

## **Glossary of Real Estate and Mortgage Terms**

### **80-10-10.**

A type of blended mortgage loan which avoids private mortgage insurance (PMI). It consists of an 80% 30- year first lien at market rates, a 10% - 15- year second lien at a slightly higher interest rate, and a 10% down payment. Instead of having to come up with a 20% down payment, a buyer is able to avoid **PMI** with only 10% down. While the interest rate on the second note is a bit higher, the total monthly payment is usually lower than a 90% mortgage with PMI. In addition, the extra interest paid for the second lien is tax deductible, whereas PMI is not. It is also possible to payoff just the second lien, thereby lowering the future monthly payments. Some lenders also offer 75-15-10 and 80-15-5 programs. This type of mortgage also gives the consumer the option of having a **non-escrowing loan** without a 20% down payment.

### **abstract of title**

A condensed version of the history of title to a piece of land that lists any transfers in ownership, as well as any liabilities attached to it, such as mortgages.

### **abutting**

The joining, reaching, or touching of adjoining land. Abutting pieces of land have a common boundary.

### **acceleration clause**

A provision in a written mortgage, note, bond or conditional sales contract that, in the event of default, the whole amount of principal and interest may be declared to be due and payable at once.

### **acceptance**

An offeree's consent to enter into a contract and be bound by the terms of the offer.

### **accretion**

An addition to land through natural causes.

### **acknowledgment**

A declaration made by a person to a notary public, or other public official authorized to take acknowledgments, that the instrument was executed by him and that it was his free and voluntary act.

### **acre**

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

### **ad valorem**

Designates an assessment of taxes against property. Literally, according to value.

**additional principal payment**

A payment by a borrower of more than the scheduled principal amount due in order to reduce the remaining balance on the loan.

**Adjustable-rate mortgage (ARM)**

A mortgage loan whose interest rate fluctuates according to the movements of an assigned index or a designated market indicator--such as the weekly average of one-year U.S. Treasury Bills--over the life of the loan. To avoid constant and drastic fluctuations, ARMs typically limit how often and by how much the interest rate can vary.

**adjusted basis**

The original cost of a property plus the value of any capital expenditures for improvements to the property minus any depreciation taken.

**adjustment date**

The date on which the interest rate changes for an *adjustable-rate mortgage (ARM)*.

**adjustment period**

The period that elapses between the adjustment dates for an *adjustable-rate mortgage (ARM)*.

**adjustments**

Money that the buyer and seller credit each other at the time of closing. Often includes taxes and down payment.

**administrator/administratrix**

A man/woman appointed by a court to settle the estate of a deceased person when there is no will. Contrast with *executor/executrix*.

**adverse possession**

The right of an occupant of land to acquire title against the real owner, where possession has been actual, continuous, hostile, visible, and distinct for the statutory period. The requirements for adversely possessing property vary between states, but usually include continuous and open use for a period of five or more years and paying taxes on the property in question.

**affidavit**

Written statement signed and sworn to before some person authorized to take an oath.

## **agency**

The legal relationship between a principal and an agent. In real estate transactions, usually the seller is the principal, and the broker is the agent: however, a buyer represented by a broker (i.e., buyer as principal) is a growing trend. In an agency relationship, the principal delegates to the agent the right to act on his or her behalf in business transactions and to exercise some discretion while so acting. The agent has a fiduciary relationship with the principal and owes to that principal the duties of accounting, care, loyalty, and obedience. Also see [buyer's broker](#).

## **agent**

A person authorized to act for and under the direction of another person when dealing with third parties. The person who appoints an agent is called the principal. An agent can enter into binding agreements on the principal's behalf and may even create liability for the principal if the agent causes harm while carrying out his or her duties. See also [attorney-in-fact](#).

## **alienation clause**

A clause in a mortgage that gives the lender the right to call the entire loan balance due if the property is sold; due-on-sale clause.

Non-monetary benefits and satisfactions derived from property ownership, such as a pleasant view, pride in home ownership, etc.

## **amendment**

A modification to an existing contract, mutually agreed to by all parties. Examples might include a change in the purchase price due to a low appraisal, or a change in the closing date.

## **amortization**

The operation of paying off indebtedness, such as a mortgage, by installments. The conventional amortization periods are 15 or 30 years. (See [term](#))

## **amortized mortgage**

A mortgage requiring periodic payments that include both interest and principal. Also see [self-amortized loan](#).

## **annual membership**

The amount that is charged annually for having a line of credit available. Often charged regardless of whether or not you use the line.

## **antitrust laws**

Federal and state laws prohibiting, among other things, monopolies, monopolistic practices, restraint of trade, and price fixing.

**application**

An initial statement of personal and financial information, which is required to approve your loan.

**application fee**

Fees that are paid upon application. Charges for property appraisal and a credit report are usually included in the application fee.

**appraisal**

A determination of the value of something, such as a house, jewelry or stock. A professional appraiser--a qualified, disinterested expert--makes an estimate by examining the property and looking at the initial purchase price and comparing it with recent sales of similar property. Courts commonly order appraisals in probate, condemnation, bankruptcy or foreclosure proceedings in order to determine the fair market value of property. Banks and real estate companies use appraisals to ascertain the worth of real estate for lending purposes. And insurance companies require appraisals to determine the amount of damage done to covered property before settling insurance claims.

**appraised value**

An estimate of the present worth.

**appreciation**

An increase in value or worth of property. Opposite of *depreciation*.

**asking (list) price**

The price placed on property for sale.

**assessor**

**amenities**

A local government official who determines the value of the property for taxation purposes.

**assignee**

A person to whom a property right is transferred. For example, an assignee may take over a lease from a tenant who wants to permanently move out before the lease expires. The assignee takes control of the property and assumes all the legal rights and responsibilities of the tenant, including payment of rent. However, the original tenant remains legally responsible if the assignee fails to pay the rent.

**assignment**

A transfer of property rights from one person to another, called the **assignee**.

**assumable mortgage**

An existing mortgage that can be taken over by the buyer on the same terms given to the original borrower.

**assumption of mortgage**

The transfer of title to property to a grantee wherein he assumes liability for payment of an existing note secured by a mortgage against the property; should the mortgage be foreclosed upon and the property sold for a lesser amount than that due, the grantee-purchaser who has assumed and agreed to pay the debt secured by the mortgage is personally liable for the deficiency. Before a seller may be relieved of liability under the existing mortgage, the lender must accept the transfer of liability for payment of the note. Also known as simple assumption. Contrast with **subject to mortgage**.

**attachment**

Method by which a debtor's property is placed in the custody of the law and held as security pending outcome of a creditor's suit.

**attorney's opinion of title**

An instrument written and signed by the attorney who examines the abstracts of title, stating his opinion as to whether a seller may convey good title.

**attractive nuisance**

Something on a piece of property that attracts children but also endangers their safety. For example, unfenced swimming pools, open pits, farm equipment and abandoned refrigerators have all qualified as attractive nuisances.

**auction**

A public sale of property to the highest bidder.

**balloon mortgage**

A mortgage where the final payment is considerably larger than the preceding payments. Contrast with **amortized mortgage**.

**balloon payment**

A large final payment due at the end of a loan, typically a home or car loan, to pay off the amount your monthly payments didn't cover. Many states prohibit balloon payments in loans for goods or services

that are primarily for personal, family or household use, or require the lender to let you refinance the balloon payment before forcing collection.

### **bill of sale**

A written instrument given to pass title to personal property.

### **blanket mortgage**

One mortgage on a number of parcels of real property.

### **blockbusting**

The illegal practice of inducing panic selling in a neighborhood by making representations of the entry, or prospective entry, of members of a minority group; *panic peddling*. See *Fair Housing*.

### **bond**

**(1)** A written agreement purchased from a bonding company that guarantees a person will properly carry out a specific act, such as managing funds, showing up in court, providing good title to a piece of real estate or completing a construction project. If the person who purchased the bond fails at his or her task, the bonding company will pay the aggrieved party an amount up to the value of the bond.

**(2)** An interest-bearing document issued by a government or company as evidence of a debt. A bond provides pre-determined payments at a set date to the bond holder. Bonds may be “registered” bonds, which provide payment to the bond holder whose name is recorded with the issuer and appears on the bond certificate, or “bearer” bonds, which provide payments to whomever holds the bond in-hand. Mortgage interest rates are closely related to long term bond interest rates.

### **bonus to selling agent (BTSA)**

Compensation, above and beyond the sales commission, offered to the real estate agent who brings the buyer to the transaction. A BTSA is used to provide an extra incentive for real estate agents to show a particular listing. Often the bonus is tied to closing within a certain time period or the property selling for a certain price. A buyer’s agent should not consider the BTSA a factor in any negotiations between buyer and seller. Realistically, most BTSA’s tend to disappear during initial negotiations, even though they should never be considered as negotiable after they have been offered. Any bonus to selling agent should be contained in a written agreement between the seller and listing broker. The BTSA is technically offered by the listing broker, not the seller, and thus should not be a subject of negotiation.

