Rate – APR - The effective rate of interest for a loan per year. This rate is typically higher than the note rate because it takes into account closing costs. This is one way to compare loan programs offered by different lenders. Caution: the APR is sometimes computed differently by different lenders and can be misleading.

Annuity - The return from an investment of capital, with interest, in a series of regular payments. An entity that lends money collects an annuity from the borrower, while the borrower is amortizing the loan.

Appraisal - An opinion or estimate of the value of a property at a given date.

Appreciation - Increase in value of a property, not including increases from improvements.

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

Arm's length transaction - A transaction among parties each of whom acts in his/her own best interest.

Example: A transaction between a father and his son would NOT be an Arm's length transaction

Arrears - The amount of debt that is overdue or unpaid.

Assessment - A local tax levied against a property for a specific purpose such as streetlights.

Asset - Anything of value that could be used, directly or indirectly, to pay a debt.

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.

Assignment clause - A sales contract with an assignment clause allows the buyer to transfer the interest in the property (e.g. the right to buy it at the given rates and terms) to another party.

Assignor - The one who assigns to another person.

Assumable Mortgage - A mortgage loan, which allows a new home buyer to take over the obligation of making loan payments with no change in the terms of the loan. Assumable loans do not have a due-on-sale clause. The lender has to be notified and agree to the assumption. The lender may require the buyer to qualify for the loan and may charge an assumption fee. The seller should obtain a written release from the lender stating clearly that he/she is no longer liable to make mortgage payments. See also "Subject To".

Assumption - The process of taking over the existing mortgage and assuming liability for the payments when purchasing a property. If the purchaser defaults, both buyer and seller are responsible for repaying the debt.

Attest - To certify the signatures on a document by signing the document as a witness.

Attorney In Fact - One who is authorized to act for another under a power of attorney which may be general or limited in scope.

Example: John wants to sell his house but has to be out of the country for 4 months. John gives authorization to Mary to sign the grant deed to sell the property to a buyer. Mary becomes John's Attorney In Fact.

Back ratio - Ratio of monthly housing costs (principal, insurance, taxes, and interest) plus regular monthly payments to gross monthly income used by lender to evaluate an applicants qualification for a loan. Lenders will typically allow a back ratio between 32 and 45 percent.

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.

Example: A balloon mortgage for \$25,000 has interest only payments for 5 years at 12% (\$250 per month), with the full principal of \$25,000 due and payable after 5 years.

Bankruptcy - The financial inability to pay one's debts when due. The debtor surrenders his assets to the bankruptcy court. An individual typically files for Chapter 7 (all debts wiped out) or Chapter 13 (establishes a payment plan to pay off debts). A bankruptcy stays on an individual's credit report for 7 years.

Benchmark - A permanent reference mark for surveyors.

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

Example: The lender is named as the beneficiary on a mortgage loan.

Example: John has a life insurance policy for \$100,000 with Jane as his beneficiary. Should John die - Jane will receive the benefits i.e. \$100,000

Bequeath - To leave personal property to someone by will; to make a bequest

Bid - An offer

Binder - Definition #1: 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.

Definition #2: Preliminary agreement, normally secured with earnest money, between a buyer and a seller as an offer to purchase real estate.

BI-weekly Mortgage - A mortgage which requires 1/2 the normal monthly payment every two weeks. Over the course of the year, 26 half payments are made which is equivalent to 13 full mortgage payments. As a result of this extra payment the loan amortizes much faster than a loan with normal monthly payments.

Blanket Mortgage - A mortgage covering more than one piece of property.

Example: A developer subdivides a tract of land into lots and obtains a blanket mortgage on the whole tract.

Bond

1. A debt instrument in the capital markets. The U.S. government, corporations and municipalities use bonds to raise money. Bonds can also be backed by mortgages. The best known bond is the 30-year Treasury bond issued by the U.S. government.

2. A sum of money given to a court to guarantee against a loss, for example if there is a lien on a property, the owner may remove the lien by posting a bond.

Book value - The value of an asset as shown in the financial records of an individual or corporation.

Borrower (Mortgagor) - One who applies for a loan secured by real estate and is responsible for repaying the loan (mortgage).

Breach - Failure to perform on a promise made in contract without legal excuse.

Bridge Loan - An interim loan typically used when the buyer is unable to sell his/her house but needs money to close the transaction on the house he/she is buying. The bridge loan is made on the buyers current residence to finance the buyers new residence. The loan is paid off when the buyers current residence is sold.

Broker - See Real Estate Broker or Mortgage Broker.

Building Line or Setback - Distances from the ends and/or sides of the lot beyond which construction may not extend. The building line may be established by a filed plat of subdivision, by restrictive covenants in deeds or leases, by building codes, or by zoning ordinances.

Buy Down - Obtaining a lower interest rate (buying down the rate) by paying additional points to the lender. The lower rate may apply for the full duration of the loan or for just the first few years. A buy down may be used to qualify a borrower who would otherwise not qualify. This is because a buy down results in lower payments, which are easier to qualify for.

Example: A very popular buy down is the 2-1 buy down. If the interest rate on the note is 9%, the buy down results in the rate being 7% (9%-2%) for the first year, 8% (9%-1%) for the second year, and 9% thereafter.

Buy-back agreement - An agreement specifying conditions under which the seller agrees to repurchase the property, usually for a stated price and within a stated time limit.

Buyers Broker - An agent hired by a buyer to locate a property for purchase. The broker represents the buyer and negotiates with the seller's broker for the best possible deal for the buyer.

Buyers Market - Market conditions that favor buyers i.e. there are more sellers than buyers in the market. As a result buyers have ample choice of properties and may negotiate lower prices. Buyers markets may be caused by an economic slump or overbuilding.

Bylaws - A set of regulations by which an organization conducts its business.

Example: A condominium association prepares bylaws that state the minimum number of owners to conduct a meeting to decide policies.

Capital Gains - Profit earned from the sale of real estate. A seller may defer taxes on the capital gain of his/her primary residence by buying a higher priced residence within 2 years.

