Glossary

Arbitrage
The spread or difference between interest rates; used to profit from price differentials when mortgages, or mortgage-backed securities, are simultaneously bought and sold.

abstract of title
A condensed history of title; a written synopsis of all recorded documents affecting the property.

abutting (contiguous)
Bordering, adjacent to, physically adjoining.

acceleration clause
A mortgage clause stating that the entire balance of the debt becomes due and payable immediately upon default of any of the terms of the mortgage.

acceptance
(1) Agreement to the terms and conditions of an offer, thereby creating a binding contract. (2) A necessary element in the execution of a deed.

accession
The addition to land by man or nature.

accretion
The process of the addition of soil to real estate by natural causes. (See alluvion)

accrue
To make periodic additions of increase; to augment Accrued depreciation is accumulated depreciation; accrued interest already earned.

acknowledgment
Formal certification of a signature.

actual notice
Knowledge that one has gained based on what he has seen, heard, read, or observed.

adjustable rate mortgage
A mortgage loan on which the interest rate rises and falls with changes in prevailing rates.

adjusted basis
The book value of a property for income tax purposes. It is the purchase price less depreciation plus the cost of subsequent improvements to the property.

adjusted sale price
Sales price of property less commissions, fix-up fees, and closing costs

administrator (administratrix)
A court-appointed person who manages and distributes the assets of a deceased individual’s estate.

ad valorem
(Latin) “According to the value.” The principal usage is in Ad Valorem taxes that are assessed in proportion to the property’s value.

adverse possession
A means by which title may be acquired, through the actual, hostile, open and notorious, exclusive and continuous occupancy by one who does not have title.

affidavit
A sworn and acknowledged statement in writing.

affirmation
A solemn declaration in the nature of an oath, made by persons who have religious scruples against taking oaths.
agency
A contractual relationship whereby one person represents another.

agent
One who acts for another.

agreement for deed
(conditional sales contract, installment sales contract, land contract, contract for deed) A contract for the sale of land where payments are made by installments and title does not pass until the last payment is made.

agreement of sale
A written real estate sales contract.

alienation
The transfer of rights from one person to another. Voluntary alienation: selling property of one's own free will. Involuntary alienation: loss of property due to unpaid taxes, condemnation, etc.

allodial system
System of possession of land based on individual ownership, as opposed to the Feudal System.

alluvion (also alluvium)
The results of the natural addition of soil to property by action of flowing water.

amenities
The intangible aspects of property that give pleasure and satisfaction to the owner, such as attractive design, good view, etc.

amortization
The gradual repayment of a debt in periodic amounts.

annexation
The joining of one parcel of land to another.

annual percentage rate (APR)
A uniform measure of the cost of credit that includes interest, discount points, and loan fees.

appraisal
A supportable and defensible estimate or opinion of the value of property as of a specific date, for a specific purpose.

appreciation
Increase in value of a property due to natural or economic factors. The opposite of depreciation.

appropriation process
Enactment of the taxing body's budget and sources of revenue into law.

appurtenance
A right, privilege, or improvement belonging to and passing with the principal property. It is not necessarily a part of the property. Example: a right of way through a neighbor's land.

arrears
Overdue or past due.

“as is”
Said of property offered for sale in its present condition with no guaranty or warranty of quality provided by the seller.

assemblage
The combining of adjoining separate parcels of land into a single tract. Assemblage value (plottage value) refers to the increase in value that results when parcels are combined, thereby creating a site that has greater value than the sum of lots individually considered.

assessed value
The valuation placed upon property by a public tax assessor as the basis for taxes.
assignee
One to whom an interest is assigned or transferred.

assignment
Transfer of one’s rights under a contract to an individual not a party to the original contract.

assignor
The person making an assignment.

associate broker
An individual who is licensed as a broker, but who works in the legal capacity of a salesman.

association
A form of joint business relationship similar to a partnership. Principal differences relate to tax law.

assumption of mortgage
When taking title to property with an existing mortgage, assuming full personal liability for its repayment.

attachment
Seizure of property by court order, to insure payment of a debt or to have it available to satisfy a possible judgment.

attest
To witness or certify.

attorney at law
A licensed legal agent; a member of the bar.

attorney-in-fact
An individual with written authority to act for another. See Power of Attorney.

avulsion
The addition or removal of land due to the movement of a body of water. Example: When a stream or river changes course.

axial growth
City growth that occurs outward along main transportation routes. This pattern is usually star shaped.

balloon mortgage
A mortgage that requires a lump sum payment (balloon payment) at the end.

bankrupt
A person whose liabilities exceed his assets making him unable to meet all financial obligations. Bankruptcy is a legal status; a court of law must judge the person to be insolvent. Declaring bankruptcy does not automatically absolve a person from all financial obligations.

bargain and sale deed
A deed containing no warranties; only implies that the grantor owns the property being conveyed, and has done nothing to cause a defect in title.

basis
The price paid for property; used in calculating capital gains.

benchmark
A formal reference marker, placed by a surveyor at a known elevation point from which elevations in a topographical survey may be calculated.

beneficiary
One designated to receive proceeds or benefits under a will, trust, or insurance policy.

