

## Real Estate & Finance Glossary

**ACCELERATION CLAUSE:** A provision in a mortgage, trust deed, promissory note or contract for deed (agreement of sale) that, upon the occurrence of a specified event, gives the lender (payee, obligee or mortgagee) the right to call all sums due and payable in advance of the fixed payment date.

**ACRE:** A measure of land equal to 43,560 square feet, 4,840 square yards, 4,047 square meters, 160 square rods or 0.4047 hectares

**AD VALOREM TAX:** A tax levied according to value, generally used to refer to real estate tax. Also called the general tax.

**ADJUSTABLE RATE MORTGAGE (ARM):** Adjustable-rate mortgage loan featuring an interest rate that moves up and down as market conditions change. ARMs generally offer a lower initial interest rate, but your mortgage payments may change (usually semiannually or annually). Rate changes are based on an index such as the one-year Treasury Index or the cost-of-funds index (COFi). Some ARMs can be converted to fixed rate.

**AFFIDAVIT OF TITLE:** A written statement, made under oath by a seller or grantor of real property and acknowledged by a notary public, in which the grantor: (1) identifies him - or herself and indicates marital status; (2) certifies that since the examination of the title on the date of the contract no defects have occurred in the title; and (3) certifies that he or she is in possession of the property (if applicable).

**ALIENATION:** The act of transferring ownership, title, interest, or estate in real property from one person to another. Property is usually sold or conveyed by voluntary alienation, as with a deed or assignment of lease. Involuntary alienation takes place when property is sold against the owner's will, as in a foreclosure sale or a tax sale

**ALTA (American Land Title Association):** Since any lending institution funding a loan for the acquisition of property wants assurance of good title on the property, there is a special policy prepared for the benefit of the lender known as ALTA Policy.

**AMORTIZED LOAN:** A loan that is completely paid off, interest and principal, by a series of regular payments that are equal or nearly equal. Also called a Level Payments Loan.

**APPRAISAL:** An estimate of value based upon a factual analysis of a property or home.

**APPRECIATION:** An increase in value of real estate.

**APR (Annual Percentage Rate):** The total yearly cost of a loan stated as a percentage of the loan amount: Includes the base interest rate, primary mortgage insurance, and loan origination fee (points). Use the APR to compare various loan programs, as all lenders are required to use the same guidelines in determining APR.

**ASSESSED VALUE:** Value placed on a property by the tax assessor for property tax purposes. This is usually different from the actual current market value.

**ASSESSMENT:** The imposition of a tax, charge or lien, usually according to established rate.

**ASSUMPTION OF MORTGAGE:** The taking of title to property by a grantee, wherein he or she assumes liability for payment of an existing note secured by a mortgage or deed of trust against the property; becoming a co-guarantor for the payment of a mortgage or deed of trust note.

**ATTACHMENT:** The legal process of seizing the real or personal property of a defendant in a lawsuit by levy or judicial order, and holding it in court custody as security for satisfaction of a judgment. The lien is thus created by operation of law, not by private agreement. The plaintiff may recover such property in any action upon a contract, express or implied.

**BALLOON PAYMENT:** Under an installment loan agreement, a final payment that is substantially larger than the previous installment payments and repays the debt in full; the remaining balance that is due at maturity (stop date) of a note or obligation.

**BENEFICIARY:** A person who receives benefits from the gifts or acts of another, as in the case of one designated to receive the proceeds from a will, insurance policy, or trust; the real owner, as opposed to the trustee who holds only legal title. With a trust, the trustee holds the legal title, but the beneficiary enjoys the benefits of ownership.

**BOOT:** Money or other property that is not like-kind, which is given to make up any difference in value or equity between exchanged properties. Boot may be in the form of cash, notes, gems, the market value of an asset such as a mortgage, land contract, personal property, goodwill, a service or a patent offered in an exchange. The taxable gain in the like-kind exchange is recognized immediately to the extent of boot, whereas, other gain from the exchange may be deferred until subsequent transfer.

**BUY-DOWN:** A financing technique used to reduce the monthly payments for the first few years of a loan. Funds in the form of discount points are given to the lender by the builder or seller to buy down or lower the effective interest rate paid by the buyer, thus reducing the monthly payments for a set time

**CAPITAL GAIN:** Taxable profit derived from the sale of a capital asset. The capital gain is the difference between the sale price and the basis of the property, after making appropriate adjustments for closing costs, fixing up expenses, capital improvements, allowable depreciation, etc.