CAPS (interest) - Consumer safeguards that limit the amount the interest rate on an adjustable rate mortgage may change per year and/or over the life of the loan.

CAPS (payment) - Consumer safeguards that limit the amount monthly payments on an adjustable rate mortgage may change.

Cash Flow - 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 - A legal term meaning "let buyer beware". The buyer must examine the property and buy at his/her own risk. Example: A property may be offered in an "as is" condition with no expressed or implied guarantee of quality or condition.

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.

CC&R's (Covenants, conditions, and restriction) - The basic rules establishing the rights and obligations of owners of real property within a condominium, townhouse, PUD, subdivision or other tract of land. An association is organized for the purpose of operating and maintaining property commonly owned by the individual owners. The association is normally made up of property owners.

Certificate of Eligibility - The document issued by the Veterans Administration to those that qualify for a VA loan, which may be used to buy a house with 0 down. Certificates of eligibility may be obtained by sending the form DD-214 to the local VA office along with VA form 1880.

Certificate of Occupancy - Document issued by a local governmental agency that states a property meets the local building standards for occupancy and is in compliance with public health and building codes. A lender prior to closing the loan normally requires this document.

Certificate of Reasonable Value (CRV) - An appraisal performed by a VA approved appraiser which establishes the property's current market value. This value establishes the ceiling on the maximum VA mortgage loan principal.

Certificate of Title - An opinion rendered by an attorney as to the status of title to a property, according to the public records. This certificate does not the same level of protection as title insurance.

Chain of Title - The chronological order of conveyance of a parcel of land from the original owner to the present owner.

Example: An abstractor can research title to property going back to the date that the property was granted to the United States.

Chattel - Personal, tangible, moveable property.

Clear Title - A marketable title, free of clouds and disputed interests. Most lenders require a clear title prior to closing.

Closing - 1. The act of transferring ownership of a property from seller to buyer in accordance with a sales contract.
2. The time at which a closing takes place.

Closing Costs - Expenses incurred by the buyer and seller in a real estate or mortgage transaction. There are two types of costs: **recurring and non-recurring.**

Non-recurring costs are one-time transactional costs that include:

- Discount and origination points
- Lender fees - underwriting, processing, document preparations, flood certificate, tax service, wire transfer, courier, etc.
- Title insurance fees
- Escrow, attorney or closing agent fees
- Recording fees
- Inspection and appraisal fees
- Real estate brokerage commissions

Recurring fees are costs associated with owning the property and they recur month after month. These costs may include hazard insurance, interest, property taxes, mortgage insurance (PMI), and association fees. A pro-rated amount of these fees may have to be paid at closing including:

- Pre-paid interest - interest charges from the date of closing to the end of the month
- Property taxes if due
- Hazard insurance, fire insurance or homeowner's insurance has to be paid for one year
- Mortgage insurance (PMI) - may be required if the loan amount is more than 80% of the value of the property. In the past a whole year of PMI had to be paid up front, however in recent years many PMI companies only require 1-2 months up front. Mortgage insurance premiums are normally paid every month with the loan payment
- Impound account may need money to be set up for future payments

Cloud on Title - An outstanding claim or encumbrance that, if valid, would affect or impair the owner's title. Compare with clear title.

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.

Commitment - A written document provided by a lender to agreeing to make a loan on specific terms to a borrower or builder.

Community Property - A principle recognized in some states whereby property that was acquired by a husband or wife during marriage to each other becomes property of both. Inheritances and gifts are often exempt.

Comparative market analysis - A comparison a sale prices of similar properties in a given area for the purpose of determining the fair market value of a property.

Condemnation - 1. Taking private property for a public use with compensation to the owner under eminent domain. Used by governments to acquire land for streets, schools, freeways, etc and by utilities to acquire necessary property. 2. Declaring a structure unfit for use because of violations in housing codes or other reasons.

Conditional Commitment - A written document provided by a lender agreeing to make a loan provided certain conditions are met prior to closing.

Condominium - Individual ownership of a dwelling unit and an individual interest in the common areas and facilities which serve the multi-unit, project

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: mentally incompetent, minors and incarcerated persons.

Consideration - Anything of value given to induce another to enter into a contract. Earnest money deposit on a sales contract is consideration.

Construction loan - A short term loan to pay for the construction of buildings or homes. These loans typically provide periodic disbursements to the builder as each stage of the building is completed. When construction is completed a take-out or permanent loan is used to pay off the construction loan.

Contingency - Conditions, which must be satisfied before the buyer, can close the purchase of a property. Contingencies are generally outlined in the purchase contract between the buyer and seller.

Example: The buyer has 14 days to remove the property contingency under the sales contract. In this case the buyer has 14 days to inspect the property and request the seller to perform repairs. If the buyer is not satisfied with the condition of the property or if the buyer and the seller cannot agree on repairs, the buyer may back out of the contract with no penalty. After 14 days the buyer no longer has the right to back out with no penalty as a result of a problem with the condition of the property.

Contract - An agreement between competent parties to do or not do certain things for consideration.

Example: To have a valid contract for the sale of real estate there must be:

1. An offer
2. An acceptance
3. Competent parties
4. Consideration
5. Legal purpose
6. Written documentation
7. Description of the property
8. Signatures by principals or their attorney-in-fact

Contract of Sale - Same as the Agreement of Sale

Contract sale or deed - A real estate installment selling arrangement where the buyer may occupy the property but the seller retains the title until the agreed upon sales price has been paid. Also known as an installment land contract.

Example: John sells Mary a house. Mary has to put \$10,000 and pay \$1,000 per month for 24 months, after which time she will receive title to the property.

Conventional Loan - Any mortgage loan other than a VA or a FHA loan. A convention loan may be conforming or non-conforming.

Convertible ARM's - Some variable loans come with options to convert them to a fixed loan based on a pre-determined formula, during a given time period. For example the 1-year t-bill adjustable may be converted to a fixed during the first five years on the adjustment date. The means that you could convert the loan during the 13th, 25th, 37th, 49th and 61st months of the loan.