Beneficiary’s statement
Provided by lender to show unpaid balance on a note secured by deed of trust. (See Certificate of Reduction.)

bequeath (Bequest, Legacy)
Personal property left by will.
bilateral contract  
A contract where both parties are obligated to perform.

bill of sale  
An instrument that transfers title to personal property. (Chattels)

binder  
A preliminary agreement to perform, accompanied by a valuable consideration as good faith. (See Deposit Receipt.)

blanket mortgage  
A mortgage covering more than one parcel of land.

blended-rate loan  
A refinancing plan that combines the interest rate on an existing mortgage with current rates.

blind ad  
An advertisement that does not identify the person placing it. All advertisements placed by real estate brokers must not only identify the individual but also indicate that he is an agent.

blockbusting  
The illegal practice of inducing panic selling in a neighborhood for financial gain.

bona fide  
In good faith and without deceit or fraud.

breach  
To fail to live up to the terms and conditions of a contract.

budget mortgage  
Features loan payments that include principal, interest, taxes, and insurance (often called PITI).

building code  
Local ordinances specifying the materials and methods of construction.

building line  
A line set by ordinance, normally parallel to a street, that sets the minimum distance from the street to any building.

bundle of rights  
Legal rights that go with the ownership of property.

buy-down  
A cash payment to a lender so as to reduce the interest rate a borrower must pay.

canons  
Standards of conduct.

capital gain  
The gain (profit) on the sale of an appreciated asset.

capitalization  
A method of determining the present value of a future income stream.

capitalization rate  
The percentage rate of return used in capitalization.

cash flow  
The number of dollars remaining each year after collecting rents and paying operating expenses and mortgage payments.

cash-on-cash  
The cash flow produced by a property divided by the amount of cash necessary to purchase it.

caveat emptor  
Let the buyer beware.
**certificate of no defense, estoppel certificate**
A legal instrument executed by a mortgagor (when a loan is sold) setting forth the exact balance of a mortgage. Once executed, the mortgagor cannot claim that he did not owe the amount indicated in the certificate (i.e., he is thereafter and forever “stopped” from proving anything to the contrary).

**certificate of eligibility**
Needed by a veteran in order to obtain a VA loan.

**certificate of occupancy (CO)**
A government issued document that states a structure meets local zoning and building code requirement and is ready to use.

**certificate of reduction**
A legal document prepared by a lender showing exactly how much of an existing loan secured by a mortgage remains to be paid. (See beneficiary’s statement)

**certificate of sale**
Given to high bidder at a foreclosure sale.

**certificate of title**
A written document signed by a title examiner or attorney stating that in his opinion the seller has good title.

**cession deed**
Conveys street rights to a county or municipality.

**chain of title**
A history of ownership, both recorded and unrecorded.

**chattel**
Personal property.

**closed mortgage**
A mortgage that cannot be paid off until maturity. Open mortgage can.

**closed statement**
A financial statement summarizing all transactions relating to a transfer of property, as of the closing date.

**cloud on title**
An outstanding claim or encumbrance, which if valid would affect or impair the owner’s title.

**code of ethics**
Standards of conduct pertaining to a realtor’s relation to his clients, other licensees, and the public that members of the National Association of Realtors endorse.

**codicil**
A written supplement or amendment to an existing will.

**collateral**
Property that is used as security on a loan.

**color of title**
Apparent title; title that appears to be clear but in fact has a defect that makes it invalid.

**commingle funds**
To combine escrow funds in the same account with personal or business funds.

**commitment**
A promise, or firm agreement, that may legally be relied upon by other parties, such as a loan commitment.

**common element**
Those parts of a condominium in which each unit owner holds an undivided interest.
common law
(ordinary Old English) Unwritten law that takes its force from customs and usage; based on the concept of justice as opposed to inflexible rules.

community property
Property owned jointly by husband and wife.

competent
Legally able and qualified to enter into a contract.

concurrent ownership
Ownership by two or more persons at the same time.

condemnation
The process of taking property by the state under the right of eminent domain.

condominium ownership
A system of individual fee ownership of portions of a building that has other similar units.

consideration
Something of value given in return for the act or promise of another. An essential element of a contract.

constructive notice
The recording of documents in the public records.

contract
An agreement or “meeting of the minds” between parties.

contract rent
The rent specified in a lease agreement; actual rent. (Compare economic rent)

conventional loan
Commonly, any loan not insured or guaranteed by a government agency.

conveyance
An instrument used to transfer title to property from one person to another.

cooperative ownership
A system of ownership in which individuals have shares of stock in a corporation that has title to the property.

corporation
A joint business relationship that is regarded by the law as an artificial person. A corporation is owned by its stockholders, and managed by its directors, and operated by its officers. A corporate stockholder has limited liability (i.e. only to the extent of his investment).

covenant
A promise of legal validity.

coverage
The legal status of a woman that results from her marriage.