### **breach of contract**

Failure, without legal excuse, of one of the parties to a contract to perform according to the contract.

### **brokerage**

For a commission or fee, bringing together parties interested in buying, selling, exchanging, or leasing real property.

### **BTSA**

Acronym - *bonus to selling agent*.

### **building line**

A line fixed at a certain distance from the front and/or sides of a lot beyond which no structure can project. See *set back*.

### **bundle of rights**

Ownership in real property implies a group of rights, such as the right of occupancy, use and enjoyment, the right to sell in whole or in part, the right to control the use, the right to bequeath, the right to lease any or all of the rights, the right to the benefits derived by occupancy and use of the property, etc.

### **buy down**

A cash payment, usually measured in points, to a lender in order to reduce the interest rate a borrower must pay.

### **buyer's broker**

A licensee who has declared to represent only the buyer in a transaction, regardless of whether compensation is paid by the buyer or the listing broker through a commission split. Some brokers conduct their business by representing buyers only.

### **calendar year**

A year using the actual number of days in each month for a total of 365 days in a year (366 days in a leap year).

### **cap**

The maximum allowable increase, for either payment or interest rate, for a specified amount of time on an adjustable- rate mortgage.

### **capital gains**

The profit on the sale of a capital asset, such as stock or real estate. If you sell your primary residence, you can exclude \$250,000 in profit from capital gains tax. A couple can exclude \$500,000.

### **capitalization**

The estimation of the value of income producing property by dividing the annual net income by the **capitalization rate**.

### **capitalization rate**

The rate of expected return on investment property. A ratio of income to value.

### **cash out**

Receiving money back when refinancing your present mortgage. (See [homestead](#).)

### **CC&Rs**

See [covenants, conditions & restrictions](#).

### **CCCS**

See [Consumer Credit Counseling Service](#).

### **ceiling**

The maximum allowable interest rate over the life of the loan of an adjustable-rate mortgage.

### **census**

An official count of the number of people living in a certain area, such as a district, city, county, state, or nation. The United States Constitution requires the federal government to perform a national census every ten years. The census includes information about the respondents' sex, age, family, and social and economic status.

### **Certificate of Eligibility**

The document given to qualified veterans which entitles them to VA guaranteed loans for homes, business, and mobile homes. Certificates of eligibility may be obtained by sending DD-214 (Separation Paper) to the local VA office with VA form 1880 (request for Certificate of Eligibility).

### **chain of title**

A history of conveyances and encumbrances of a property from some starting point, whereby the present owner derives title.

### **channeling**

The illegal practice of directing people to, or away from, certain areas or neighborhoods because of minority status; Steering. See [Fair Housing](#).

### **chattel**

See [personal property](#).

### **cleaning fee**

A nonrefundable fee charged by a landlord when a tenant moves in. The fee covers the cost of cleaning the rented premises after you move out, even if you leave the place spotless. Cleaning fees are illegal in some states and specifically allowed in others, but most state laws are silent on the issue. Landlords in every state are allowed to use the security deposit to clean a unit that is truly dirty.

### **clear title**

A land title that doesn't have any liens (including a mortgage) against it.

### **closing**

The conclusion of the sales transaction when the seller transfers title to the buyer in exchange for consideration. These proceedings are usually held at a [title company](#).

### **closing costs**

Costs the buyer must pay at the time of the closing in addition to the down payment which may include points, title charges, credit report fee, document preparation fee, mortgage insurance premium, inspections, appraisals, prepayments for property taxes, deed recording fee, and homeowners' insurance. Closing costs can vary considerably from one financial institution to another.

### **closing statement**

A detailed written summary of the financial settlement of a real estate transaction, showing all charges and credits made, and all cash received and paid out.

### **cloud on title**

A claim or encumbrance that may affect title to land.

### **co-op**

See [cooperative housing](#) or [cooperative sale](#).

### **co-tenants**

Two or more tenants who rent the same property under the same lease or rental agreement. Each co-tenant is 100% responsible for carrying out the rental agreement, which includes paying the entire rent if the other tenant skips town and paying for damage caused by the other tenant.

### **collateral**

Something of value deposited with a lender as a pledge to secure repayment of a loan.

**comingling**

The illegal practice of combining or mixing clients' funds with the agent's own funds.

**commission**

The compensation paid to a licensed real estate broker or by the broker to the salesman for services rendered, usually a percentage of the selling price of the property.

**Community Reinvestment Act**

The federal law which requires federally regulated lenders to describe the geographical market area they serve. Deposits from that area are to be reinvested in that area whenever practical.

**comparables**

Properties which are similar to a particular property and are used to compare and establish a value for that property.

**compound interest**

Interest which is computed on the principal and any unpaid accumulated interest. Contrast with *simple interest*.

**condemnation**

The act of taking private property for public use, through due process under the right of *eminent domain*, with compensation to the owner.

**condominium**

A form of real estate, usually a dwelling with individual ownership of separate portions of the building plus shared ownership of the common areas.

**consideration**

The price or subject matter, which induces a contract; may be in money, commodity, exchange, or a transfer of personal effort.

**constructive eviction**

The provision of housing that is so substandard that, for all intents and purposes, a landlord has evicted the tenant. For example, the landlord may refuse to provide light, heat, water or other essential services, destroy part of the premises or refuse to clean up an environmental health hazard, such as lead paint dust. Because the premises are unlivable, the tenant has the right to move out and stop paying rent without incurring legal liability for breaking the lease. Usually, the tenant must first bring the

problem to the landlord's attention and allow a reasonable amount of time for the landlord to make repairs.

### **Consumer Credit Counseling Service (CCCS)**

A national non-profit agency that, at no cost, helps debtors plan budgets and repay their debts. One major criticism of CCCS is that each office is primarily funded by voluntary donations from the creditors that receive payments from debtors repaying their debts through that office. The goal of CCCS is to ensure that consumers repay the debts that they owe. CCCS may arrange easy payment plans that increase the chances for repayment but harm a consumer's credit in the process. Agreeing to a payment plan and following it to the letter may not stop creditors from reporting delinquent repayment information to credit bureaus for each month the payment falls short of the previous minimum amount.

### **contingency**

A provision in a contract stating that some or all of the terms of the contract will be altered or voided by the occurrence of a specific event. A common example is a Buyer who enters into the purchase of another home before his current home is sold. The Buyer will usually ask for the Seller to make the sale contingent upon the sale of the Buyer's current home. If the Seller receives another offer for the property, the first Buyer must either agree to buy the home without any contingency, or step aside and let someone else purchase the home.

### **contract**

A legally enforceable agreement to do, or not to do, a particular thing for a consideration.

### **contract for deed**

A contract for the sale of real estate where the deed (title) of the property is transferred only after all the payments have been made. Also known as a land contract, agreement of sale, conditional sales contract, or installment contract. Buyers should be wary of this type of contract, since they can lose their entire investment if the owner declares bankruptcy, before the deed has been transferred.

### **contract for exchange of real estate**

A contract for the sale of real estate in which the consideration is paid wholly or partly in real property instead of cash.

### **contract of sale**

The agreement between the buyer and seller on the purchase price, terms, and conditions necessary to both parties to convey the title to the buyer.

### **conventional loan**

A real estate loan, which is not insured by the FHA or guaranteed by the VA.

## **conveyance**

Written instrument, such as a deed or lease, that evidences transfer of some ownership interest in real property from one person to another.

## **cooperative housing**

**(1)** A form of real estate, usually a dwelling in which residents own shares, but do not directly own the space they inhabit. Rather, owning a share of the building entitles the shareholder with the right to inhabit a certain space within the dwelling, such as an apartment. Shares are usually proportional to the amount of space in each apartment.

**(2)** A living arrangement in which residents must perform certain duties or chores to benefit the entire residence, in addition to paying room and board. A common form of dormitory living.

## **cooperative sale**

A sale of property in which the buyer is brought to the transaction by a real estate agent who works for a different real estate broker than the listing agent. Both brokers/companies have agreed to cooperate in closing the property, and typically, splitting the commission. Offers of cooperation and compensation are commonly found in the MLS property listings.

## **cost approach to value**

An estimate of value based on current construction costs, less depreciation, plus land value. Contrast with the *income approach to value* and the *market data approach to value*.

## **counteroffer**

The rejection of an offer to buy or sell that simultaneously makes a different offer, changing the terms in some way. For example, if a Buyer offers \$160,000 for a home, and the Seller replies that he wants \$175,000, the Seller has rejected the Buyer's offer of \$160,000 and made a counteroffer to sell at \$175,000. The legal significance of a counteroffer is that it completely voids the original offer, so that if the Seller decided to sell for \$160,000 the next day, the Buyer would be under no legal obligation to pay that amount for the property.

## **covenant**

A restriction on the use of *real estate* that governs its use, such as a requirement that the property will be used only for residential purposes. Covenants are found in deeds or in documents that bind everyone who owns land in a particular development. See *Covenants, Conditions & Restrictions*.

