

### **Abstract (Of Title)**

A summary of the public records relating to the title to a particular piece of land. An attorney or title insurance company reviews an abstract of title to determine whether there are any title defects which must be cleared before a buyer can purchase clear, marketable, and insurable title.

### **Acceleration Clause**

Condition in a mortgage that may require the balance of the loan to become due immediately, if regular mortgage payments are not made or for breach of other conditions of the mortgage.

### **Adjustable-Rate Mortgage (ARM)**

A loan with an interest rate that changes periodically in keeping with a current index, like one-year treasury bills. Typically, however, ARM's can't jump more than two percentage points per year or six points above the starting rate.

### **Agreement of Sale**

Known by various names, such as contract of purchase, purchase agreement, or sales agreement according to location or jurisdiction. A contract in which a seller agrees to sell and a buyer agrees to buy, under certain specific terms and conditions spelled out in writing and signed by both parties.

### **Amortization**

A payment plan which enables the borrower to reduce his debt gradually through monthly payments of principal.

### **Appraisal**

An expert judgment or estimate of the quality or value of real estate as of a given date.

### **Binder**

An early agreement to buy a home from a seller, which is usually ensured with earnest money.

### **Broker**

(See real estate broker)

## **Closing Costs**

The numerous expenses which buyers and sellers normally incur to complete a transaction in the transfer of ownership of real estate. These costs are in addition to price of the property and are items prepaid at the closing day. This is a typical list:

### **BUYER'S EXPENSES**

Documentary Stamps on Notes

Recording Deed and Mortgage

Escrow Fees

Attorney's Fee

Title Insurance

Appraisal and Inspection

Survey Charge **SELLER'S EXPENSES**

### **Cost of Abstract**

Documentary Stamps on Deed

Real Estate Commission

Recording Mortgage

Survey Charge

Escrow Fees

Attorney's Fee

The agreement of sale negotiated previously between the buyer and the seller may state in writing who will pay each of the above costs.

### **Closing Day**

The day on which the formalities of a real estate sale are concluded. The certificate of title, abstract, and deed are generally prepared for the closing by an attorney and this cost charged to the buyer. The buyer signs the mortgage, and closing costs are paid. The final closing merely confirms the original agreement reached in the agreement of sale.

**Cloud (On Title)**

An outstanding claim or encumbrance which adversely affects the marketability of title.

**Commitment Letter**

A written promise from a lender that you will receive a mortgage of a specified amount at a specified rate.

**Conditional Offer**

An offer to buy a property, but only under certain circumstances (for example, the buyer receives financing or sells her old home first).

**Contractor**

In the construction industry, a contractor is one who contracts to erect buildings or portions of them. There are also contractors for each phase of construction: heating, electrical, plumbing, air conditioning, road building, bridge and dam erection, and others.

**Conventional Mortgage**

A mortgage loan not insured by HUD or guaranteed by the Veterans' Administration. It is subject to conditions established by the lending institution and State statutes. The mortgage rates may vary with different institutions and between States. (States have various interest limits.)

**Deed**

A formal written instrument 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 purchaser at closing day. There are two parties to a deed: the grantor and the grantee. (See also deed of trust, general warranty deed, quitclaim deed, and special warranty deed.)

**Deed of Trust**

Like a mortgage, a security instrument whereby real property is given as security for a debt. However, in a deed of trust there are three parties to the instrument: 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 defaults in the payment of the debt, the trustee may sell the property at a public sale, under the terms of the deed of trust. In most jurisdictions where the deed of trust is in force, the borrower is subject to

having his property sold without benefit of legal proceedings. A few States have begun in recent years to treat the deed of trust like a mortgage.

### **Documentary Stamps**

A State tax, in the forms of stamps, required on deeds and mortgages when real estate title passes from one owner to another. The amount of stamps required varies with each State.

### **Earnest Money**

The deposit money given to the seller or his agent by the potential buyer upon the signing of the agreement of sale to show that he is serious about buying the house. If the sale goes through, the earnest money is applied against the downpayment. If the sale does not go through, the earnest money will be forfeited or lost unless the binder or offer to purchase expressly provides that it is refundable.

### **Easement Rights**

A right-of-way granted to a person or company authorizing access to or over the owner's land. An electric company obtaining a right-of-way across private property is a common example.

### **Encroachment**

An obstruction, building, or part of a building that intrudes beyond a legal boundary onto neighboring private or public land, or a building extending beyond the building line.

### **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.

### **Equity**

The portion of a property you own outright. If, for example, you put 20 percent down on a house, you have 20 percent equity in your property. Over time, you earn more equity as you pay off the mortgage.

## **Escrow**

Funds paid by one party to another (the escrow agent) to hold until the occurrence of a specified event, after which the funds are released to a designated individual. In FHA mortgage transactions an escrow account usually refers to the funds a mortgagor pays the lender at the time of the periodic mortgage payments. The money is held in a trust fund, provided by the lender for the buyer. Such funds should be adequate to cover yearly anticipated expenditures for mortgage insurance premiums, taxes, hazard insurance premiums, and special assessments.

## **Escrow money**

Escrow money is held by a third party until the deal is sealed. Earnest money, for example, may be held in escrow until closing day.