**CLOSING:** The date on which a property legally changes hands from seller to buyer.

**CLOSING COSTS:** Expenses (such as loan fees, title fees, appraisal fees, etc.), over and above the price of the property, incurred by buyers and sellers in transferring ownership. Also called "settlement costs". Closing costs may be paid by the buyer, the seller or shared by both. In some cases, all or a portion of these costs may be included in the financing amount.

**CLTA (California Land Title Association) POLICY:** A standard coverage title insurance policy protects real estate buyers in matters of record and specific risk.

**COLLATERAL:** Something of value given or pledged as security for a debt or obligation. The collateral for a real estate mortgage loan is the hypothecated mortgaged property itself.

**COMPARABLES:** Properties that are substantially equivalent to the subject property.

**CONDOMINIUM:** A subdivision providing an exclusive ownership interest in the airspace of a particular portion of real property, as well as an interest in common in a portion of that property.

**CONSIDERATION:** An act or the promise thereof, which is offered by one party to induce another to enter into a contract; that which is given in exchange for something from another; also the promise to refrain from doing a certain act, like filing a justifiable lawsuit (the forbearance of a right). Consideration, which distinguishes a contractual obligation from a gift, is usually something of value, such as the purchase price in and paid for a promise or it may be a return promise. Thus, the mere promise to pay money is sufficient consideration, so an earnest money deposit is not necessary for purposes of creating a binding contract.

**CONTINGENCY:** A condition that must be met before a contract is legally binding.

**CONVENTIONAL MORTGAGE:** A mortgage securing a loan made by investors without governmental underwriting, i.e., which is not FHA insured or VA guaranteed.

**COUNTER-OFFER:** A rejection of an offer by a seller along with an agreement to sell the property to the potential buyer on terms differing from the original offer.

**COVENANT:** A written agreement between two or more parties in which a party or parties pledge to perform or not perform specified acts with regard to property; usually found in such real estate documents as deeds, mortgages, leases and contracts for deed

**DEED:** Written instrument which, when properly executed and delivered, conveys title.

**DISCOUNT POINTS:** Any amount paid to the lender when a loan is originated to account for the difference between the current market-determined cost of interest and the actual lower interest rate of the loan. In most cases each point is equal to one percent of the original loan amount. Points may be paid by either the buyer or seller.

**DUAL AGENCY:** An agency relationship in which the agent acts concurrently for both principals in a real estate transaction.

**EARNEST MONEY:** Money deposited by a buyer under the terms of a contract, to be forfeited if the buyer defaults but applied to the purchase price if the sale is closed. The cash deposit (including initial and additional deposits) paid by the prospective buyer of real property as evidence of good-faith intention to complete the transaction; called bargain money, caution money, hand money, or a binder in some states.

**EASEMENT:** The right to a specific use of or right to travel over land owned by another. The land being used or traveled over is the servient tenement; the land that is benefited by the use is the dominant tenement. An easement appurtenant is a property interest belonging to the owner of dominant tenement and is transferred with the land; an easement in gross is a personal right that usually is not transferable by its owner.

**ENCROACHMENT:** A structure or portion of a structure built on another individual's property.

**EQUITY:** The interest or value which an owner has in real estate over and above the liens against real property.

**ESCROW:** The deposit of instruments and funds with instructions to a third neutral party to carry out the provisions of an agreement or contract.

**FHA LOAN:** A loan which has been insured by the federal government guaranteeing its payment in case of default by the borrower.

**FINANCIAL INDEX:** An agreed upon basis for making interest rate changes on an adjustable rate mortgage. One example of a financial index could be the cost of U.S. Treasury Bonds. Fixed Rate The interest rate does not change during the entire term of the loan.

**FEE APPRAISAL:** The act or process of estimating values of real estate or any interest therein for a fee.

**FICO:** Acronym for "Fair, Isaac & Company." FICO is the most commonly used scoring system used by lenders to derive credit scores for borrowers.