CRV (certificate of reasonable value)
Appraisal required on VA loans.

damages
Losses suffered through the action or inaction of another. Assessed damages are the sum that the law allows an injured to recover as compensation. Liquidated damages refer to an amount of damages that is specified in the contract to be paid in case of breach.

datum
Any point, line, or surface from which a distance, vertical height, or depth is measured.

decedent
A person who has died.
deed
A type of conveyance transferring title to real property.

deed in lieu of foreclosure
Voluntary act by borrower and lender. Sometimes called a “friendly foreclosure.”

deed of trust
Used instead of a mortgage in some states.

 deed restriction (restrictive covenant) A clause in a deed limiting or controlling the future use of the property.

default
Non-performance of a duty or obligation.

defeasance clause
A clause in a mortgage whereby the lender promises to give title to the borrower upon repayment of the debt.

defeasible
Capable of being annulled.

defendant
The person being sued or charged with committing an illegal act.

deficiency judgment
A general lien on all property of a defaulting debtor, issued when the security for a debt is insufficient to satisfy the debt. (In some states deficiency judgments cannot be obtained.)

delivery and acceptance
A necessary element in the execution of a deed.

demise
(1) To lease; (2) Death of an individual.

deposit receipt
A contract form commonly used for the submission of an offer to purchase real property. The broker receipts for the deposit; when accepted (signed) by the seller, it creates a binding sales contract.

depreciation
Decrease in the value of property due to natural economic factors. The opposite of appreciation.

dereliction (reliction)
The process whereby dry land is permanently exposed by a gradually receding waterline.

descent and distribution
(intestate succession) A method for distributing the assets of a deceased person’s estate in the absence of a will.

devise, devisor, devisee
A gift of real property under a will. The devisor is the giver and the devisee is the recipient.

disaffirm
To revoke

disclosure of interest
The making known of one’s true position or interest in a transaction.

document of prior appropriation
A legal philosophy that allows a first user to continue diverting water.

dominant estate
The interest of the owner of land who has the right to use an appurtenant easement (see servient estate).

dower and curtesy
The legal right or interest that one spouse has in the property of the other spouse.

downzoning
A change in zoning from a higher, more active category to a lower, less active (and perhaps, less profitable) category.
dual agency
Representation of two or more parties in a transaction by the same agent.

due-on-sale clause (alienation or call clause)
Gives the lender the right to call the entire loan balance if the property is sold or otherwise conveyed.

duress
The use of threats or physical harm to force a person to do something against his will.

earnest money
A deposit to show good faith; a down payment.

easement
A specified and limited right or privilege to use another’s property.

easement by prescription
An easement acquired through the open, uninterrupted, and adverse use of another’s real property.

easement in gross
A personal right in real estate, rather than a right in the land itself. Usually not assignable or inheritable and does not “run with the land,” therefore not a true easement. Example: billboard easement.

economic life (useful life)
The time remaining during which a property can be profitably and feasibly used.

economic obsolescence
A loss in property value brought about by external environmental or economic forces.

economic rent
The estimated income that a property should provide under current market conditions. It may be above or below actual rent.

economic value
The capacity of a good to command other goods in exchange. It relates both to present worth and to future anticipated benefits.

effective yield
Calculation of the return on investment that considers price paid, the time held, and the interest rate.

eminent domain
The right of the government to acquire private property for public use.

encroachment
An unauthorized invasion or intrusion upon another’s property.

encumbrance
A legal right or interest held by another that reduces the value of one’s property. Examples: mortgages, leases, liens.

equitable lien
Arises out of an agreement that some particular property shall be used as security for a debt or obligation. Examples: vendee’s lien, vendor’s lien.

equitable title
Interest held by vendee under sales contract when legal title is vested in another’s name.

equity
Market value of a property less the debt against it.

equity of redemption
The redeeming of property that has been pledged as collateral for a loan by repaying the debt. Statutory Right of Redemption is established by law.

escalation clause
Clause in a lease providing for the adjustment of rent based on specified indexes or circumstances.
escheat
Reversion of property to the state when a person dies intestate with no known heirs or when property is abandoned.

escrow closing
Deposit of funds and/or documents with neutral third party along with instructions as to how to conduct the closing.

escrow
Funds, property, or other things of value left in trust to a neutral third party and released upon fulfillment of certain conditions, or by agreement of the parties.

estate
Degree, quantity, nature, extent, duration of a person’s interest in real property.

estoppel
A legal bar to a person alleging or denying a fact when his own previous actions have conclusively indicated the contrary.

ethics
Accepted standards of right and wrong behavior and moral conduct.

eviction
The act of expelling a person from property in his possession; may be actual or constructive eviction.

exculpatory clause
Clause in a lease that relieves the landlord of a liability for personal injury to tenants and for property damage, but does not protect the lessor from injuries to third parties. Also used in mortgages to restrict a borrower’s liability to a specific property.

exclusive agency listing
The appointment of one real estate broker as the sole agent for the sale of a property for a designated period of time. The owner may sell without obligation to pay the agent a commission.

exclusive authorization to sell
A written agreement between owner and sole agent giving the agent the right to collect a commission if the property is sold by anyone during the term of the agreement.

executor (executrix)
A person appointed in a will to manage and distribute the deceased’s estate.

executory contract
A contract where something remains to be done; a contract where performance is not completed.

express contract
One where all terms and conditions are openly and explicitly stated and agreed upon.