## **covenants, conditions & restrictions (CC&Rs)**

The restrictions governing the use of *real estate*, usually enforced by a *homeowners' association* and passed on to the new owners of property. For example, CC&Rs may tell you how big your house can be,

how you must landscape your yard or whether you can have pets. If property is subject to CC&Rs, buyers must be notified before the sale takes place.

### **credit bureau**

A private, profit-making company that collects and sells information about a person's credit history. Typical clients include banks, mortgage lenders and credit card companies that use the information to screen applicants for loans and credit cards. There are three major credit bureaus, **Equifax**, **Experian** and **Trans Union**, and they are regulated by the federal ***Fair Credit Reporting Act***.

### **credit file**

See [credit report](#).

### **credit insurance**

Insurance a lender offers or requires a borrower to purchase to cover the loan. If the borrower dies or becomes disabled before paying off the loan, the policy will pay off the remaining balance. Federal and state consumer protection laws require the lender to disclose to existing and potential borrowers the terms and costs of obtaining credit insurance because it can affect the terms of the loan.

### **credit limit**

The maximum amount that you can borrow under a home equity plan.

### **credit report**

An account of your credit history prepared by a credit bureau. A credit report will contain both credit history, such as what you owe to whom and whether you make the payments on time, as well as personal history, such as your former addresses, employment record and lawsuits in which you have been involved. An estimated 50% of all credit reports contain errors, such as accounts that don't belong to you, an incorrect account status or information reported that is older than seven years (ten years in the case of a bankruptcy).

### **credit score**

In the mortgage lending world, credit scores either make or break you when it comes to obtaining a home mortgage or getting the best rate you can. There are three different scores available to a mortgage lender each being generated by the three different credit agencies. The most popular, known as a FICO score is from Experian, a Beacon score from Equifax, and an Emperica score from Trans Union. This is the "mortgage scoring" system used to get a conventional mortgage.

Simply, credit scores are numbers calculated based upon your credit history. The better your credit, the higher your number or score will be - the worse your credit, the lower the score. The number of inquiries or times your credit has been pulled in the past 90 days will also lower your "score". In some instances, lack of credit results in "no score" on your report requiring you to provide "alternative credit" via your rental, utility or telephone payment histories. There's plenty you can do to improve your score

if you know how the system works. Just don't expect much help from your lender--most consider the actual formulas a trade secret and don't want people angling for an advantage. Congress is currently working on legislation to provide consumers with access to their credit scores and the formulas used to calculate these scores.

There are some lenders that do not rely on credit scores to the degree that most do. Sometimes, credit reports contain inaccuracies that lower your score, this is when a lender has to use a common sense approach to approving your loan. In some instances, you may have to correct your credit report, wait for your score to improve, then reapply for the loan. Talk with your mortgage broker or lender to understand what your options are.

**creditor**

A person or entity (such as a bank) to whom a debt is owed.

**cul-de-sac**

A dead- end street which widens sufficiently at the end to permit an automobile to make a "U" turn.

**DBA**

'Doing Business As.' Business names or aliases filed with the county.

**debenture**

Bonds issued without security.

**debt service**

The total amount of credit card, auto, mortgage or other debt upon which you must pay.

**debt-service ratio**

The measurement of debt payments to gross household income which may include, in addition to the main wage earner's salary, salaries of other wage earners, commissions, bonuses, overtime, etc.

**Deceptive Trade Practices Act**

Part of the federal Consumer Protection Act originally passed in 1973 and made specifically applicable to real estate in 1975, specifically prohibiting a lengthy number of false, misleading and deceptive acts or practices.

**deduction**

In tax law, an amount that you can subtract from the total amount on which you owe tax. Examples of federal income tax deductions include mortgage interest, charitable contributions and certain state taxes. For example, if Aimee receives an income of \$60,000 in 1998 and pays \$12,000 in mortgage

interest during that same year, she can deduct \$12,000 when she fills out her federal tax return, leaving an amount of \$48,000 upon which she must pay tax.

## **deed**

A written instrument by which title to land is conveyed.

## **deed in lieu (of foreclosure)**

A means of escaping an overly burdensome mortgage. If a homeowner can't make the mortgage payments and can't find a buyer for the house, many lenders will accept ownership of the property in place of the money owed on the [mortgage](#). Even if the lender won't agree to accept the property, the homeowner can prepare a quitclaim deed that unilaterally transfers the homeowner's property rights to the lender.

## **deed of trust**

The legal instrument used in certain states in lieu of a mortgage, in which the property is conveyed in trust to a trustee to be held as security for a loan.

## **deed restrictions**

Common name used in the Houston area to denote [covenants, conditions & restrictions \(CC&Rs\)](#). Deed restrictions cover allowable land uses and home types and sizes within a neighborhood. They are especially important within Houston, and unincorporated parts of Harris County, since [zoning](#) does not exist in these areas.

## **default**

Non-performance of a duty arising under a contract or otherwise.

## **defeasance**

A clause in a deed, lease, will or other legal document that completely or partially negates the document if a certain condition occurs or fails to occur. Defeasance also means the act of rendering something null and void. For example, a will may provide that a gift of property is defeasable--that is, it will be void--if the beneficiary fails to marry before the will maker's death.

## **delivery**

The actual transfer of the deed, or an act of a seller showing intent to make a deed effective, without which, there is no transfer of title to the property.

## **depreciation**

A loss in value.

**descent**

Acquisition of property through inheritance laws when there is no will (when a person dies *intestate*).

**devise**

A transfer of real estate by will or last testament.

**disclosure**

The making known of a fact that had previously been hidden; a revelation. For example, in many states you must disclose major physical defects in a house you are selling, such as a leaky roof or potential flooding problem.

**discount points (or points)**

The amount paid either to maintain or lower the interest rate charged. Each point is equal to one percent (1%) of the loan amount (i.e., two points on a \$100,000 mortgage would equal \$2,000).

**discount rate**

**(1)** The rate charged member banks who borrow from the Federal Reserve System. **(2)** The rate used to convert future income into present value.

**dispossess**

To oust from land by legal process.

**dominant tenement**

Property that carries a right to use a portion of a neighboring property. For example, property that benefits from a beach access trail across another property is the dominant tenement.

**downpayment**

An amount of money the buyer pays which is the difference between the purchase price and the mortgage amount.

**dual agency**

Representing the buyer and the seller in the same transaction by the same agent. Since there is an inherent conflict in fiduciary obligations to two different principals, dual agency, at best, is a risky undertaking. TREL A requires that all parties to a dual agency have full knowledge and consent (Disclosed Dual Agency). Contrast with *intermediary*.

**due on sale**

A clause in a mortgage agreement providing that, if the mortgagor (the borrower) sells, transfers, or, in some instances, encumbers the property, the mortgagee (the lender) has the right to demand the outstanding balance in full.

### **duress**

Forcing action or inaction against a person's will.

### **earnest money**

A deposit made by the buyer as evidence of good faith in offering to purchase real estate and to secure performance of the contract. Earnest money is typically held by a title company, in an escrow account, during the period between acceptance of the contract and the closing.

### **earnest money contract (EMC)**

A contract for the sale or purchase of real estate in which the purchaser is required to tender earnest money to evidence good faith in completing the contractual obligations. Also see [sales contract](#) and [promulgated contracts](#).

### **easement**

A right to use another person's real estate for a specific purpose. The most common type of easement is the right to travel over another person's land, known as a right of way. In addition, property owners commonly grant easements for the placement of utility poles, utility trenches, water lines or sewer lines. The owner of property that is subject to an easement is said to be "burdened" with the easement, because he or she is not allowed to interfere with its use. For example, if the deed to John's property permits Sue to travel across John's main road to reach her own home, John cannot do anything to block the road. On the other hand, Sue cannot do anything that exceeds the scope of her easement, such as widening the roadway.

### **easement by prescription**

A right to use property, acquired by a long tradition of open and obvious use. For example, if hikers have been using a trail through your backyard for ten years and you've never complained, they probably have an easement by prescription through your yard to the trail.

### **economic obsolescence**

Loss of value of real property due to external forces or events, e.g. a sewer plant is built next door to the subject property. Contrast with [Functional Obsolescence](#).

### **effective interest rate**

The cost of credit on a yearly basis expressed as a percentage. Includes up-front costs paid to obtain the loan, and is, therefore, usually a higher amount than the interest rate stipulated in the mortgage note. Useful in comparing loan programs with different rates and points.

**effluxion of time**

The normal expiration of a lease due to the passage of time, rather than due to a specific event that might cause the lease to end, such as destruction of the building.

**egress**

An exit, or the act of exiting. The most famous use of this word was by P.T. Barnum, who put up a large sign in his circus tent, saying "This Way to the Egress." Thinking an egress was some type of exotic bird, people eagerly went through the passage and found themselves outside the circus tent. Compare [ingress](#).

**emblements**

Annual crops produced by cultivation. They are deemed to be personal property.