**FIDUCIARY:** A relationship that implies a position of trust or confidence wherein one person is usually entrusted to hold or manage property or money for another. The term fiduciary describes the faithful relationship owed by an attorney to a client or by a broker (and salesperson) to a principal. The fiduciary owes complete allegiance to the client. Among the obligations that a fiduciary owes to his or her principal are the duties of loyalty, obedience and full disclosure; the duty to use skill, care and diligence; and the duty to account for all monies.

**FORECLOSURE:** A legal procedure whereby property used as security for a debt is sold to satisfy the debt in the event of default in payment of the mortgage note or default of other terms in the mortgage document. The foreclosure procedure brings the rights of all parties to a conclusion and passes the title in the mortgage property to either the holder of the mortgage or a third party who may purchase the realty at the foreclosure sale, free of all encumbrances affecting the property subsequent to the mortgage.

**GOOD-FAITH ESTIMATE:** A preliminary accounting of expected closing costs. The Real Estate Settlement Procedures Act (RESPA) requires the lender to promptly give loan applicants a good-faith estimate of closing costs.

**GRANT DEED:** A type of deed in which the grantor warrants to the grantee, that he has not previously conveyed the estate, that he has not encumbered the property (except as noted in the deed) and that he will convey any title to the property he may later acquire

**GROSS RENT MULTIPLIER:** A figure used as a multiplier of the gross annual

income of a property to produce an estimate of the property's value.

**HOLOGRAPHIC WILL:** A will that is written, dated and signed in the testator's handwriting, but not witnessed. Some states consider a holographic will to be valid even though it was not witnessed, presumably on the theory that the handwriting can be analyzed to verify authenticity and demonstrate competency

**HOME INSPECTION:** A review of the physical condition of a home by an experienced professional.

**HOMEOWNER'S ASSOCIATION:** A nonprofit association of homeowners organized pursuant to a declaration of restrictions or protective covenants for a subdivision, PUD or condominium

**IMPROVEMENT:** 1) Any structure, usually privately owned, erected on a site to enhance the value of the property--for example, building a fence or a driveway. 2) A publicly owned structure added to or benefiting land, such as a curb, sidewalk, street or sewer.

**JOINT TENANCY:** An estate or unit of interest in real estate that is owned by two or more natural persons with rights of survivorship. The basic idea of a joint tenancy is unity of ownership; title is held as though all owners collectively constituted one person, a fictitious entity. The death of one joint tenant does not destroy the owning unit--it only reduces by one the number of persons who jointly own the unit. The remaining joint tenants receive the deceased tenant's interest by the right of survivorship. Thus, the decedent's interest cannot be transferred by will or descent. As each successive joint tenant dies, the remaining tenants acquire the interest of the deceased. The last survivor takes title in severalty, fully inheritable at his or her death by heirs and devisees.

**LAND CONTRACT:** A contract ordinarily used in connection with the sale of property in cases where the seller does not wish to convey title until all or a certain part of the purchase price is paid by the buyer.

**LEVERAGE:** Using someone else's money to purchase a property. Refers to the ability to use the investment as collateral for a loan.

**LIEN:** A legal claim against a property used to secure the payment of debt related to the property.

**LIQUIDATED DAMAGES:** An amount predetermined and agreed by the parties to an agreement as the total amount of compensation an injured party should receive if the other party breaches a specified part of the contract.

**LOAN DOCUMENTS:** Documents prepared by a lender in conjunction with granting the loan to the borrower; may include a promissory note, deed of trust, and required loan disclosure documentation.

**LOAN TO VALUE RATIO (LTV):** The ratio, expressed as a percentage, of the amount of a loan to the value or purchase price of real property.

**MARKETABLE TITLE:** Merchantable title; title free and clear of objectionable liens or encumbrances.

**MECHANIC'S LIEN:** A statutory lien in favor of a building contractor (architects and designers in some states) to secure payment for materials supplied and services rendered in the improvement, repair or maintenance of real property

**MULTIPLE LISTING:** Multiple Listing is the name given a service performed by the Local Board of Realtors (Multiple Listing Service). MLS provides necessary information to aid in the sale of listings. It is a marketing tool used by members of the Service to expose properties to a wider market base.

**NON-CONFORMING LOAN:** A mortgage loan that does not meet Fannie Mae and Freddie Mac underwriting guidelines. Non-conforming loans are available as both fixed and adjustable rate mortgages.