Fannie Mae (FNMA)
Federal National Mortgage Association – A quasi-governmental private corporation whose primary function is to purchase and sell mortgages in the secondary mortgage market.

fair market value
Price a property should bring if a reasonable period of time is allowed to find a buyer and both parties are fully informed and neither party is under undue influence.

FHLB (Federal Home Loan Bank System)
Provides reserve funds for federal savings and loan associations.

flaw
Apparent gap or break in the chain of title.

FLBS (Federal Land Bank System)
Makes long-term loans available to farmers.

FSLIC
(Federal Savings and Loan Insurance Corporation) Insured the accounts of depositors in savings and loan associates.
fee, fee simple, fee absolute
The complete ownership of property, without condition. The largest and highest interest one can possess in real estate.

feudal system
A system of ownership where all land is owned by the king, others having only a right or feud to use the land in return for service.

fiduciary
A position of trust and confidence.

filial relationship
Relationship of parent and child.

finder’s fee
As applied to real estate brokerage, a fee paid for referring a buyer or a seller. Normally this is illegal except between licensed brokers.

first mortgage
A mortgage that is first in precedence or senior to all other mortgages.

fixture
Personal property that is permanently attached to real property and goes with the property when it is sold.

forbear
Not to act.

foreclosure
The legal procedure whereby mortgaged property is taken to satisfy a debt that is in default. Can be judicial or nonjudicial.

foreign corporation
A corporation chartered in another state or country.

formal contract
A contract in writing and under seal.

fraud
Willful deception or misrepresentation of facts.

Freddie Mac (FHLMC)
(Federal Home Loan Mortgage Corporation) Provides a secondary mortgage market for residential mortgages written by federally chartered institutions.

freehold
An interest in real property of a life estate or greater.

fructus industriales (emblems)
Annual plantings that require cultivation. Considered personal property.

fructus naturales
Trees, perennial plants, and uncultivated vegetation. Considered real property.

functional obsolescence
A loss in property value brought about by defects in the design or structure of a building.

furlong
220 yards

Ginnie Mae (GNMA)
(Government National Mortgage Association) An agency of HUD, whose principal objectives are in the area of government housing programs. It offers permanent financing for low-rent housing.
government survey method
A method of land description that utilizes imaginary grid lines.

graduated payment mortgage
A fixed interest rate loan wherein the monthly payment starts low and then increases.

grant, grantee, grantor
To transfer the title to real property by deed. The grantor is the person making the transfer; the grantee is the recipient. Grantee/Grantor Index alphabetically lists documents in public recorder’s office according to grantees or grantors.

gross income
The total amount of money received from income property, before deducting expenses.

gross lease
Most common type of lease whereby landlord pays the expenses of ownership (repairs, taxes, maintenance, etc.).

gross rent multiplier (grm)
A number that when multiplied by a property’s gross rents produces a rough estimate of the property’s worth.

ground lease (ground rent)
Rent or lease payments based on the value of the unimproved land. Normally used in long-term leases.

groundwater
Another term for water table (see water table)

habendum clause
The “to have and to hold” clause commonly found in a deed. It names the type of estate being granted.

hereditament
That which can be inherited.

holdover tenant
One who remains in possession after the term of his lease has expired.

homestead exemption
Statutory provision that protects a person’s homestead from the claims of creditors.

Horizontal Property Act
(Condominium Act) State laws that create the legal framework for condominium ownership.

HUD
U.S. Department of Housing and Urban Development.

hypothecate
To use property as security for a debt without giving up possession of it.

implied contract
A contract that is not expressed, rather it can be inferred from the actions of the parties.

implied listings
A listing that arises when the broker acts without expressed authorization but with the knowledge and consent of the owner.

impound (reserve) account
An account into which a lender places monthly insurance and tax payments. Sometimes called an escrow account.

indefeasible title
Perfect title; title that cannot be defeated or voided.

indenture
An agreement or contract.

inducement
Something of value given or offered with the intention of influencing another’s reason or judgment.
ingress and egress (right of)
The permission to enter upon and exit from property. A form of easement.

injunction
A court order requiring a party to do or to refrain from doing specified acts.

installment sales method
Method of reporting gains on sale of property to spread out payment of taxes.

instrument
A general term covering all written legal documents.

intestate
A person who dies without leaving a will or who leaves an invalid will.

inverse condemnation
Action for compensation by a property owner when his property is interfered with or damaged although there has been no condemnation action and/or compensation.

in invitum (Latin)
(“Uninvited”; done without consent.) irrevocable consent to suits (notice of consent) permits Secretary of State to receive legal summons on behalf of a nonresident license.

joint tenancy
Tenancy with right of survivorship and various other characteristics.