**eminent domain**

The right of government to take private property for public use, through court action known as [condemnation](#). The Fifth Amendment to the United States Constitution allows the government to take private property if the taking is for a public use and the owner is "justly compensated" (usually, paid fair market value) for his or her loss. A public use is virtually anything that is sanctioned by a federal or state legislative body, but such uses may include roads, parks, reservoirs, schools, hospitals or other public buildings. Sometimes called expropriation.

**enclave community**

Smaller in scope than master-planned communities, enclave communities typically blend different price ranges of residential neighborhoods with amenities such as public recreation areas and parks, neighborhood schools and extensive landscaping. Recreation areas may include public swimming pools, tennis courts, and children's playgrounds. Many offer large water features and gated access.

**encroachment**

A fixture, or structure, such as a wall or fence, which invades a portion of a property belonging to another. Solutions range from paying the rightful property owner for the use of the property to the court-ordered removal of the structure.

**encumbrance**

A cloud against clear, free title to the property which does not prevent conveyance, such as unpaid taxes, easements, deed restrictions, mortgage loans, etc.

**endorsement**

Writing one's name, either with or without additional words, on a negotiable instrument, or on a paper attached to it.

## **Equal Credit Opportunity Act**

The 1974 federal law (Title VII of the Consumer Credit Protection Act) which requires fairness and impartiality without discrimination on the basis of race, color, religion, national origin, sex or marital status, or receipt of income from public assistance programs in the extension of credit, and good faith exercises of any right under the Consumer Credit Protection Act, e.g. the creditor must state reasons for denial of credit.

## **Equal Treatment/Different Impact**

It is possible to be guilty of discrimination even by treating two individuals the same. If the results of the treatment are discriminatory or tend to exclude or otherwise harm members of a minority group, or have discriminatory impact, they are against the law. For example, an apartment house which rents only to doctors and lawyers, where there are few, if any, minority doctors or lawyers in the area, may be a violation of the *Fair Housing Laws*.

## **equity**

The difference in dollars between a house's value and the mortgage amount.

## **escalator clause**

The clause in a contract permitting adjustments of the payments.

## **escheat**

The reversion of property to the state in the event the owner thereof dies without leaving a will (*intestate*) and has no heirs to whom the property may pass by lawful *descent*.

## **escrow**

A trust arrangement by which none or more parties deposit things of value with an authorized escrow agent in accordance with the terms of a real estate agreement.

## **escrow account**

**(1)** A third- party account that holds money safely while a sale is in progress.

**(2)** An account used to save monies required for the payment of an eventual debt. Often used by lenders to save for property taxes, hazard insurance, homeowner's dues, etc.

Escrow accounts are typically non-interest bearing for the contributors but may pay interest to the entity holding the account (lenders, title companies, lawyers, etc.).

## **estimate of value**

An appraisal; the appraised value.

**et ux**

Abbreviation for “et uxor,” meaning “and wife”.

**eviction**

Removal of a tenant from rental property by a law enforcement officer. First, the landlord must file and win an eviction lawsuit, also known as an “unlawful detainer.”

**exception**

As used in the conveyance of real estate, an exception is the exclusion of some part of the property conveyed, with title of that excepted part remaining with the grantor. For example, in most subdivision developments, mineral rights are not conveyed to the purchaser of a lot but remain the property of the developer. Contrast with [Reservation](#).

**exclusive agency (EA)**

A listing agreement which gives the listing agent the right to sell the property for a specified time. The owner reserves the right to sell the property himself without paying a commission to the agent. Brokers run the risk of investing their time, effort, and money in a listing that, even if sold through their marketing efforts, does not produce a commission. Contrast with [Exclusive Right to Sell](#).

**exclusive right to sell (ERS)**

A listing agreement which gives the listing agent the right to sell the property for a specified time, with the right to collect a commission if the property is sold by anyone, including the owner, during the listing period. Contrast with [Exclusive Agency](#).

**exculpatory clause**

A provision in a lease that absolves the landlord from responsibility for all damages, injuries or losses occurring on the property, including those caused by the landlord’s actions. Most states have laws that void exculpatory clauses in rental agreements, which means that a court will not enforce them.

**executor/executrix**

The man/woman appointed in a will to carry out the requests of the will. Contrast with [Administrator/Administratrix](#).

**expropriation**

See [eminent domain](#).

**Fair Housing Act & Fair Housing Amendments Act**

Federal laws that prohibit housing discrimination on the basis of race or color, national origin, religion, sex, familial status or disability. The federal Acts apply to all aspects of the landlord/tenant relationship, from refusing to rent to members of certain groups to providing different services during tenancy.

### **Fair Housing Laws**

Federal, state, and local laws, particularly Title VIII of the 1968 Civil Rights Act, Title VI of the Civil Rights Act of 1964, and the Civil Rights Act of 1866, which forbid discrimination because of race, sex, color, religion, or national origin, in the selling or renting of homes or apartments, and in other specified transactions. These laws have been recently expanded to include familial status (having children) and disabilities (Americans with Disabilities Act).

### **Fannie Mae**

Created by Congress in 1938 to bolster the housing industry during the Depression, Fannie Mae was originally part of the **Federal Housing Administration (FHA)** and authorized to buy only FHA-insured loans to replenish lenders' supply of money. In 1968, Fannie Mae became a private company operating with private capital on a self-sustaining basis. Its role was expanded to buy mortgages beyond traditional government loan limits, reaching out to a broader cross-section of Americans.

Today, Fannie Mae operates under a congressional charter that directs it to channel its efforts into increasing the availability and affordability of homeownership for low-, moderate-, and middle- income Americans. Fannie Mae receives no government funding or backing, and is one of the nation's largest taxpayers as well as one of the most consistently profitable corporations in America. Fannie Mae establishes strict guidelines for mortgage loans it is willing to purchase. As the largest buyer of mortgage loans in the US, these guidelines have become the industry standard for the majority of home loans. Any loan that meets these Fannie Mae guidelines is called a "conforming loan".

### **FDIC**

Acronym. **Federal Deposit Insurance Corporation**

The Federal Deposit Insurance Corporation's mission is to maintain the stability of and public confidence in the nation's financial system. To achieve this goal, the FDIC has insured deposits and promoted safe and sound banking practices since 1933. FDIC insurance is offered at almost every US bank and savings and loan. In general, the FDIC insures individual accounts in each financial institution for a maximum of \$100,000.00 per account. An individual or entity may only be insured for a total of \$100,000.00 for all the accounts held in any one institution, or any of its branches.

### **Federal Emergency Management Agency (FEMA)**

FEMA is the governmental unit that has leadership responsibilities for the Nation's emergency management system. Once the President has declared a major disaster, FEMA coordinates not only its own response activities but also those of as many as 28 other Federal agencies that may participate. FEMA also works with States, territories, and communities during non-disaster periods to help plan for disasters, develop mitigation programs, and anticipate what will be needed when major disasters occur. Among its many responsibilities the agency operates the Federal Insurance Administration, which makes

flood insurance available to residents of communities that agree to adopt and enforce sound floodplain management practices.

**Federal Home Loan Mortgage Corporation (FHLMC)** See [Freddie Mac](#).

### **Federal Housing Administration (FHA)**

The Federal Housing Administration (FHA), a wholly owned government corporation, was established under the National Housing Act of 1934 to improve housing standards and conditions; to provide an adequate home financing system through insurance of mortgages; and to stabilize the mortgage market. FHA was consolidated into the newly established [Department of Housing and Urban Development \(HUD\)](#) in 1965. Since 1934, FHA has been extremely successful in achieving these goals. FHA loans require a special appraisal/inspection that determine if a property meet the agency's minimum property standards. While somewhat more expensive than a conventional loan in terms of interest rates and insurance fees, FHA loans offer slightly more liberal qualifying criteria.

### **fee simple estate**

The most complete form of ownership of real property; absolute ownership. Commonly used to denote a property where the owner has undivided title to the land on which the property is situated.

### **FHLMC**

Acronym - Federal Home Loan Mortgage Corporation. See [Freddie Mac](#).

### **fiduciary**

The relationship of trust, honesty and confidence between agent and principal; the faithful relationship owed by an agent to the principal.

### **finder's fee**

A fee charged by real estate brokers and apartment-finding services in exchange for locating a rental property. These fees are permitted by law. Some landlords, however, charge finder's fees merely for renting a place. This type of charge is not legitimate and, in some areas, is specifically declared illegal.

### **first mortgage**

A mortgage which is in first lien position, taking priority over all other liens (which are financial encumbrances).

### **fixed rate mortgage**

A mortgage with an interest rate and monthly payment that doesn't vary for the term of the loan.

### **fixture**

Personal property which has been attached to real estate so as to become part of the real property. The article must meet at least one of three conditions:

1. Attached in a permanent manner.
2. Specially adapted to the property. *or*
3. Intentionally made part of the real property.

### **flood control district**

A special taxing district created to provide flood control in specific areas of a county.

### **flood insurance**

A special and separate type of homeowner's insurance that provides coverage for damages resulting from flooding. Flood insurance is required by most lenders only if the property is located within a designated flood plain. The cost of the policy is related to the associated flooding risk. If a property has a small section of land located within a flood plain, but away from the residential improvements (house), the lender will still require a policy, but its cost will be much lower. Likewise, flood insurance policies for properties not located within any floodplain, are fairly inexpensive.