**NOTARY PUBLIC:** A person who acknowledges oaths, such as the signing of a grant deed or deed of trust; must be duly appointed by the proper authorities.

**OBSOLESCENCE:** The loss of value due to factors that are outmoded or less useful. Obsolescence may be functional or economic.

**OFFER:** An offer is a promise made by one party, requesting something in exchange for that promise. The offer is made with the intention that the offeror will be bound to the terms if the offer is accepted. The terms of the offer must be definite and specific and must be communicated to the offeree.

**OPEN HOUSE:** The common real estate practice of showing listed homes to the public during established hours

**OPTION:** An agreement to keep open, for a set period, an offer to sell or lease real property.

**PERC TEST:** A test of the soil to determine if it will absorb and drain water adequately to use a septic system for sewage disposal.

**PERSONAL PROPERTY:** Any property which is not real property (i.e. money,

savings accounts, appliances, boats, etc.).

**PITI (Principal, Interest, Taxes, Insurance):** Stands for principal, interest, taxes, and insurance - the components of the monthly loan payments.

**PMI (Private Mortgage Insurance):** Insurance written by a private company that insures repayment of the loan balance to the lender in the event of default by the borrower. Usually required for homes financed with less than a 20 percent down payment.

**PRE-QUALIFICATION:** The process of determining how much money a prospective home buyer will be eligible to borrow before a loan is applied for.

**PROMISSORY NOTE:** Following a loan commitment from the lender, the borrower signs a note promising to repay the loan under stipulated terms. The promissory note establishes personal liability for its repayment.

**PLANNED UNIT DEVELOPMENT (PUD):** A relatively modern concept in housing designed to produce a high density of dwellings and maximum use of open spaces. This efficient use of land allows greater flexibility for residential land and development. It also usually results in lower-priced homes and minimum maintenance cost. Often, PUDs are specifically provided for in zoning ordinances or are listed as a conditional permitted use, sometimes called planned development housing

**PRELIMINARY TITLE REPORT:** A title report that is made before a title insurance policy is issued or when escrow is opened. A preliminary report or policy of title insurance reports only on those documents having an affect on the title and should not be relied on as being an abstract. An abstract of title, on the other hand, reflects all instruments affecting title from the time of the original grant and also includes a memorandum of each instrument, and makes no attempt to determine which of the documents currently affects record title. The "preliminary" is not a binder or commitment that the title company will insure the title to the property, although this commitment may be obtained at an added cost.

**POWER-OF-ATTORNEY:** A written instrument authorizing a person, the attorney-in-fact, to act as the agent on behalf of another to the extent indicated in the instrument.

**PRIME RATE:** The minimum interest rate a commercial bank will charge to its largest clients. Prime rates are determined in part by the rate the bank pays for the money they lend to borrowers. Decisions of the Federal Reserve Bank (The Fed) to increase or decrease the supply of money can cause the prime rate that banks charge to fluctuate.



**PRINCIPAL:** 1. One of the main parties to a transaction. For example, the buyer and seller are principals in the purchase of real property. 2. In a fiduciary relationship, the person who hires a real estate broker to represent him or her in the sale of property. The phrase, "principals only," often found in real estate ads, is meant to exclude real estate agents from contacting the owners of the property.

**PROBATE:** The formal judicial proceeding to prove or confirm the validity of a will, to collect the assets of the decedent's estate, to pay the debts and taxes and to determine the persons to whom the remainder of the estate is to pass.

**PRORATIONS:** Expenses, either prepaid or paid in arrears, that are divided or distributed between buyer and seller at the closing.

**PURCHASE AGREEMENT:** An agreement between a buyer and seller for the purchase of real estate.

**QUIET TITLE:** A court action to remove a cloud on the title.

**QUITCLAIM DEED:** A conveyance by which the grantor transfers whatever interest he or she has in the real estate, without warranties or obligations.

**REAL ESTATE:** The physical land at, above and below the earth's surface with all appurtenances, including any structures; any and every interest in land whether corporeal or incorporeal, freehold or nonfreehold; for all practical purposes, the term real estate is synonymous with real property.