Conveyance - The transfer of title of real from one party to another

Co-op – cooperative - An apartment building or a group of dwellings owned by a corporation, the stockholders of which are the residents of the dwellings. It is operated for their benefit by their elected board of directors. In a cooperative, the corporation or association owns title to the real estate. A resident purchases stock in the corporation, which entitles him to occupy a unit in the building or property, owned by the cooperative. While the resident does not own his unit, he has an absolute right to occupy his unit for as long as he owns the stock.

Co-ownership - The time at which two or more people are sharing ownership of a property. Can be an important issue in matters such as personal liability or inheritance.

Corporation - An association of one or more shareholders having its own legal entity separate from the individual shareholders.

Co-signer - A person who assumes joint liability with another person by signing documents (e.g. loan promissory note). A co-signer is not necessarily a co-owner.

Cost Of Funds Index (COFI) - An index of the interest cost that a financial institution must pay for the use of money.

Counteroffer - A rejection of an original offer, combined with a new offer stating different terms and conditions.

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 detailing a borrower's credit history including payment history on revolving accounts (eg. credit cards) and installment accounts (e.g., car loan). A credit report also includes information found from public records including tax liens and judgments.

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 or her net effective income (FHA/VA loans) or gross monthly income (conventional loans).

Deed - A written document by which title to real property is transferred from one owner to another. The deed should contain an accurate description of the property being conveyed, should be signed and witnessed according to the laws of the State where the property is located, and should be delivered to the buyer at closing.

Deed of Trust - Used in many states in lieu of a mortgage to secure the payment of a note. In a deed of trust there are three parties - the borrower, the trustee, and the lender, (or beneficiary). In such a transaction, the borrower transfers the legal title for the property to the trustee who holds the property in trust as security for the payment of the debt to the lender or beneficiary. If the borrower pays the debt as agreed, the deed of trust becomes void. If, however, he/she defaults in the payment of the debt, the trustee may sell the property without a court proceeding.

Deed Restriction - A clause in a deed that limits the use of land.

Example: A deed might require that a road couldn't be built on the land.

Default - Failure to meet legal obligations in a contract - such as the failure to make the monthly mortgage payment.

Defective Title - Any recorded instrument that would prevent a grantor/seller from giving a clear title.

Example: The seller has a contractor lien on the property that was filed when he/she failed to pay the contractor for the kitchen remodel. The seller may obtain clear title by paying the contractor and removing the lien.

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.

Deficiency Judgment - Personal claim against the debtor when the sale of foreclosed property does not yield sufficient proceeds to pay off the mortgages, accrued interest, legal fees, etc.

Delinquency - Failure to make payments on time, this can lead to foreclosure.

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.

Department of Veterans Affairs - An independent agency of the federal government, which guarantees long-term, low-or no-down payment mortgages to eligible veterans.

Depreciation - Decline in the value of a house due to wear and tear, obsolescence, adverse changes in the neighborhood, or any other reason.

Disclosure - A statement of fact(s) is concerning to the condition of the property for sale and the surrounding area. In most states, the buyer is protected by disclosure laws requiring sellers to divulge certain information about the property, e.g. if the property is in a special studies zone.

Discount Points - Fees paid to a lender to reduce the interest rate.

Documentary Tax Stamps - Stamps affixed to a deed showing the amount of transfer tax.

Dower - The rights of a widow or child to part of a deceased husband's or fathers property.

Down payment - The amount paid for the purchase of a property in addition to the mortgage, but not including any closing costs.

Example: John buys a house for \$100,000 and obtains a loan for \$80,000. His down payment is \$20,000.

Dragnet Clause - A provision in a mortgage that pledges several properties as collateral, default in the mortgage could lead to foreclosure proceedings on any of the properties in the dragnet.

Dual agency - A situation where one broker represents both the buyer and seller in a purchase, although there may be two separate agents involved both acts on behalf of the same broker. In order to have dual agency representation, both parties must be made aware of and agree to the relationship.

Due on Sale Clause - A clause in the Deed of Trust or Mortgage that states that the entire loan is due upon the sale of the property

Earnest Money - A deposit made by a buyer of real estate towards the down payment to evidence good faith. This money is typically held by the real estate brokers or the escrow company.

Easement - The right to use the land of another for a specific purpose, easements may be temporary or permanent.

Example: The utility company may need an easement to run electric lines.

Eminent Domain - The right of the government or a public utility to acquire property for necessary public use by condemnation, with proper compensation to the owner

Encroachment - A building, a part of a building, or an obstruction (e.g.. a fence or a wall) that physically intrudes upon or overlaps into the property of another

Encumbrance - A legal right or interest in land that affects a good or clear title, and diminishes the land's value. It can take numerous forms, such as zoning ordinances, easement rights, claims, mortgages, liens, charges, a pending legal action, unpaid taxes, or restrictive covenants. An encumbrance does not legally prevent transfer of the property to another. A title search is all that is usually done to reveal the existence of such encumbrances, and it is up to the buyer to determine whether he wants to purchase with the encumbrance, or what can be done to remove it.

Entitlement - The VA home loan benefit is called entitlement. This entitlement is for a VA guaranteed home loan. This is also known as eligibility.

Equal Credit Opportunity Act (ECOA) - 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 – Equity = Property Value - Loans/Liens Against the property. Equity is typically expressed as a percentage of the property value.

Equity Sharing - Joint ownership of a property between the owner/occupant and the owner/investor, that results in tax advantages for both parties. Upon sale of the property the joint owners split profits based on the percentage they own.

Escheat - The reversion of property to the state in the event that the owner dies without leaving a will and has no legal heirs.

Escrow - 1. A neutral third party that handles all the funds in a real estate transaction. The buyer puts his deposit into escrow, the lender funds the loan into escrow. Escrow pays the real estate brokers commission, pays off any loans/liens against the property, pays real estate taxes and any other fee associated with the transaction and sends the balance of the money to the seller. 2. Escrow payment - see impound account.

Executor (Executrix - feminine for Executor) - A person named in a will to carry out its provisions for the disposition of the estate.