Most flood insurance is underwritten by the federal government through [FEMA](#) and the National Flood Insurance Program in cooperation with private insurance agencies. More than 18,000 communities participate in the Federal flood insurance program. More than 3.8 million National Flood Insurance Program (NFIP) home and business policies are in effect. The United States experiences flooding threats throughout all four seasons of the year and, in fact, flooding is the most common natural disaster. There are, on average, 1000 floods per year in the U.S. Nearly everyone is at some risk of experiencing the effects of flooding. In the Houston area, 25 percent of flood-insurance claims come from areas outside a designated flood plain.

### **flood plain**

Flood plains are by definition subject to periodic flooding. They are generally characterized by relatively flat topography and soil types that were laid down during past inundations by flood waters. If your property is in the 100-year flood plain, there is a 1-in-100 chance in any given year that your property will flood. If it is in the 25-year flood plain, there is a 1-in-25 chance in any given year that your property will flood. The statistical chance of flooding is not changed by any single flooding event; but repeated flooding may result in the flood plain being recalculated.

A 100-year flood plain is always wider than a 25-year flood plain, and the 25-year flood plain is contained within the 100-year flood plain. The flood prone areas of the United States cover approximately 150,000 square miles or 94 million acres of land, an area roughly the size of the State of Montana. People living in flood plains are 26 times more likely to experience a flooding disaster than they are a fire disaster during the life of the 30-year mortgage on their homes.

The changes in flood plain maps reflect changes in land use (such as increased building activity), changes in the waterways, and flood control improvements (such as detention ponds or other flood control measures). As more lots are covered with more buildings and parking lots, the amount of water that

flows into creeks and lakes increases because there is less vegetation to absorb the water when it rains. This is one reason why buildings that were not originally built in a flood plain are now in the 25-year or 100-year flood plain.

## **FNMA**

Usually referred to as "*Fannie Mae*," the acronym stands for the Federal National Mortgage Association.

## **For Sale By Owner (FSBO)**

An individual homeowner who is attempting to sell his property without a real estate broker. The acronym, FSBO is pronounced "fizzbo."

## **foreclosure**

A legal process instituted by a mortgagee or lien creditor after the debtor's default.

## **forfeiture**

The loss of property or a privilege due to breaking a law. For example, a landlord may forfeit his or her property to the federal or state government if the landlord knows it is a drug-dealing site but fails to stop the illegal activity. Likewise, a homeowner may lose his house to satisfy IRS debts or if the government suspects the home was bought with money derived from criminal acts. The government may seize and sell the property at auction, often far below its fair market value, before the homeowner has been allowed the due process of a trial. If the homeowner is found not guilty, the government is only required to pay back the amount received at auction, and not the market value.

## **fraud**

A misstatement of a material fact made with intent to deceive or made with reckless disregard of the truth, and which actually does deceive.

## **Freddie Mac**

Chartered by Congress in 1970, Freddie Mac is a publicly held corporation that purchases mortgages in the secondary mortgage market. Freddie Mac came into being as the *Federal Home Loan Mortgage Corporation (FHLMC)* with the mission to create a continuous flow of funds to mortgage lenders. By supplying lenders with the money to make mortgages and packaging the mortgages into marketable securities which are sold to investors, Freddie Mac also helps to sustain a stable mortgage credit system which in turn, reduces the mortgage rates paid by homebuyers. Over the years, Freddie Mac has been responsible for opening the door to homeownership for one out of six home buyers in America who would not have qualified otherwise.

## **front foot**

One linear foot (12 inches) along the street side of a lot.

### **functional obsolescence**

Loss of value of real property caused by modernization or changing tastes or standards; e.g.. single bath, inadequate closet space, etc. Contrast with [economic obsolescence](#).

### **garden home**

See [patio home](#)

### **gated community**

A neighborhood or group of neighborhoods, usually surrounded by masonry walls, restricting access through the use of a manned guard station or electronically operated gates. The electronic gates may be opened through the use of individual remote controls and/or a numeric keypad and code. Some gated communities restrict entry at all times, while others only limit access during the evening hours. The City of Houston does not allow public city streets to be gated off, so only neighborhoods with private streets, may have restricted access. The costs associated with maintaining a manned guard gate can significantly impact monthly maintenance fees, depending on the size of the community.

### **general lien**

A lien that includes all the property owned by a debtor, rather than a specific property.

### **general warranty deed**

A deed in which the grantor fully warrants good and clear title to the property. A general warranty deed offers the most protection of any deed.

### **Ginnie Mae (GNMA)**

The common nickname for the Government National Mortgage Association. Ginnie Mae was created in 1968 as a wholly owned corporation within the Department of Housing and Urban Development (HUD), having been separated from Fannie Mae. Ginnie Mae does not loan money for mortgages. Instead, it operate in the secondary mortgage market, buying loans and selling mortgage-backed securities investors, which in turn, increases the availability of mortgage credit.

### **good faith estimate**

A written estimate of closing costs which a lender must provide you within three days of submitting an application.

### **government survey method**

A system of land description in some states that uses meridians (north and south lines) and base lines (east and west lines). Areas include quadrangles (24 miles on each side), townships (6 miles on each side), and sections (1 mile on each side). Also known as the Rectangular Survey Method. Contrast with [metes and bounds](#), and [recorded plat](#) (Lot and Block Number) method.

**grace period**

A period of time during which a loan payment may be paid after its due date but not incur a late penalty. Such late payments may be reported on your credit report.

**grant deed**

A deed containing an implied promise that the person transferring the property actually owns the title and that it is not encumbered in any way, except as described in the deed. This is the most commonly used type of deed. Compare [quitclaim deed](#).

**grantee**

A person to whom real estate is conveyed by transfer of a deed; i.e. the buyer.

**grantor**

A person conveying real estate by deed i.e. the seller.

**gross debt service**

The amount of money needed to pay principal, interest and taxes, and sometimes energy costs. If the dwelling unit is a condominium, all or a portion of common fees are excluded, depending on what expenses are covered.

**gross income**

For qualifying purposes, the income of the borrower before taxes or expenses are deducted.

**gross lease**

A commercial real estate lease in which the tenant pays a fixed amount of rent per month or year, regardless of the landlord's operating costs, such as maintenance, taxes and insurance. A gross lease closely resembles the typical residential lease. The tenant may agree to a "gross lease with stops," meaning that the tenant will pitch in if the landlord's operating costs rise above a certain level. In real estate lingo, the point when the tenant starts to contribute is called the "stop level," because that's where the landlord's share of the costs stops. Contrast with [Net Lease](#).

**habendum clause**

The "to have and hold" clause which defines or limits the quantity of the estate granted in the premises of the deed.

**hazard insurance**

A contract between purchaser and an insurer, to compensate the insured for loss of property due to hazards (fire, hail damage, etc.), for a premium. Most common, lender required feature of [homeowners insurance](#).

### **hereditaments**

Property, personal and real, capable of being inherited.

### **high-rise**

A nine-story or taller building containing residential apartments or condominium units. In addition to spectacular views, most high-rises offer their residents a full range of amenities. Building features may include 24-hour concierge service, swimming pools, spas, saunas, tennis courts, exercise areas, party rooms and guest suites. Security is enhanced at these buildings by the manned entry desks and limited access, covered parking garages. Compare with [mid-rise](#).

### **highest and best use**

The particular use of a real property which will produce the greatest financial return. The optimum use of a site as used in appraisal. This is often determined by location, neighboring properties, [deed restrictions](#) and local [zoning](#) regulations. A home built on a busy street, surrounded by commercial property, and not restricted from other development, is not fulfilling its highest and best use. Once the property is redeveloped into commercial property, it can meet its economic potential.

### **HOA**

Acronym for [homeowner's association](#)

### **hold harmless**

In a contract, a promise by one party not to hold the other party responsible if the other party carries out the contract in a way that causes damage to the first party. For example, many leases include a hold harmless clause in which the tenant agrees not to sue the landlord if the tenant is injured due to the landlord's failure to maintain the premises. In most states, these clauses are illegal in residential tenancies, but may be upheld in commercial settings.

### **home equity loan**

A fixed or adjustable-rate loan obtained for a variety of purposes, secured by the equity in your home. Interest paid is usually tax-deductible. Often used for home improvement or freeing of equity for investment in other real estate or investment. Recommended by many to replace or substitute for consumer loans whose interest is not tax-deductible, such as auto or boat loans, credit card debt, medical debt, and education loans.

### **home warranty**

A service contract that covers a major housing system--for example, plumbing or electrical wiring--for a set period of time from the date a house is sold. The basic warranty guarantees repairs to the covered system and is renewable. Additional coverage is available for garage door openers, spas, swimming pools, sprinkler system and other appliances.