jointly and severally liable
Enforceable on the makers as a group and upon each maker individually.

joint venture
A joint business relationship of a temporary nature for a specific purpose.

judgment
The sentence of a court, requiring payment of damages to the injured party.

junior lien
A lien whose claim upon the asset is subordinate to another lien. The order of priority is usually established according to date of recordation.

laches
Similar to Statute of Limitations. An equitable doctrine used by courts to bar a plaintiff from asserting a claim or right because of undue delay on his part. For example: neighbor watches 30-story building being built, after it reaches the 29th story he asserts it encroaches 5 feet on his property, demands it be torn down. He is “guilty of laches”.

landlord
The owner of leased property; the lessor.

land-use control
A broad term describing any legal description that regulates how a parcel of land may be used.

lease, lessor, lessee
An agreement whereby one gives up possession of real property, but not title, for a stipulated period of time. The lessor (landlord) leases the property to the lessee (tenant), who pays rent.

leasehold
An interest less than a freehold, held by a lessee.

lease option
Allows tenant to buy property at preset price and terms.

leasehold value
The difference between the market value of a lease and what is being paid of the lease.
**legal description**
Identification of the location and boundaries of a parcel of land.

**legal notice**
Same as constructive notice.

**legatee**
A person who receives personal property under a will.

**leverage**
The use of borrowed funds to obtain the maximum percentage of return on one’s holdings.

**lien**
A claim against the property of another as security for a debt or charge.

**life estate**
An estate or interest in real estate held during the term of a specified person’s life.

**light and air easement**
An easement that provides for open space in a specified area. Example: one buys a light and air easement covering the property next door to prevent the construction of a building that would block view.

**limited partnership**
A partnership where the liability of some partners is limited to their investment.

**lis pendens**
(Latin) “Pending suit”; a notice of pending legal action that clouds title to real estate.

**listing**
A real estate broker’s authority to act as agent for a principal.

**litigate**
To carry on a suit in a court of law.

**littoral right**
The lawful claim of a landowner to use and enjoy the water of a lake or sea bordering his land.

**locus sigilli**
(Latin) abbreviate l.s. “The place of the seal”; when placed after a signature, puts the signature under seal.

**lot, block, and subdivision method**
A method of land description utilizing recorded plats.

**Maggie Mae**
A real estate industry nickname for the MFIC Investment Corporation.

**maker**
The person who signs a promissory note.

**mapping requirements**
State and local regulations pertaining to subdivisions that a subdivider must meet before selling lots.

**market price**
The actual amount for which a piece of property is sold.

**market value**
The amount that a willing buyer would pay, or that a willing seller would take. Often substantially different from market price.

**marketable title (merchantable title)**
Good title; clear title; title that is free of defects.

**masking**
Disguising or concealing something unethical or illegal.
master deed
The principal conveyance document used by owners of land on which condominiums are located.

master plan
Long-term comprehensive guide for the physical growth of a community.

mechanic’s lien
A lien levied against specific property by those who furnish materials and/or labor for its construction, improvement, or repair.

menace
Threat of violence to obtain a contract.

meridian lines
North-south lines in the Government Survey Method.

metes and bounds method
A method of land description utilizing measurements and boundaries.

middleman
A person who represents both sides of a transaction, with both parties’ full knowledge and consent.

mill
One tenth of a cent, one-thousandth of a dollar ($0.001).

millage rate
Rate per dollar of assessed valuation. The rate of real property taxes is often expressed as a millage rate.

misrepresentation
A false presentation of the facts.

monument
(p.m. permanent reference marker)
A boundary marker in a fixed and identifiable position. May be man-made (stake or post) or natural (boulder or tree).

used most commonly in metes and bounds land description.

mortgage, mortgagee, mortgagor
A pledge of property for security of a debt. The mortgagor gives the mortgage and is generally the present owner or buyer; he is the borrower (debtor). The mortgagee receives the mortgage and is the lender of funds (creditor).

mortgage banker, mortgage loan correspondent, mortgage company
A person or firm that specializes in originating and servicing mortgage loans, normally using money from other sources.

mortgage broker
A person who arranges or obtains mortgage financing for others.

mortgage insurance premium
One time lump-sum payment charged by FHA for insurance when loan is made.

multiple listing
A form of exclusive authorization to sell listing in which the listing is made available to other brokers who belong to the multiple listing organization. The process assures the client that his property will have wide exposure.

naked title, bare title
Title that lacks the right and privileges usually associated with ownership.