Farmer's Home Administration (FmHA) - An agency, within the U.S. Department of Agriculture, which administers assistance, programs for purchasers of homes and farms in small towns and rural areas.

Federal Home Loan Bank Board (FHLBB) - Provides financing to farmers.

Federal Home Loan Mortgage Corporation (FHLMC, Freddie Mac) - Purchase loans from members of the Federal Reserve and the Federal Home Loan Bank Systems, securities them and sells FHLMC mortgage backed securities on Wall Street.

Federal Housing Administration (FHA) - An agency within the U.S. Department of Housing and Urban Development (HUD) that administers loan programs, issues loan guarantees to make more housing available.

Federal National Mortgage Association (FNMA, Fannie Mae) - Purchases loans from lenders, securities them and sells FNMA mortgage backed securities on Wall Street.

Federal Reserve System - The central federal banking system that regulates and provides services to member commercial banks. Also has the responsibility for conducting federal monetary policy.

Fee Simple (Fee Absolute or Fee Simple Absolute) - Absolute ownership of real property; owner is entitled to the entire property with unconditional power of disposition during the owners life and upon his death the property descends to the owner's designated heirs.

FHA Loan - A loan insured by the Federal Housing Administration open to all qualified home purchasers. While there are limits to the size of FHA loans, they are generous enough to handle moderately priced homes almost anywhere in the country.

FHA Mortgage Insurance - Requires a small fee (up to 3.8 percent of the loan amount) paid at closing or a portion of this fee added to each monthly payment of an FHA loan to insure the loan with FHA. On a 9.5 percent, \$75,000, 30-year fixed-rate FHA loan, this fee would amount to either \$2,850 at closing or an extra \$31 a month for the life of the loan. In addition, FHA mortgage insurance requires an annual fee of 0.5 percent of the current loan amount, paid in monthly installments. The lower the down payment, the more years the fee must be paid.

Fidelity Bond - An assurance, generally purchased by an employer, to cover employees who are entrusted with valuable property or funds.

Example: A landlord employs a clerk who collects rents. To safeguard these funds during the collection process, the landlord purchases a fidelity bond the clerk.

Fiduciary - A person in a position of trust or responsibility with specific duties to act in the best interest of a client, a real estate broker is a fiduciary for his/her clients.

Finance Charge - Interest charged by a lender.

Firm Commitment - A promise by FHA to insure a mortgage loan for a specified property and borrower. A promise from a lender to make a mortgage loan.

Fixed Rate Mortgage - The mortgage interest rate will remain the same on these mortgages throughout the term of the mortgage for the original borrower.

First mortgage - A mortgage that has priority as a lien over all other mortgages. In the case of a foreclosure the first mortgage will be satisfied before other mortgages. See also second mortgage.

Fixture - Improvements or personal property attached to the land so as to become a part of the real estate. Fixtures are transferred to the buyer upon sale of the property. To determine whether an item is a fixture include:

Intent (was it intended to be part of the property)

How is it fixed?

Is the fixture essential to the property?

Relationship - was the fixture intended to be a part of the tenant's business?

Example: John sells his house to Mary. John wants to take the chandelier because he states it is personal property. Mary wants the chandelier to stay because she believes it is a fixture.

Flood Insurance - An insurance policy that covers property damage due to natural flooding. Flood insurance may be required on properties in a flood zone.

Forbearance - A lender's postponement of foreclosure in order to give the borrower time and an opportunity to make up for overdue payments

Foreclosure (Repossession) - A legal process by which the lender forces a sale of a property because the borrower has not met the terms of the mortgage.

Free and clear - a property that has no liens.

Front ratio - Ratio of monthly housing costs (principal, insurance, taxes and interest) to gross monthly income used by lenders to evaluate applicants' qualification for a loan. Lenders will typically allow a front ratio between 28 and 40 percent.

FSBO (For sale by owner) - A property for sale that is not listed with a real estate broker.

Fully indexed rate - The fully indexed rate = value of the index + margin. See adjustable loans.

General Warranty Deed - A deed in which the grantor (seller) agrees to protect the grantee (buyer) against any other claim to title of the property. See also warranty deed.

Government National Mortgage Association (GNMA, Ginnie Mae) - A government agency part of HUD that buys VA and FHA loans from lenders, securities them and sells Ginnie Mae securities to investors.

Grace period - The time period between the due date of a mortgage payment and the date when late charges are assessed

Example: payments due on the first of the month may have a 14 day grace period, meaning that fees will be charged if payment is not received by the fifteenth.

Graduated Payment Mortgage (GPM) - A mortgage that has lower payments initially (with potential negative amortization) which increase each year until the loan is fully amortized.

Grandfather Clause - The clause in a law permitting the continuation of a use, business, etc., which was permissible but because of a change in the law is now no longer permissible.

Grantee - That party in the deed who is the buyer or recipient.

Grantor - That party who is the seller or the giver.

Guaranteed mortgage - A mortgage that is guaranteed against default, such as a VA or FHA insured mortgage. Borrowers must pay an insurance premium in order to get a guaranteed mortgage (also called an insured mortgage).

Guaranty - A promise by one party to pay a debt or perform an obligation contracted by another if the original party fails to pay or perform according to a contract.

Hazard Insurance (Fire Insurance, Homeowner's insurance) - Insurance on a property against fire and other risks. A homeowner's policy may have additional coverage for theft, liability, etc. that a fire insurance policy may not cover.

Home Warranty Plan - Insurance that covers appliances, heating systems, etc. Typically purchased at the time of closing.

Homeowners Association - An association of homeowners in a particular subdivision, planned unit development (PUD) or condominium organized to manage the common area of the development and to enforce the association rules and regulations.

Homestead - Status provided to a homeowner's principal residence in some states that protects the home against judgements up to specified amounts.

Homestead Exemption - Available in some states - this causes the assessed value of a principal residence to be reduced by the amount of the exemption for the purposes of calculating property tax.

Example: John's principal residence is assessed at \$100,000 and the homestead exemption is \$7,000. His property taxes will be based on \$93,000.