## **Fixed-Rate Mortgage**

A loan that carries an unchangeable interest rate over its entire term - typically a period of 15-30 years.

## **General Warranty Deed**

A deed which conveys not only all the grantor's interests in and title to the property to the grantee, but also warrants that if the title is defective or has a "cloud" on it (such as mortgage claims, tax liens, title claims, judgments, or mechanic's liens against it) the grantee may hold the grantor liable.

## **Grantee**

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

## **Grantor**

That party in the deed who is the seller or giver.

## **Hazard Insurance**

Protects against damages caused to property by fire, windstorms, and other common hazards.

## **HUD**

U.S. Department of Housing and Urban Development. Office of Housing/Federal Housing Administration within HUD insures home mortgage loans made by lenders and sets minimum standards for such homes.

**Interest**

A charge paid for borrowing money. (See mortgage note)

**Lien**

A claim by one person on the property of another as security for money owed. Such claims may include obligations not met or satisfied, judgments, unpaid taxes, materials, or labor. (See also special lien.)

**Lock-In**

A guarantee - for which you are usually charged a fee - that you will receive a specific rate when you close your mortgage.

**Market Value**

The price that a home will likely fetch on the market, based on comparisons to similar homes that have sold recently.

**Marketable Title**

A title that is free and clear of objectionable liens, clouds, or other title defects. A title which enables an owner to sell his property freely to others and which others will accept without objection.

**Mortgage**

A lien or claim against real property given by the buyer to the lender as security for money borrowed. Under government-insured or loan-guarantee provisions, the payments may include escrow amounts covering taxes, hazard insurance, water charges, and special assessments. Mortgages generally run from 10 to 30 years, during which the loan is to be paid off.

**Mortgage Commitment**

A written notice from the bank or other lending institution saying it will advance mortgage funds in a specified amount to enable a buyer to purchase a house.

**Mortgage Insurance Premium**

The payment made by a borrower to the lender for transmittal to HUD to help defray the cost of the FHA mortgage insurance program and to provide a reserve fund to protect lenders against loss in insured mortgage transactions. In FHA insured mortgages this

represents an annual rate of one-half of one percent paid by the mortgagor on a monthly basis.

### **Mortgage Note**

A written agreement to repay a loan. The agreement is secured by a mortgage, serves as proof of an 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.

### **Mortgage (Open-End)**

A mortgage with a provision that permits borrowing additional money in the future without refinancing the loan or paying additional financing charges. Open-end provisions often limit such borrowing to no more than would raise the balance to the original loan figure.

### **Mortgagee**

The lender in a mortgage agreement.

### **Mortgagor**

The borrower in a mortgage agreement.

### **PITI**

Abbreviation for principal, interest, taxes and insurance, all of which are lumped together in your monthly mortgage payment.

### **Plat**

A map or chart of a lot, subdivision or community drawn by a surveyor showing boundary lines, buildings, improvements on the land, and easements.

### **Points**

A one-time-only fee you pay up front to your lender, sometimes in exchange for a slightly lower mortgage rate. One point equals one percent of the total amount you plan to borrow.

### **Prepayment**

Payment of mortgage loan, or part of it, before due date. Mortgage agreements often restrict the right of prepayment either by limiting the amount that can be prepaid in any

one year or charging a penalty for prepayment. The Federal Housing Administration does not permit such restrictions in FHA insured mortgages.

### **Principal**

The basic element of the loan as distinguished from interest and mortgage insurance premium. In other words, principal is the amount upon which interest is paid.

### **Quitclaim 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. (See deed.)

### **Real Estate Broker**

A middle man or agent who buys and sells real estate for a company, firm, or individual on a commission basis. The broker does not have title to the property, but generally represents the owner.

### **Refinancing**

The process of the same mortgagor paying off one loan with the proceeds from another loan.

### **Special Assessments**

A special tax imposed on property, individual lots or all property in the immediate area, for road construction, sidewalks, sewers, street lights, etc.

### **Survey**

A map or plat made by a licensed surveyor showing the results of measuring the land with its elevations, improvements, boundaries, and its relationship to surrounding tracts of land. A survey is often required by the lender to assure him that a building is actually sited on the land according to its legal description.

### **Tax**

As applied to real estate, an enforced charge imposed on persons, property or income, to be used to support the State. The governing body in turn utilizes the funds in the best interest of the general public.

## **Title**

As generally used, the rights of ownership and possession of particular property. In real estate usage, title may refer to the instruments or documents by which a right of ownership is established (title documents), or it may refer to the ownership interest one has in the real estate.

## **Title Insurance**

Protects lenders or homeowners against loss of their interest in property due to legal defects in title. Title insurance may be issued to a "mortgagee's title policy." Insurance benefits will be paid only to the "named insured" in the title policy, so it is important that an owner purchase an "owner's title policy", if he desires the protection of title insurance.

## **Title Search or Examination**

A check of the title records, generally at the local courthouse, to make sure the buyer is purchasing a house from the legal owner and there are no liens, overdue special assessments, or other claims or outstanding restrictive covenants filed in the record, which would adversely affect the marketability or value of title.

## **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. (See deed of trust.)

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