National Association of Realtors
A national trade organization of real estate brokers and salesmen. Members are referred to as Realtors, which is a copyright term.

negative amortization
A situation wherein a loan payment is insufficient to pay the interest due and the excess is added to the balance owned.
negotiable instrument
An instrument that is transferable by delivery, in the ordinary course of business. Endorsement may or may not be necessary. Example: promissory notes, checks, and some types of bonds.

net income
The amount of income left after deducting operating expenses from gross income.

net lease
A lease whereby the tenant pays most of the expenses of ownership (repairs, taxes, general maintenance).

net listing
A listing where the net amount due to the seller is specified, rather than the selling price. The broker’s commission would be any sale price above the seller’s target price. These are illegal in most states.

net operating income
Gross income less operating expenses, vacancies, and collection losses.

non-conforming use (grandfathered)
A land use that does not comply with current zoning, but is allowed to remain as it was before the zoning ordinance was passed. Generally such properties cannot be remodeled or enlarged.

non-disturbance clause
An agreement in a sales contract where the seller retains mineral rights, and the buyer needs a guarantee that the exploration for minerals will not interfere with surface development of the property. A non-disturbance clause is also used in mortgage contracts on income producing property to protect the continuation of the lease in the event of loan foreclosure.

non-freehold
Of definite duration, generally treated as personal property.

notary public
A bonded officer licensed by the state to acknowledge signatures.

novation
The substitution of a new contract or new party for an old one.

obsolescence
See Economic Obsolescence and Functional Obsolescence.

offer, offeree, offeror
A proposal to enter into a contract under certain specified terms and conditions. The offeror gives the offer; the offeree receives the offer.

offset statement
Statement by owner or lienholder as to balance due on an existing lien.

open listing (general listing)
A listing made available to more than one broker.

opinion of title
A written opinion by an attorney that evaluates the quality of title and notes the defects, if any.

option, optionor, optionee
A binding promise to sell or lease property until a specified future date for a specified price and at specified terms. The optionor (owner) gives the option to the optionee (potential buyer or lessee).

ordinance
A code, regulation, or law established by a city or county government.

origination fee
Service fee for processing a loan. Not considered interest.
ostensible
Apparent; A principal may give an agent a certain authority by allowing others to reasonably believe that the agent has that authority

package mortgage
A mortgage covering both real and personal property.

panic peddling
Illegal practice of soliciting sales or rental listings by making statements that create fear or alarm.

parallel lines
East-west lines in the Government Survey Method.

parol evidence rule
Permits oral evidence to clarify an incomplete or ambiguously written contract. Very limited application.

partial release
A release of a portion of a property from a mortgage.

partition
The legal process whereby jointly held property is divided among the owners.

percentage lease
A lease where the rental payments are based on the volume of gross sales.

percolating water
Underground water not confined to a defined underground waterway.

personal property
Any property other than real property; chattels.

physical depreciation
A decline in property value due to time and the action of the elements; physical deterioration.

P.I.T.I.
(principal, interest, taxes, and insurance)
Most residential mortgage payments include the above and are therefore referred to as P.I.T.I.

plaintiff
The person who brings suit against another or charges another with a crime.

planned unit development (PUD)
Individually owned houses coupled with membership in the Owners Association that holds title to the common areas.

plat
A map or survey of a subdivision.

plotage
The appraisal principle that holds that merging separately owned pieces of property into one large single lot will increase the value of the separate pieces.

PMI (private mortgage insurance)
Insures top 20%-25% of a loan to protect lender against losses.

point
One percent of the principal or face amount of a mortgage.

police power
The right of a government to enact legislation to protect its citizens.

power-of-attorney
The written instrument appointing one to act as an Attorney in Fact.
power of sale (sale by advertisement)
Allows a mortgagee to conduct a foreclosure sale without first going to court.

prepayment penalty
A stipulated (normally expressed as a percentage of the balance) for prepayment of a mortgage.

prima facie
(Latin) “On first appearance”; evidence of sufficient strength to establish a fact on its face unless rebutted.

principal
One who employs an agent to act on his behalf. Also amount owed on a loan.

principles of value
Substitution, Highest and Best Use, Anticipation, Change, Conformity, etc.

probate (surrogate) court
A court of law with the authority to verify the legality of a will and carry out its instructions.

procuring clause
The person who, through his efforts, is responsible for bringing the parties together, and who is thus entitled to the commission.

promissory note
A written evidence of a debt, together with the promise to repay.

promulgate
To declare openly; to decree.

property
That which is legally owned by an individual.

proprietary lease
Lease that gives a tenant/shareholder the right to occupy a particular unit in a cooperative development.

prorate
To allocate according to one’s interest or share.

prospect
The potential buyer or customer to whom real estate is shown.

public recorder’s office
A government operated facility wherein documents are entered into the public records.

puffing
Nonfactual or extravagant statements a reasonable person would recognize as such.

pur autre vie
Life estate measured by a person other than the grantee.

purchase money mortgage
A mortgage given by the buyer to the seller in lieu of cash at closing.

quantity survey method
A mortgage given by the buyer to the seller in lieu of cash at closing.

quasi (Latin)
Prefix meaning “as if”; having the appearance or effect of.

quiet enjoyment
A covenant in a deed or lease giving the possessor the right to enjoy his property without being disturbed.

quiet title suit
A lawsuit to remove clouds and defects on title.
quitclaim deed
A form of deed without covenants or warrants of any type.

ranges
Imaginary six-mile wide strips of land east and west of the principal meridian, running in a north-south direction, in the Government Survey Method.

ratification
The word ratify means “to approve or sanction...to make valid.” If an agent performs an unauthorized act on behalf of a principal, but the principal later shows approval for that act, then the principal has established an agency relationship by ratification.

real estate
Land, realty, real property.