Housing and Urban Development - An U.S. government agency established to implement certain federal housing and community development programs.

Housing Code - A local government ordinance that sets minimum standards of safety and sanitation for existing residential buildings.

HUD 1 - A closing document required by HUD that outlines the settlement cost of a loan. The closing agent prepares this document and sends it to the buyer upon closing.

HUD flood zone - An area prone to flooding, as determined by the Housing and Urban Development, a branch of the federal government.

Hypothecate - To pledge a property as security without having to give up possession of it.

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

Improvements - Additions to raw land such as buildings, streets, etc. that add value to the land

Income Approach - A method used by an appraiser to estimate the value of a property based on the income it generates.

Income Property - Real estate that generates rental income

Examples: apartment buildings, office buildings and shopping centers.

Index - A statistic that indicates some current economic or financial condition. Indexes are used to make adjustments in variable rate loans.

Ingress and Egress - The right to go in and out over a piece of property but not the right to park on it, see also Easements.

Inspection - An examination of a property or building to determine condition or quality for a particular purpose such as an assessment of structural or termite damage.

Installment Sale - See land contract.

Interest cap - A limit on the amount that the interest rate for an adjustable rate mortgage can change, regardless of how much the index changes. Most ARM's have cap on both the amount it can increase or decrease at any periodic adjustment interval and a life-long cap that limits the amount the interest rate can vary over the life of the loan. The two interest caps are sometimes called a "periodic cap" and a "life cap".

Interest rate - The percentage rate on a principal amount charged by a lender for the use of a sum of money.

Interim Financing - A construction loan made during completion of a building or a project, a permanent loan usually replaces this loan after completion

Investor - money source for a lender.

Joint and Several Liability - A creditor can demand full repayment from any and all of those who have borrowed. Each borrower is liable for the full debt, not just the prorated share.

Joint Ownership Agreement - An agreement between owners defining their rights, 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.

Joint Tenancy - Ownership of a property by 2 or more people, each of whom has an undivided interest with the right of survivorship. **Example:** John and Mary own a house in joint tenancy. Each owns half of the entire (undivided) property. If John dies, Mary will own the entire property and vice versa.

Judgement - The decision of a court of law stating that one individual is indebted to another and fixing the amount of indebtedness. Judgements, when recorded, become a lien on real property owned by the defendant.

Judgement Lien - The claim on the property of a debtor resulting from a judgement

Jumbo Loan - Loan size that is larger than the limit established by Fannie Mae or Freddie Mac

Junior lien - When a property is foreclosed, lenders are repaid in a particular order, established by the loan documents. The lender with the first claim to repayment is said to hold the first mortgage, and a lender whose repayment order is after the first claimant is said to hold a junior lien.

Junior Mortgage - A mortgage subordinate to another mortgage. In the case of a foreclosure a senior mortgage will be paid prior to a junior mortgage.

Kicker - A payment required by a mortgage in addition to normal principal and interest. Sometimes known as a participation loan.

Land Contract - real estate installment selling arrangement whereby the buyer may use and occupy land, but no deed is given by seller until the sales price has been paid.

Landlord - The owner of real property who rents or leases to another

Lease with Option to Purchase - A lease under which the lessee has the right to purchase the property. The option may run for a portion or for the full length of the lease

Leasehold Estate - Tenant's right of possession for a specific period of time under a lease agreement.

Legal Description - Legally acceptable identification of real estate by one of the following:
the government rectangular survey

Metes and bounds - recorded plat (lot and block number)

Lessee - A person to whom property is rented under a lease (Tenant)

Lessor - A person who rents property to another under a lease (Landlord)

Lien - A claim against the property for the payment of a debt, judgement, mortgages or taxes

Example: Unpaid contractors may file a mechanic's lien.

Life Estate - An estate in real property for the life of a living person the estate then reverts back to the grantor or to a third party.

Liquidated damages - Compensation paid to the seller if the buyer fails to complete the purchase even though all contingencies have been satisfied. For example, the seller may keep the buyer's earnest money in the event the buyer defaults on the contract.

Lis Pendens - Latin for "lawsuit pending." Recorded notice that litigation is pending on a property. Most lenders will require the clearance of the Lis Pendens prior to closing.

Loan Application - A document required by a lender prior to loan approval. The application includes detailed information about the borrower and the property.

Loan origination fee or points - Charge by a lender or broker connected with originating a loan. This is different from discount points, which are used to buy down the rate of interest.

Loan Servicing - The act of collecting loan payments, handling property tax and insurance escrows, foreclosing on defaulted loans and remitting payments to the investors.

Loan to Value Ratio (LTV) - The loan amount divided by the value of the property.

Maker - One who makes or signs a promissory note payable to another

Margin - A fixed number added to the index to compute the rate on an adjustable rate mortgage.

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.

Marketable Title - Title that is free of liens, clouds and other legal defects and hence is readily acceptable by a buyer.

Mechanics Lien - The right of an unpaid contractor or subcontractor to file a lien against property to recover the amount due to him/her

Mortgage - A written instrument that creates a lien upon real estate as security for the payment of a specified debt.

Mortgage Backed Security (MBS) - A bond or other financial obligation secured by a pool of mortgage loans.

Mortgage Banker - Specializes in originating and servicing loans. They generally sell their loans to investors, but may continue to service them.

Mortgage Broker - Arranges financing for a borrower by placing loans with lenders. Mortgage brokers are paid a fee by the borrower or the lender when a loan closes.

Mortgage Insurance - See private mortgage insurance (PMI)

Mortgage Insurance Premium (MIP) - One-half percent that borrowers pay each month on FHA insured mortgage loans. It is insurance from FHA to the lender against incurring a loss on account of the borrower's default. On September 1, 1983, the MIP was changed to a one-time charge to the borrowers.

Mortgage Note - A written agreement to repay a loan. The agreement is secured by a mortgage, serves as proof of indebtedness, and states the manner in which it shall be paid. The note states the actual amount of the debt that the mortgage secures and renders the mortgagor personally responsible for repayment.