### **homeowners' association (HOA)**

An organization comprising neighbors concerned with managing the common areas of a subdivision or condominium complex. These associations take on issues such as maintaining common land and recreation areas and collecting dues from residents. The homeowners' association is also responsible for enforcing any covenants, conditions & restrictions that apply to the property. Payment of dues and participation in the homeowner's association may be either voluntary or mandatory, depending on the neighborhood.

### **homeowners' insurance**

A type of insurance policy designed to protect homeowners from financial losses related the ownership of real property. In addition to covering losses due to vandalism, fire, hail, etc. (*hazard insurance*), most policies also provide theft and liability coverage. Flood related damage requires a separate *flood insurance* policy or rider.

### **Homestead**

(1) The house in which a family lives, plus any adjoining land and other buildings on that land.

(2) Land, and the improvements thereon, designated by the owner as his homestead and, therefore, protected by state law from forced sale by certain creditors of the owner. Homestead protection will not stop *foreclosures* for delinquent *mortgages*, taxes or mandatory *homeowner's association* dues.

(3) Land acquired out of the public lands of the United States. The term "homesteaders" refers to people who got their land by settling it and making it productive, rather than purchasing it outright.

### **Housing and Urban Development, Department of (HUD)**

The U.S. Department of Housing and Urban Development. This is the agency responsible for enforcing the federal *Fair Housing Act*.

### **HUD**

Acronym - *Housing and Urban Development*.

### **implied warranty of habitability**

A legal doctrine that requires landlords to offer and maintain livable premises for their tenants. If a landlord fails to provide habitable housing, tenants in most states may legally withhold rent or take other measures, including hiring someone to fix the problem or moving out. See *constructive eviction*.

## **improvements**

Valuable additions to the land, such as buildings, fences, roads, etc., which increase the value of the property.

## **incidents of ownership**

Any control over property. If you give away property but keep an incident of ownership--for example, you give away an apartment building but retain the right to receive rent--then legally, no gift has been made. This distinction can be important if you're making large gifts to reduce your eventual estate tax.

## **income approach to value**

An estimate of value based on the monetary returns that a property can be expected to generate; i.e. capitalization. Contrast with the *cost approach to value* and the *market data approach to value*.

## **index**

A number, usually a percentage, upon which future interest rates for adjustable rate mortgages are based.

## **ingress**

An entrance, or the act of entering. Compare *egress*.

## **inspection clause**

A stipulation in an offer to purchase that makes the sale contingent on the findings of a home inspector.

## **insurable title**

A title which a title company will insure.

## **interest**

**(1)** The sum paid in return for the use of money; could be considered rent for the use of money. **(2)** The type and extent of ownership in property.

## **interest rate**

The periodic charge, expressed as a percentage, for use of credit.

## **intestate**

Legal designation of a person who has died without leaving a valid will.

## **intimidation**

As defined in the fair housing laws, it is the illegal act of coercing, intimidating, threatening, or interfering with a person in exercising or enjoying any right granted or protected by federal, state or local fair housing laws.

### **invitee**

A business guest, or someone who enters property held open to members of the public, such as a visitor to a museum. Property owners must protect invitees from dangers on the property. In an example of the perversion of legalese, social guests that you invite into your home are called "licensees."

### **joint tenancy**

A way for two or more people to share ownership of real estate or other property. When two or more people own property as joint tenants and one owner dies, the other owners automatically own the deceased owner's share. For example, if a parent and child own a house as joint tenants and the parent dies, the child automatically becomes full owner. Because of this right of survivorship, no will is required to transfer the property; it goes directly to the surviving joint tenants without the delay and costs of probate. Contrast with *tenancy in common*.

### **judgment**

The official and authentic decision of a court of justice concerning the respective rights and claims of the parties to an action or suit.

### **laches**

Delay or negligence in asserting one's rights.

### **landlord**

The owner of any real estate, such as a house, apartment building or land, that is leased or rented to another person, called the *tenant*.

### **latent defect**

Hidden structural defects and flaws.

### **lease**

An oral or written agreement (a contract) between two people concerning the use of property owned by one but used by the other. A person can lease *real estate* (such as an apartment or business property) or *personal property* (such as a car or a boat). A lease should cover basic issues such as when the lease will begin and end, the rent or other costs, how payments should be made, and any restrictions on the use of the property. The property owner is often called the "*lessor*," and the person using the property is called the "*lessee*."

### **lease option**

A contract in which an owner leases his house (usually for one to five years) to a tenant for a specific monthly rent, and which gives the tenant the right to buy the house at the end of the lease period for a price established in advance. This allows a potential home buyer move into a house he may wish to eventually buy without having to come up with a down payment or financing at that time.

### **lease purchase**

A contract in which an owner leases his house (usually for one to five years) to a tenant for an increased monthly rent, and which gives the tenant the right to buy the house at the end of the lease period for a price established in advance, with the incremental rent increase being used to form a down payment. Buyers should be wary of this type of contract since they may lose their extra rent/down payment money should the owner suffer financial setbacks before the purchase has been completed.

### **leasehold estate**

A form of real estate in which a tenant is allowed to construct permanent structures upon a parcel of leased land and derive some use or income from said structures during the period of the lease. Leasehold estates usually involve long-term leases, ranging from 20 to 99 years. Landowners are able to have their property developed, with no out-of-pocket expenses. Instead of having to sell their land too soon, they retain their family's rights to the land, while receiving a steady income stream. The tenant saves the initial land acquisition costs and may gain access to property that would be otherwise unavailable. The downside is, as the lease nears the end or its term, the tenant's investment becomes uncertain, and the landlord is in a position to make demands for compensation, above the fair market price. Leaseholds are much more common in commercial real estate but can apply to some residential properties as well. Hawaii has many leasehold condominium projects, and even Houston has at least one mid-rise condominium building that lacks ownership of the land it occupies.

### **legal description**

A description of a specific parcel of real estate which is acceptable to the courts in that state, and which will allow an independent surveyor to locate and identify it. Usually, it uses one of the following methods: **government survey**, **metes and bounds**, or **recorded plat** (lot and block number).

### **less favorable treatment**

Any time a person is treated differently on the basis of race, sex, religion, color, familial status, disability, or national origin, either by action or inaction, in the selling or leasing of real property, it is a violation of the **Fair Housing Laws**. Also known as unequal treatment or different treatment.

### **lessee**

A tenant who leases property.

### **lessor**

One who leases property to a tenant.

**leverage**

The use of borrowed funds to finance an investment and to magnify the rate of return.

**Levy Improvement District (LID)**

A type of water control and improvement district, used to build and maintain levies. Levies are used to contain flooding creeks and rivers.

**licensee**

A person licensed by a state real estate commission to engage in real estate brokerage, either as a broker or as a salesman.

**LID**

Acronym - *Levy Improvement District*.

**lien**

A monetary claim against a property. These should be settled before the sale is finalized.

**lien theory state**

A state where legal title of mortgaged property resides with the mortgagor (borrower), with the mortgage as a lien against the property. Contrast with *title theory state*.

**life estate**

An interest in property only for the duration of someone's life.

**life tenant**

One who has a life estate in real property.

**limited equity housing**

An arrangement designed to encourage low-and moderate-income families to purchase housing, in which the housing is offered at an extremely favorable price with a low down payment. The catch is that when the owner sells, she gets none of the profit if the market value of the unit has gone up. Any profit returns to the organization that built the home, which then resells the unit at an affordable price.

**lis pendens**

A notice indicating that legal action is pending on a property.

**listing agreement**

The legal agreement between the listing agent/broker and the vendor, setting out the services to be rendered, describing the property for sale, and stating the terms of payment.

### **loan-to-value ratio (LTV)**

The ratio of the amount being loaned in respect to the appraised value of the property, usually expressed as a percentage. If a buyer was putting down \$20,000, and borrowing a first lien of \$180,000, on a \$200,000 property, then the loan would have a 90% LTV. Loan-to-value ratios can affect interest rates, loan qualifying criteria, and lender requirements for *PMI* and *escrow accounts*.

### **lock or rate lock**

A commitment you obtain from a lender assuring you a particular interest rate or feature or a definite time period. Provides protection should interest rates rise between the time you apply for a loan, acquire loan approval, and, subsequently, close the loan and receive the funds you have borrowed.

### **loft**

**(1)** A style of residential construction. In Houston the term “loft” is used quite liberally. It may refer to an older building that has been converted into residential condominiums, or it may mean a new mid-rise project with a “loft-style” finish to the units. There are also new construction townhomes that are promoted as being “lofts”. A builder creates new loft space by leaving exposed brick walls, bare polished concrete floors and having unhidden heating ducts, trusses, etc.

**(2)** An upstairs room or area that has an open wall, overlooking a room or area below.

### **LTV**

See *loan-to-value ratio*.

### **manufactured home**

A structure built in a factory, that is later shipped to, and placed on, the homesite. The term can apply to both mobile homes and prefab homes.

### **margin**

An amount, usually a percentage, which is added to the index to determine the interest rate for adjustable- rate mortgages.

### **marginal land**

Property which is barely profitable to use.