Real Estate Settlement Procedures Act (RESPA)
A federal law that deals with procedures to be followed in certain types of real estate closings.

realtor
A copyrighted term used to designate a member of the National Association of Realtors. He is also a member of state and local boards.

receiver
A court-appointed person who takes control and assumes the management of property under litigation or in bankruptcy.

reconveyance deed
Document used to reconvey title from trustee back to owner once the debt is paid.

recordation
The placing of a document on the public records, thereby effecting public notice.

redlining
The practice of refusing to make loans in certain neighborhoods.

referee
An impartial person selected by the parties or appointed by a court to determine facts or decide matters in dispute.

Regulation Z (truth in lending)
A federal law requiring certain disclosures when extending or advertising credit.

release clause (deed of release)
A mortgage clause used to release portions of mortgaged property from the mortgage. The instrument that releases the property is a Deed of Release.

release of lien
An instrument whereby a lienholder or potential lienholder renounces all claims as of a certain date.

remainder estate
A present right to future title; title is taken upon the termination of a life estate.

renegotiable rate mortgage
A long-term mortgage with a note that must be renegotiated at three- to five-year intervals.

renunciation
The giving up of one’s rights or interests under a contract.

recesision (recession)
The canceling or annulling of a contract, by mutual consent or by either party for cause.

reservation
A right reserved to the grantor in a deed.
residual
That which remains; the remainder.

reverse mortgage
The lender makes payments to a homeowner who later repays in a lump sum.

reversionary estate
An estate in which title returns (reverts) to the original grantor or his heirs upon termination of a life estate.

revocation
Annulling or cancelling by taking back or recalling.

right of survivorship
The right whereby a surviving joint tenant gains sole title to the property.

right of way
The right to pass over another’s property; a special form of easement. It may be either public or private.

riparian rights
Legal rights possessed by owners of property that borders a river, stream, or other natural watercourse.

sale and leaseback
An agreement whereby the seller simultaneously leases the property from the buyer, usually on a long-term lease.

sandwich lease
A situation that arises when the holder of a lease in turn subleases to another. He is then in the position of being “sandwiched” between the lessor and the sublessee.

satisfaction of mortgage
An instrument that acknowledges the full payment and completion of all terms of a mortgage.

seal
An impression or mark on a contract. In some states its presence constitutes prima facie evidence of valuable consideration; it may also affect the statute of limitations regarding the enforceability of the contract.

secondary financing
Any financing in addition to a first mortgage.

secondary mortgage market
A market created to provide liquidity for mortgage financing.

section
One square mile (640 acres). Used in the Government Survey Method.

security
Any deposit or personal pledge that guarantees payment of a loan or the performance of a contractual duty.

seisin
The actual possession and ownership of a freehold interest in real property.

separate property
Property not acquired with joint funds; property acquired before marriage in a Community Property State.

servient estate
The estate of the owner whose land is burdened by an appurtenant easement (see dominant estate).

setback ordinance
An ordinance establishing minimum distances by which buildings must be set back from streets or property lines.

severalty
Sole ownership.

severance damages
Compensation paid for loss in market value that results from splitting up a property in a condemnation proceeding.
situs
Location preference of a parcel of land from an economic standpoint.
special assessment
A special tax levied to pay for a specific improvement, such as sidewalks, sewers, etc.
special warranty deed
A deed in which the grantor warrants only against claims that arise from his ownership. (See text)
specific performance
A suit brought to compel the adverse party to perform exactly as stated in the contract.
square foot method
Appraisal method of estimating construction cost based on the appropriate square-foot cost figure.
squatter's rights
A squatter has no title, but begins to acquire rights when he is considered to be in adverse possession. He may gain title after being in adverse possession for the statutory time period.
statute
A law enacted by the legislative branch of a government.
statute of frauds
An early English statute, enacted in 1677, that requires certain types of transactions be evidenced in writing in order to be binding or enforceable.
statute of limitations
A statute that restricts the period of time within which legal action may be brought.
statutory
Created by law.
steering
The illegal practice of directing minority members to or away from certain neighborhoods.
straight line depreciation
A non-accelerated form of depreciation in which the total depreciation is spread equally over the number of years of remaining economic life.
strict liability
A legal doctrine that holds that an owner is liable to an injured party without any possible excuse or justification
subdivision
A parcel of land that has been divided into smaller lots for homesites or other uses.
subject to mortgage
When taking title to property with an existing mortgage, assuming responsibility only for the mortgage and not for the note.
sublease
An agreement whereby a lessee leases part of his interest to another. He becomes the landlord to the sub-tenant.
subordination
A process in which the holder of a superior mortgage agrees to give up his priority position.
subpoena
A court order directing a person to appear as a witness.
subrogation
The substitution of one creditor for another, as in the selling of a mortgage.
surety
A personal guarantee of the performance of another.
surrender of lease
Mutual agreement by landlord and tenant to terminate a lease.
F
Filed by holder of a junior mortgage at a foreclosure sale.
survey
To determine and describe the boundaries and positions of a tract of land.
survivorship
See Right of Survivorship.
suspend
To temporarily make ineffective.
syndicate
A group of individuals who act together in a business undertaking.
tacking
Adding successive periods of continuous occupation to qualify for title by adverse possession.
take-out loan
A permanent loan arranged to replace a construction loan.
tandem plan
Program of low-cost housing whereby GNMA issues commitments to lenders to buy loans at a pre-determined rate, absorbing any losses.
tax sale (tax certificate) (tax deed)
A sale, normally an auction of property that is in default of taxes assessed against it. Title to the property is passed by a tax certificate or tax deed; the exact procedure varies from state to state.
tax shelter
An investment where the amount of deductible depreciation exceeds the property’s taxable income.
tenancy
(1) The act of occupying another’s property, normally by lease. (2) The possession of land under any of various of title. Examples: tenancy-in-common, tenancy for years, etc.
tenancy by the entireties
A form of joint ownership between husband and wife.
tenancy-in-common
A form of joint ownership without right of survivorship.
tenant
An individual in legal possession of another’s property.
tenements and hereditaments
The whole bundle of rights that one may have in property.
tenure in land
The manner in which, or the period for which, an estate in property is held.
term loan
A loan requiring interest-only payments until the maturity date (due date) at which time the entire principal is due.
testate, testator, testatrix
The condition of one who leaves a valid will at his death. One who makes a will is a testator (feminine: testatrix).
tiers
Townships north and south of the base line parallel in the Government Survey Method.
time is of the essence clause
A clause in a contract that emphasizes that punctual performance is an essential requirement of the contract.
time-sharing
Part ownership of a property occupied with a right to exclusive use of it for a specified number of days per year.