Mortgagee - The lender

Mortgagor - The borrower

Negative Amortization - An increase in principal balance that occurs when the monthly payments do not cover all of the interest cost. The interest cost that is not covered by the payment is added to the unpaid principal balance.

Negotiable Rate Mortgage (RBM) - A loan in which the interest rate is adjusted periodically.

Negotiation - Discussions held between two or more parties for the purpose of resolving issues and reaching an agreement.

Net Effective Income - The borrowers gross income minus federal income tax.

Non-Assumption Clause - A statement in a mortgage contract forbidding the assumption of the mortgage without the prior approval of the lender.

Non-conforming loan - Loans that do not comply with Fannie Mae or Freddie Mac guidelines.

Notary Public - One authorized to take acknowledgments of certain types of documents, such as deeds, contracts, and mortgages.

Note - A written instrument that acknowledges a debt and promises to pay.

Notice of default - A letter sent to the defaulting party as a reminder of the default.

Novation - The writing of a new contract that supersedes a previous contract between the same parties and that is related to the same matters.

Offer - An expression of willingness to purchase a property at a specified price.

Offeree - One who receives the offer when the buyer makes an offer to the seller the seller, is an offeree.

Offeror - One who makes the offer when the buyer makes an offer to the seller the buyer, is an offeror.

Office of Comptroller Currency - The oldest federal financial regulatory body that oversees the nations federally chartered banks.

Office of Thrift Supervision - The OTS charters federal thrift institutions and is the primary regulator of all federal and many state-chartered thrift institutions.

Open End Mortgage - A mortgage permitting the mortgagor to borrow additional money under the same mortgage, with certain conditions.

Open House - A method of showing a home for sale to prospective buyers where the home is left open for inspection by those who may be interested in making a purchase.

Optionee - One who receives or purchases an option

Optionor - One who gives or sells an option

Oral Contract - A verbal agreement. Verbal agreements for the sale or use of real estate are normally unenforceable.

Origination Fee - See Loan Origination Fee

Owner Occupant - A tenant of a residence who also owns the property

Owner of Record - The individual named on a deed that has been recorded at the county recorder office.

Package Mortgage - Mortgage covering both real and personal property

Paper - A mortgage, deed of trust or land contract provided in lieu of cash.

Partial Release - A provision in a mortgage that allows some of the property secured to be freed from serving as collateral.

Participation Mortgage - A mortgage that allows the lender to share in part of the income or resale proceeds.

Pass Through Certificates - Interests in a pool of mortgages sold by mortgage bankers to investors. Money collected as monthly mortgage payments is distributed to those who own certificates..

Permanent Loan or Mortgage - A mortgage for a long period of time often referred to as the mortgage that pays off a construction loan on a completed property.

Permit - A document issued by a government regulatory authority that allows the bearer to take some specific action. An occupancy permit allows the owner of a building to occupy or rent the building.

PITI - Abbreviation for principal, interest, taxes and insurance, which may be combined in a single monthly mortgage payment

Planned Unit Development (PUD) - A zoning classification that allows flexibility in the design of subdivision. PUDs include individually owned units as well as some common space that is jointly owned.

Plat - A plan or map of a specific land area.

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

Points - Fees paid to lenders. 1 point=1% of the loan amount. On a \$100,000 loan 1 point is \$1000. Points may be further classified into origination points or discount points.

Portfolio Loan - A loan that is held as an investment by a bank or savings and loan, and NOT sold on the secondary market to investors.

Power of Attorney - A written document authorizing a person to act on the behalf of another person. That person does not have to be an attorney, see Attorney-in-fact.

Power of Attorney - A written document authorizing another to act on his or 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.

Prepaid Interest - Prepaid interest is the interest charged to borrowers at closing to pay for the cost of borrowing for a balance of the month. For example, if a loan closes on the 19th of the month and the first payment is due on the 1st of the following month, the lender will charge 12 days of prepaid interest.

Prepayment - Full or partial payment of the principal before the due date. This might occur if the borrower makes extra payments, sells the property, or refinances the existing loan.

Prepayment Penalty - Fees paid by the borrower if they pay the loan before its due date.

Primary Mortgage Market - Companies that originate and service mortgage loans (banks, savings & loans, credit union, mortgage bankers, institutional lenders) make up the primary mortgage market. See also secondary mortgage market.

Prime Rate - The lowest commercial interest rate charged by a bank on short-term loans to their most credit worthy customers. View current prime rate.

Principal - The outstanding balance on a loan

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 2 percent in some cases. With the smaller down payment loans, however, borrowers are usually required to carry private mortgage insurance. Private mortgage insurance payments are normally made annual or monthly. An impound account may be required.

Probate - Court process to establish the validity of the will of a deceased person

Property Tax - A government levy based on the market value (as assessed by the county assessor's office) of the property.

Prorate - To divide proportionately, so as to determine actual amounts owed by the buyer and seller at closing.
Example: property taxes are \$300 a month and the seller owned the property for the first 10 days while the borrower owned the property for the remaining 20 days. The property taxes owed would be prorated so that the seller would pay \$100 ($\$300 * 10/30$) and the buyer would pay \$200 ($\$300 * 20/30$)

Public Sale - An auction of property with notice to the general public

Purchase Agreement - See Agreement of Sale.

Purchase Money Mortgage - A mortgage used to finance the purchase of a property.

Qualifying - The process of determining whether a buyer is financially able to assume a mortgage by checking credit history, present and previous employment, and any other sources which may help to determine the buyer's financial capability.

Quiet Title (Action) - A court action to settle a title dispute.

Quit Claim Deed - A deed, which transfers whatever interest the maker of the deed may have in the particular parcel of land. A quitclaim deed is often given to clear the title when the grantor's interest in a property is questionable. By accepting such a deed the buyer assumes all the risks. Such a deed makes no warranties as to the title, but simply transfers to the buyer whatever interest the grantor has.

Real Estate Broker - An individual who often owns a real estate company or is in a management position, and who is licensed to represent a buyer or a seller in a real estate transaction.