### **market approach to value**

An estimate of value based on the actual sales prices of comparable properties. Contrast with *cost approach to value* and *income approach to value*.

### **market value**

The price that a willing buyer and a willing seller, both given full information, and neither under pressure to act, would agree upon. Also known as Fair Market Value.

### **master planned community**

A large scale, mixed use, real estate development that follows a long term, comprehensive plan. Master-planned communities typically blend different price ranges of residential neighborhoods with some commercial properties designed to serve the residents' needs. Residential properties may include patio homes, townhouses, condominiums and apartment complexes in addition to neighborhoods of single-family homes. Likewise, multiple home builders are included in the construction of the various neighborhoods. Commercial development can consist of retail strip centers and shopping malls, restaurants, entertainment venues and office buildings.

In addition, master-planned communities usually offer amenities such as public recreation areas and parks, neighborhood schools and extensive landscaping. Recreation areas may include public swimming pools, tennis courts, children's playgrounds and sports fields. Many offer large water features and public or private golf courses.

### **MCE**

See *mandatory continuing education*.

### **mechanic's lien**

A legal claim placed on real estate by someone who is owed money for labor, services or supplies contributed to the property for the purpose of improving it. Typical lien claimants are general contractors, subcontractors and suppliers of building materials. A mechanics' lien claimant can sue to have the real estate sold at auction and recover the debt from the proceeds. Because property with a lien on it cannot be easily sold until the lien is satisfied (paid off), owners have a great incentive to pay their bills.

### **mediation**

A dispute resolution method designed to help warring parties resolve their own dispute without going to court. In mediation, a neutral third party (the mediator) meets with the opposing sides to help them find a mutually satisfactory solution. Unlike a judge in her courtroom or an arbitrator conducting a binding arbitration, the mediator has no power to impose a solution. No formal rules of evidence or procedure control mediation; the mediator and the parties usually agree on their own informal ways to proceed.

### **metes and bounds**

A system of land description using distance (metes) and angles/compass directions (bounds) beginning and ending at the same point. Contrast with [government survey](#) and [recorded plat method](#).

### **mid-rise**

A 4-story to 8-story tall building that contains residential apartment or condominium units. While not offering the panoramic views of a [high-rise](#), mid-rise buildings can offer comparable levels of amenities and services. Building features may include 24-hour concierge service, swimming pools, spas, saunas, tennis courts, exercise areas, and party rooms. Security is enhanced at these buildings by the manned entry desks and limited access, covered parking garages.

### **mineral rights**

An ownership interest in the minerals contained in a particular parcel of land, with or without ownership of the surface of the land. The owner of mineral rights is usually entitled to either take the minerals from the land himself or receive a royalty from the party that actually extracts the minerals.

### **minimum payment**

The minimum amount that you must pay, usually monthly, on a home equity loan or line of credit. In some plans, the minimum payment may be “interest only,” (simple interest). In other plans, the minimum payment may include principal and interest (amortized).

### **minority**

As defined in the Civil Rights Act of 1968 as part of the Fair Housing Laws “‘minority’ means any group, or any member of a group, that can be identified either: **(1)** by race, color, religion, sex, disability, or national origin; or **(2)** by any other characteristic (such as familial status) on the basis of which discrimination is prohibited by a federal, state, or local fair housing law.

### **misrepresentation**

A false statement, or concealment, of material fact with the intention of inducing action of another.

### **mobile home**

A type of manufactured home, that is transported to the home site using wheels attached to the structure. Mobile homes come in various widths and lengths, and maybe composed of one to three pieces. A one- piece home is called a “single-wide,” while a house that is joined together from two halves is called a “double-wide”. Recently, “triple-wides” have appeared, and become as the largest mobile homes available. Most sections are between 14 and 16 feet wide, and 54 to 80 feet in length. Mobile homes do not require any foundation or substructure. They sit up off the ground, with skirting used around the base to hide the wheel and jacks. While it is possible to tie down a mobile home to a piece of land, using straps and screw-in anchors, the structures are very susceptible to high winds and tornados.

### **month-to-month tenancy**

A rental agreement that provides for a one-month tenancy that is automatically renewed each month unless either tenant or landlord gives the other the proper amount of written notice (usually 30 days) to terminate the agreement. Some landlords prefer to use month-to-month tenancies because it gives them the right to raise the rent after giving proper notice. This type of rental also provides a landlord with an easy way to get rid of troublesome tenants, because in most States month-to-month tenancies can be terminated for any reason. It is also common for leases to revert to month-to-month tenancies at the end of the original lease period, if another lease has not been signed.

### **monument**

A fixed object or point, either natural or man-made, used in making a survey.

### **mortgage**

A contract providing security for the repayment of a loan, registered against property, with stated rights and remedies in the event of default. Lenders consider both the property (security) and financial worth of the borrower (covenant) in deciding on a mortgage loan.

### **mortgage banker**

Originates mortgage loans, loaning you their funds and closing the loan in their name.

### **mortgage broker**

A person or company having contacts with financial institutions or individuals wishing to invest in mortgages.

### **mortgage loan**

A loan which utilizes real estate as security or collateral to provide for repayment should you default on the terms of your loan. The mortgage or *deed of trust* is your agreement to pledge your home or other real estate as security.

### **mortgagee**

The lender in a mortgage loan transaction.

### **mortgagor**

The borrower in a mortgage loan transaction.

### **Multiple Listing Service (MLS)**

A system by which a number of real estate firms share information about homes that are for sale. Membership usually provides a monthly book and/or computer service that provides Realtors<sup>®</sup> with detailed listings of most homes currently on the market.

### **negative amortization**

Amortization in which the payment made is insufficient to fund complete repayment of the loan at its termination. Usually occurs when the increase in the monthly payment is limited by a ceiling. The portion of the payment which should be paid is added to the remaining balance owed. The balance owed may increase, rather than decrease over the life of the loan.

### **net lease**

A commercial real estate lease in which the tenant regularly pays not only for the space (as he does with a gross lease) but for a portion of the landlord's operating costs as well. When all three of the usual costs--taxes, maintenance and insurance--are passed on, the arrangement is known as a "triple net lease." Because these costs are variable and almost never decrease, a net lease favors the landlord. Accordingly, it may be possible for a tenant to bargain for a net lease with caps or ceilings, which limits the amount of rent the tenant must pay. For example, a net lease with caps may specify that an increase in taxes beyond a certain point (or any new taxes) will be paid by the landlord. The same kind of protection can be designed to cover increased insurance premiums and maintenance expenses. Contrast with *gross lease*.

### **net listing**

A price which must be expressly agreed upon, below which the owner will not sell the property and at which the broker will not receive a commission; the broker receives the excess over and above the net listing price as commission. The broker in this type of listing will have a very hard time maintaining his fiduciary responsibilities to his seller since his interests are potentially at odds with the interests of the seller.

### **non-escrowing loan**

Typically, mortgage lenders require escrow accounts for property taxes, hazard insurance, and sometimes, homeowner's association dues. Monthly contributions to these accounts are rolled into a lender's mortgage payment.

### **note**

A written instrument of credit attesting to a debt and promise to pay.

### **nuisance**

Something that interferes with the use of property by being irritating, offensive, obstructive or dangerous. Nuisances include a wide range of conditions, everything from a chemical plant's noxious odors to a neighbor's dog barking. The former would be a "public nuisance," one affecting many people, while the other would be a "private nuisance," limited to making your life difficult, unless the dog was bothering others. Lawsuits may be brought to abate (remove or reduce) a nuisance. See *quiet enjoyment*, *attractive nuisance*.

### **obsolescence**

A loss in value of real property caused by changes either internal or external to the property. See *economic obsolescence*, *functional obsolescence*, and *physical deterioration*.

**offer**

A proposal to enter into an agreement with another person. An offer must express the intent of the person making the offer to form a contract, must contain some essential terms--including the price and subject matter of the contract--and must be communicated by the person making the offer. A legally valid acceptance of the offer will create a binding contract.

**open house**

An opportunity for prospective buyers to view a house in a low- pressure environment.

**open listing**

A listing under which the principal (owner) reserves the right to list his property with other brokers.

**option**

The right to purchase property within a definite time at a specified price. There is no obligation to purchase, but the seller is obligated to sell if the option holder exercises the right to purchase. For the option to be valid, it must include consideration.

**option fee**

An amount of money paid by a prospective Buyer, to a Seller, in order to obtain an option period, as specified in Paragraph 7 of a TREC promulgated earnest money contract. If a Buyer decides to close on the property, the option fee may be credited to his funds at closing.

**ordinance**

A law adopted by a town or city council, county board of supervisors or other municipal governing board. Typically, local governments issue ordinances establishing zoning and parking rules and regulating noise, garbage removal, and the operation of parks and other areas that affect people who live or do business within the locality's borders.

**origination fee**

A fee charged by lenders, in addition to interest, for services in connection with granting of a loan. Usually a percentage of the loan amount.

**panic peddling**

The illegal practice of inducing panic selling in a neighborhood by making representations of the entry, or prospective entry, of members of a minority group; *blockbusting*. See *Fair Housing*.