**REAL PROPERTY:** Land and whatever by nature or artificial annexation is a part of it.

**REALTOR®:** A registered trade name that may be used only by members of the state and local real estate boards affiliated with the National Association of REALTORS® (NAR). The term REALTOR® designates a professional who subscribes to associations of REALTORS® to govern real estate practices of members of the board. The use of the name REALTOR® and the distinctive seal in advertising is strictly governed by the rules and regulations of the national association.

**RECISION:** An option in the discharge of a contract. If both parties agree, they may rescind a contract in a process called rescision.

**RECORDING:** The act of entering into the book of public records the written instruments affecting the title to real property, such as deeds, mortgages, contracts for sale, options and assignments. There is also a body of public records apart from the real estate recording system that has a bearing on the quality of title. A title

searcher would also check, for example, public records regarding probate, marriage, taxes and judgements

**SECOND MORTGAGE:** A mortgage (or trust deed) that is junior or subordinate to a first mortgage; typically, an additional loan imposed on top of the first mortgage, taken out when the borrower needs more money. Because the risk involved to the lender is greater with the second mortgage, the lender's conditions are usually more stringent, the term is shorter and the interest rate is higher than for the first mortgage.

**SECTION 8:** Federally subsidized housing administered by HUD where the tenant pays up to thirty percent of his or her adjusted monthly income and HUD pays the difference between that amount and the market rent. Property owners are not required to participate

**SIMPLE INTEREST:** Interest computed on the principal balance, and disregards previously accumulated (unpaid) interest.

**SPECIAL ASSESSMENT:** Legal charge against real estate by a public authority to pay cost of public improvements such as: street lights, sidewalks, street improvements, etc.

**SUBDIVISION:** Any land that is divided or is proposed to be divided for the purpose of disposition into two or more lots, parcels, units or interests. Subdivision refers to any land, whether contiguous or not, if two or more lots, parcels, units or interests are offered as part of a common promotional plan of advertising and sale

**SUBORDINATION CLAUSE:** A clause in which the holder of a mortgage permits a subsequent mortgage to take priority. Subordination is the act of yielding priority. This clause provides that if a prior mortgage is paid off or renewed, the junior mortgage will continue in its subordinate position and will not automatically become a higher or first mortgage. A subordination clause is usually standard in a junior mortgage, because the junior mortgagee gets a higher interest rate and is often not concerned about the inferior mortgage position

**SURVEY:** A drawing or map showing the precise legal boundaries of a property, the location of improvements, easements, rights of way, encroachments, and other physical features.

**TITLE INSURANCE:** A comprehensive indemnity contract under which a title insurance company warrants to make good a loss arising through defects in title to real estate or any liens or encumbrances thereon. Unlike other types of insurance, which protect a policyholder against loss from some future occurrence (such as a fire or auto accident), title insurance in effect protects a policyholder against loss

from some occurrence that has already happened, such as a forged deed somewhere in the chain of title.

**TRUST:** An arrangement whereby legal title to property is transferred by the grantor (or trustor) to a person called a trustee, to be held and managed by that person for the benefit of another, called a beneficiary.

**TRUST ACCOUNT:** An account separate and apart and physically segregated from broker's own funds, in which broker is required by law to deposit all funds collected for clients.

**UNDERWRITING:** The process of evaluating a loan application to determine the risk involved for the lender. It involves an analysis of the borrower's credit worthiness and the quality of the property itself.

**VARIANCE:** Permission obtained from governmental zoning authorities to build a structure or conduct a use that is expressly prohibited by the current zoning laws; an exception from the zoning laws. A variance gives some measure of elasticity to the zoning game.

**WALK-THROUGH:** A final inspection of a property just before closing. This assures the buyer that the property has been vacated, that no damage has occurred and that the seller has not taken or substituted any property contrary to the terms of the sales agreement. If damage has occurred, the buyer might ask that funds be withheld at the closing to pay for the repair

**WARRANTY DEED:** A deed used to convey real property which contains warranties of title and quiet possession, and the grantor agrees to defend the premises against the lawful claims of third persons.

**ZONING:** The regulation of structures and uses of property within designated districts or zones. Zoning regulates and affects such things as use of the land, lot sizes, types of structure permitted, building heights, setbacks and density (the ratio of land area to improvement area)