Real Estate Investment Trusts (REIT) - A trust that uses investors money to purchase and manage real estate. Investors realize some of the tax advantages in owning real estate.

Real Estate Settlement Procedure Act (RESPA) - A law that states how mortgage lenders must treat those who apply for real estate loans on property with 1-4 units.

Example: A lender is required to provide a good faith estimate of closing costs within 3 days of an application being filed.

Real Property - Real estate; land and the buildings and fixture permanent attached to it.

Realtor - A real estate professional who is a member of the National Association of Realtors

Receiver - A court appointed officer who holds possessions of a defendant's property during civil litigation and who then may be ordered to dispose of the property under direction of the court, as in a foreclosure or a bankruptcy. Such property is said to be in receivership.

Rescission - The cancellation of a contract when refinancing a mortgage on a principal residence the law gives the homeowner three days to cancel the contract

Reconveyance - When a mortgage is paid off in full, the lender conveys the property back to the owner.

Recording - The act of entering into a book of public records instruments affecting title to the real property. A lender requires that a deed of trust or a mortgage be recorded to evidence the debt against the property.

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

Recourse - The right of the holder of a note secured by a mortgage or deed of trust to claim money from the borrower in default in addition to the property pledged as collateral.

Redlining - The practice of refusing to provide loans or insurance in a certain neighborhood.

Refinance - Obtaining a new mortgage loan on a property already owned. Often to replace existing loans on the property

Refinancing - Repaying an existing loan from the proceeds of a new loan on the same property.

Regulation Z (Reg Z) - A federal regulation requiring creditors to provide full disclosure of the terms of a loan including the terms of the loan and the annual percentage rate (APR).

Restrictive Covenants - Private restrictions limiting the use of real property. Restrictive covenants are created by deed and may "run with the land," binding all subsequent purchasers of the land, or may be "personal" and binding only between the original seller and buyer.

Reverse Annuity Mortgage - Form of mortgage in which the lender makes periodic payments to the borrower using the borrower's equity in the home as Satisfaction of Mortgage: The document issued by the mortgagee when the mortgage loan is paid in full. Also called a "release of mortgage."

Reverse Mortgage - A mortgage used by the elderly that provides income as long as they live in exchange. Payments made cause the loan principal to increase.

Right of first refusal - The right to purchase a property under terms and conditions made by another purchaser and accepted by the seller.

Example: if the Jones' make an offer of \$120,000 on a property and the seller accepts the offer subject to the Wilson's' right of first refusal, the Wilson's have the right to buy the property for \$120,000.

Right of survivorship - The right of a surviving joint tenant to acquire the interest of a deceased joint owner.

Riparian Rights - The special rights of an owner whose land borders on rivers, streams and waterways.

Rollover Loan - A loan that is amortized over a long period of time (e.g. 30 years) but the interest rate is fixed for a short period (e.g. 5 years). The loan may be extended or rolled over, at the end of the shorter term, based on the terms of the loan.

Sales Agreement or Sales Contract - See Agreement of Sale.

Savings & Loan - Depository institutions that specialize in originating, servicing and holding mortgage loans primarily on owner occupied residential property.

Second Home - Also known as a vacation home. This home is different from an investment property as it is not rented, but used occasionally by the owners.

Second Mortgage - A subordinated lien, created by a mortgage loan, over the amount of a first mortgage. Second mortgages generally carry a higher rate than a first mortgage since they represent a higher risk for an investor.

Secondary Mortgage Market - The market where banks, savings & loans and mortgage bankers can sell mortgages to investors like Fannie Mae or Freddie Mac.

Section 1031 - The section of the IRS that deals with tax-free exchanges of certain property. General rules for tax-free exchanges are:

The properties must be:

Exchanged

Similar

Used for business or as an investment

Section 8 Housing - Privately owned rental units participating in the low-income rental assistance program. Landlords receive subsidies on behalf of qualified low-income tenants, allowing the tenants to pay a limited proportion of their incomes toward the rent.

Security - Property that serves as collateral for a debt

Security Deposit - Money left in deposit with a landlord by a tenant to insure that the tenant will abide by a lease agreement. A landlord may use all or part of a security deposit to pay for any damages that may be caused by a tenant. Such a deposit may also be used to pay liquidated damages in the event that a tenant requests premature termination of a lease.

Servicing - The act of billing, collecting payment, filing reports, managing impound accounts and handling defaults on a mortgage.

Settlement Cost (HUD guide) - A booklet that provides an overview of the lending process and is required to be given to consumers after the loan application is completed.

Settlement Statement - See HUD 1

Shard Appreciation Mortgage - A mortgage in which a borrower receives a below-market interest rate in return for which the lender (or another investor such as a family member or other partner) receives a portion of the future appreciation in the value of the property. May also apply to a mortgage where the borrowers share the monthly principal and interest payments with another party in exchange for part of the appreciation.

Shared Appreciation Mortgage - A residential loan with a fixed interest rate that is below market, with the lender entitled to a specified share of appreciation of the property over an agreed upon time interval.

Sheriff's Deed - A deed given at the sheriff's sale in the foreclosure of a mortgage.

Simple Interest - Interest which is computed only on the principle balance

Single Agency - A relationship in which an agent represents the buyer or the seller but not both.

Single Family Housing (SFR) - A type of residential structure designed to include one dwelling.
Example: Town houses, detached units.

Spec House - A single family dwelling constructed by a builder in anticipation of finding a buyer.

Special Assessment - A special tax imposed on property, individual lots or all property in the neighborhood to pay for improvements (streetlights, sidewalks, etc.)

Special Warranty Deed - The grantor does not warrant against title defects arising from conditions that existed before he/she owned the property. The seller warrants that he/she has done nothing to impair title.

Specific Performance - A legal action in which the court requires a party to a contract to perform the terms of the contract when the party has refused to fulfill its obligations

Standard Uniform Loan Application (Form 1003) - A standard loan application widely used in the mortgage industry.

Subdivision - A tract of land divided into lots suitable for home building purposes.