title
The sum of all the facts upon which ownership is based.

title insurance
An insurance policy that protects the insured from loss resulting from defects in title.

title search
An examination of the public records to establish the chain of title and the condition of title for a property.

topography
The configuration of the surface of land, including its elevations (“the lay of the land”).
torrens system
Method of registering land title that is similar to that of automobile ownership registration.
tort
A civil wrong; a wrongful act.
tract index
Listing of all documents relating to a parcel of real estate on a single page.
trade fixtures
Personal property affixed to real property that is essential to a business and that is removable by the lessee.
trade name
An adopted name under which an individual or firm does business.
trigger term
Credit information used in advertising that requires additional disclosures under Regulation Z.
trust, trustor, trustee
A property interest held by one person or entity for the benefit of another. The trustor is the creator of the trust; the trustee is the administrator; the beneficiary receives the income or benefits of the trust.
undivided interest
Ownership by two or more persons that gives each the right to use the entire property.
undue influence
Unfair advantage to obtain a contract.
unilateral contract
A contract where only one party is obligated to perform.
uniform commercial code
A group of statutes that regulate business transactions in personal property. It does not apply to real property transactions.
unit-in-place method (segregated cost method)
Appraisal method that multiplies the number of units by the installed cost of the components.
usury
The lending of money at greater than the maximum rate allowed by law.
valid
Legal; having legal strength or force.
value (valuation)
The estimated worth of a property as measured by its capacity to command other goods in exchange.
variable rate mortgage
A mortgage on which the interest rate rises and falls with changes in prevailing interest rates.
**variance**
Allows an individual property owner to vary slightly from strict compliance of zoning requirements.

**vendee**
The buyer.

**vendee's lien**
A lien for the return of the deposit and any expenses incurred in the event of default by the seller.

**vendor**
The seller.

**vendor's lien**
A lien for the unsecured, unpaid balance of the purchase price.

**vertical land descriptions**
Used to describe air rights or subsurface rights.

**vested**
That interest which has become a complete and consummated right; a present right of future enjoyment.

**void**
Of no legal force or effect; not binding. Also, to nullify or remove legal force from.

**voidable**
That which is capable of being adjudged void, but not void unless action is taken by one of the parties. A transaction that may be set aside by one party, but is binding upon the other party.

**waiver**
A written instrument wherein one waives or renounces a claim or privilege of one's own free will.

**warrant**
An assurance or guarantee that something is true as stated.

**warranty deed**
A deed in which grantor fully warrants good clear title to the property; contains five covenants.

**waste**
Willful destruction of any part of another's land.

**water table**
The upper limit percolating water below the earth's surface.

**will (testament)**
Instrument disposing of property upon the death of the testator.

**wraparound mortgage**
A refinancing technique in which the new lender assumes payments of the existing mortgage, and gives a new increased mortgage to the borrower at the higher interest rate. The new mortgage “wraps around” the original mortgage.

**yield**
The dollar amount of income realized on an investment. Yield is expressed as a percentage of principal: Annual Yield (%) = net annual return invested principal.

**zoning**
The exercise of police power of a municipality in regulating and controlling the character and use of property.

**zoning variance**
The special permission to use property in a manner that is contrary to current zoning ordinances.