Subject To (Purchasing subject to a mortgage) - The buyer agrees to make payments on the existing mortgage, without notifying the lender. The seller remains liable for making payments on the loan if the buyer does not make the mortgage payment. The buyer is not personally liable for mortgage payments, but must make payments to keep the property. See also Assumable Mortgage

Sublet - The renting by a tenant, to a third party, of all or part of the premises that the tenant is leasing from a landlord.

Subordination - A loan in a lower priority, for example a second mortgage is subordinate to a first.

Survey - Map made by a licensed surveyor who measures land and charts its boundaries, improvements and relationship to the property surrounding it.

Sweat Equity - Value added to a property due to improvements made personally by the owner.

Takeout Financing - A commitment to provide permanent financing upon completion of construction the take out loan normally pays off the construction loan.

Tax Lien - Lien for nonpayment of taxes

Tax Sale - Public sale of a property at an auction by a government authority as a result of non-payment of taxes.

Teaser Rate - A low initial interest rate on a mortgage.

Tenancy at Sufferance - Tenancy established when a person who had been a lawful tenant wrongfully remains in possession of property after expiration of a lease.

Tenancy at Will - A license to use or occupy land and buildings at the will of the owner. The tenant may decide to leave the property at any time or must leave at the landlord's will.

Tenancy by the Entirety - A form of ownership by husband and wife whereby each owns the entire property in event of the death of one, the survivor owns the property without probate

Tenancy for Years - Created by a lease for a fixed term, such as 6 months, 2 years, etc.

Tenancy in Common - Ownership of a property by 2 or more persons, each of whom has an undivided interest, without the right of survivorship upon the death of one of the owners, the ownership share of the deceased is inherited by the beneficiary designated on the owner's will.

Tenancy in Severalty - Ownership of property by one person

Tenant in Common - Two or more persons own the property with no right of survivorship. If one dies, his interest passes to his heirs, not necessarily the co-owner. Either party, or a creditor of one, may sue to partition the property.

Tenants by the Entirety - A husband and wife own the property with the common law right of survivorship so, if one dies, the other automatically inherits.

Time is of the Essence - Legal phrase in a contract requiring all references to specific dates and times noted in the contract are interpreted exactly.

Time Share - A form of property ownership under which a property is held by a number of people, each with the right of possession for a specified time interval. Time-sharing is used mostly for vacation properties.

Title - Evidence that the owner of the property is in lawful possession. Evidence of ownership.

Title Insurance - An insurance policy that protects the insured against loss arising from defects in title. Title insurance policies are typically obtained for the buyer and the lender.

Title Report - A document indicating the current state of title. The report includes information on the current ownership, outstanding deeds of trust or mortgages, liens, easements, covenants, restrictions, and any defects.

Title Search - An examination of the public records to determine the ownership and encumbrances affecting the property.

Town House - Residence, which normally has 2 or more, floors and is attached to other similar units. Town houses are commonly found in planned unit developments (PUDs) and condominiums.

Tract - A parcel of land, generally held for subdividing.

Transfer Tax - Tax paid to the city, county, state or other government entity upon sale of a property.

Trespass - An illegal intrusion into real property, or a disturbance of real property, that is in the legal possession of another.

Triple Net Lease - One in which the tenant pays all operating expense of the property. The landlord receives the net rent.

Trust Account - A separate bank account maintained by a broker or Escrow Company to handle all money collected for clients. A broker may not commingle these funds with his/her own funds.

Trust Deed - See Deed of Trust.

Trustee - A party who is given legal responsibility to hold property in the best interest of or "for the benefit of" another. The trustee is one placed in a position of responsibility for another, a responsibility enforceable in a court of law.

Truth in Lending - See Regulation Z

Two-step Mortgage - A mortgage in which the borrower receives a fixed rate for a specified number of years (most often 5 or 7), and then receives a new interest rate based on the terms in the note.

Underwriting - The decision whether to make a loan to a potential home buyer based on credit, income, employment history, assets, etc.

Undivided Interest - An ownership right to use and possess a property that is shared among co-owners, with no one co-owner having exclusive rights to any portion of the property.

Unimproved Property - Land that has received no development

Unencumbered Property - Real estate with free and clear title.

Unrecorded Deed - A document that transfers title from the grantor to the grantee without recording (i.e. providing public notice).

Usury - Charging a rate of interest greater than that permitted by law.

VA Loan - Home loan guaranteed by the U.S. Veterans Administration, enabling a veteran to buy a home with no money down.

Vacate - To set aside or annul a judgement. Also, in real estate law, to quit a premises.

Vacation home - See second home.

Valuation - An estimation of value of a property, as determined by various factors.

Variable Rate Mortgage - See Adjustable Rate Mortgage

Verification of Deposit (VOD) - A document signed by the borrower's bank or other financial institution verifying the account balance and history.

Verification of Employment - A document signed by the borrower's employer verifying his/her starting date, job title, salary and probability of continued employment.

Void - Of no legal force; null; invalid.

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

Warehousing - Mortgage bankers and other financial institutions make loans that are then periodically sold on the secondary market. After the loan is made but before it is sold - the loan is said to be in the lender warehouse.

Warranty Deed - A deed conveying the title to a property with a warranty of a clear marketable title.

Wraparound Mortgage - A loan arrangement whereby the existing loan is retained and a new loan is added to the property.

Example: The seller sells his/her property for \$200,000. The buyer puts \$80,000 down. The seller has an existing loan balance of \$100,000 for a remaining period of 25 years at an interest rate of 6%. The seller then makes a wraparound mortgage to the buyer, (where the seller acts as a lender) for \$120,000 at 8%. The seller has to continue making payments on his old loan. The buyer has to pay the seller on the new loan. The buyer may at a later date refinance the property and close both loans.

Yield - To surrender; to give up.

Zero Lot Line - A form of housing where individual units are on separate lots, but are attached to one another.
Example: PUD, townhouse.

Zoning - Areas may be zoned to specify use of a property i.e. residential, commercial, agricultural. The city or the county normally enforces these zoning ordinances.