### **party wall**

Wall erected on the property line between adjoining properties for the use of both properties.

### **patio home**

A single-family home that sits on a small lot, often with one outside wall of the structure sitting on the property line. Patio homes have no common structural walls with adjoining properties, but their *zero lot line* wall may form part of their neighbors backyard fence/wall. These properties often have a small back or side yard large enough for a patio or garden area. Also known as a garden home.

### **percentage lease**

Lease in which all or part of rental is a specified percentage of gross income from total sales made upon the premises.

### **person**

An individual, a partnership, or a corporation, foreign or domestic.

### **personal property**

Property that is tangible, movable, and not fixed to the land. Also called chattel. Contrast with *real property*.

### **personalty**

Personal property; chattel. Contrast with *Realty*.

The loss of value to real property from all causes due to the action of the elements and old age.

Physical deterioration can be either curable or incurable.

### **PITI**

Principal, Interest, Taxes and Insurance. Often referred to the amount of these costs on a per diem basis.

### **planned unit development (PUD)**

In a PUD, the planned unit development association owns and maintains property in a real property development project for the benefit of its members, who are owners of individual parcels of real property in the development and are members of the association because of that ownership. The level of services and fees are similar to a condominium complex, but since each owner has title to a specific

parcel of land, lenders may treat units as non-condominiums. This allows higher LTV loans and eliminates owner occupancy percentage requirements.

### **plat book**

A record of recorded subdivisions of land.

### **PMI**

Acronym - *private mortgage insurance*.

### **points**

Fees paid to induce lenders to make mortgage loans at a particular interest rate. Each point is equal to one percent (1%) of the loan principal. Same as *discount points*.

### **police power**

The authority of a government to adopt and enforce law governing the use of real estate based on the need to promote public safety, health, and general welfare.

### **power of attorney (POA)**

A written authorization by a person to another person to act for him on his behalf.

### **prepayment**

Paying off all or part of the mortgage before the scheduled date.

### **prepayment clause in a mortgage**

Statement of the terms upon which the mortgagor (borrower) may pay the entire or stated amount on the mortgage principal at some time prior to the due date.

### **prepayment penalty**

A fee paid to the lending institution for paying a loan prior to the scheduled maturity date.

### **primary mortgage market**

Lenders who originate loans and makes funds available directly to the borrowers. Contrast with *secondary mortgage market*.

### **prime rate**

The interest, or discount rate charged by a commercial bank to its largest and strongest customers.

## **principal**

The amount of money owed to the lender not including interest.

## **principle of conformity**

An appraisal principle which holds that the maximum value is realized when a reasonable degree of homogeneity (sameness) exists in a neighborhood.

## **private mortgage insurance (PMI)**

Default insurance on conventional loans, normally insuring the top 20%-25% of the loan and not the whole loan.

## **promulgated contracts**

Some state real estate commissions have prepared and authorized various standard contracts that must be used by all licensees when acting as agents in real estate transactions with limited exceptions.

## **property taxes**

Taxes that are paid yearly on real property. Property taxes are ad valorem, based on the assessed value of the real property.

## **pro-rate**

To divide or distribute proportionally. At closing, various expenses such as taxes, insurance, interest, rents, etc. are prorated between the seller and buyer.

## **Public Utility District (PUD)**

A water district, created by a city or county, promoting development of a designated area by providing water and sewer services. The PUD operates in the same manner as a **Municipal Utility District**, but is created by a local government, not a private developer.

## **PUD**

Acronym - **planned unit development**.

Acronym - **Public Utility District**. **puffing**

Non-factual or extravagant statements and opinions made to enhance the perceived desirability of a property. There is a fine line between legal puffing and illegal misrepresentation, and puffing is best avoided. An example of puffing would be, "This home has the best view in the city". Also known as **puffery**.

## **purchase offer**

A document that lists the price, terms and conditions under which a buyer is willing to purchase a property.

### **qualify**

To meet a mortgage lender's approval requirements.

### **qualifying ratios**

Comparisons of a borrower's debts and gross monthly income.

### **quiet enjoyment**

The right of a property owner or tenant to enjoy his or her property without interference. Disruption of quiet enjoyment may constitute a *nuisance*. Leases and rental agreements often contain a "covenant of quiet enjoyment," expressly obligating the landlord to see that tenants have the opportunity to live undisturbed.

### **quitclaim deed**

A deed that transfers whatever ownership interest the transferor has in a particular property. The deed does not guarantee anything about what is being transferred, including an actual ownership interest. For example, a divorcing husband may quitclaim his interest in certain real estate to his ex-wife, officially giving up any legal interest in the property. A quit claim deed may also be used to clear up a cloud on the title to the property in cases where there is a question of a possible ownership claim. Compare with *grant deed*.

### **ready, willing and able**

A buyer who is prepared to buy on the seller's terms and has the financial capacity to do so.

### **real estate**

Refers to land and improvements and the rights to own or use them. "A leasehold, as well as any other interest or estate in land, whether corporeal, incorporeal, freehold, or non-freehold, and whether the real estate is situated in this state or elsewhere." {TRELA, Section 2(1)} In popular usage, Real Estate is used interchangeably with *real property* and *realty*.

### **real estate board**

A non-profit organization representing local real estate agents/brokers and salespeople, which provides services to its members and maintains and operates the Multiple Listing Service in the community.

### **real estate agent**

A person licensed to negotiate and transact the sale of real estate on behalf of the property owner.

**real Estate appraiser, licensed**

A person licensed to legally appraise real estate property for a fee.

**real estate broker, licensed**

A person licensed to legally represent a purchaser of real estate property for a fee.

**real estate inspector, licensed**

In certain states, someone who is licensed who holds himself out to the public as being trained and qualified to inspect property.

**real property**

Refers to the right to own land and improvements. Commonly used interchangeably with Real Estate and Realty. Contrast with *personal property*.

**Realtor<sup>®</sup>**

A real estate broker or an associate who holds active membership in a local real estate board that is affiliated with the **NATIONAL ASSOCIATION OF REALTORS<sup>®</sup>**.

**realty**

Refers to land and buildings and other improvements from a physical standpoint. Real Estate and Real Property tend to be used interchangeably with Realty in everyday usage. Contrast with *personalty*.

**receiver**

Court-appointed custodian who holds property for the court, pending final disposition of the matter before the court.

**recorded plat**

A subdivision map filed with the county recorder's office that shows the location and boundaries (lot and block number) of individual parcels of land. Contrast with *government survey method* and *metes and bounds*.

**recording**

The act of entering in the public records, the written record of title to real property, thereby giving constructive notice to the public.

**redlining**

The illegal practice of refusing to originate mortgage loans, or limiting their number, in certain neighborhoods on the basis of racial or ethnic composition. See [Fair Housing](#).

### **refinancing**

To apply for a new mortgage in order to gain better terms, usually either a lower interest rate or a different principal amount.

### **Regulation 'Z'**

Truth in lending law developed by the Federal Reserve System which requires lenders to provide full disclosure of the terms of the loan, including interest rates expressed as an annual percentage rate (APR).

### **RELA**

Acronym for 'Real Estate License Act.'

### **release**

To relinquish an interest or claim to a piece of property.

### **remainder**

The future interest in an estate which takes effect after the termination of another estate, such as a life estate; what is left at the termination of a life estate.

### **rent control**

Laws that limit the amount of rent landlords may charge, and that state when and by how much the rent can be raised. Most rent control laws also require a landlord to provide a good reason, such as repeatedly late rent, for evicting a tenant. Rent control exists in some cities and counties in California, Maryland, New Jersey, New York and Washington, D.C.

### **reserves**

Amounts of money set aside by a mortgage company to assure payment of property taxes, homeowners' association dues, and insurance premiums. The money is kept in an escrow account

### **reservation**

A right reserved by a grantor in the sale or lease of a property. In a sale, the title of all property passes to the grantee, but the use may be reserved for the grantor. Contrast with [exception](#).

### **RESPA**

Real Estate Settlement Procedures Act is a federal law which deals with the procedures to be followed in a real estate closing and is intended to make borrowers more knowledgeable about possible costs and charges.

Limitations on the use or occupancy of real estate contained in a deed or in local ordinances pertaining to land use.

### **right of survivorship**

The right of a surviving joint tenant to take ownership of a deceased joint tenant's share of the property. See [joint tenancy](#).

### **riparian owner**

One who owns land bounding upon a river or water course (stream, creek, bayou, etc.).

### **running with the land**

A phrase used in property law to describe a right or duty that remains with a piece of property no matter who owns it. For example, the duty to allow a public beach access path across waterfront property would most likely pass from one owner of the property to the next.

### **sales contract**

A written agreement stating the terms of the sale agreed to by both buyer and seller. See [earnest money contract](#).

### **secondary mortgage market**

Buying and selling of existing mortgage loans, designed to provide additional liquidity for lenders. Contrast with [primary mortgage market](#). Also see [Fannie Mae](#), [Freddie Mac](#) and [Ginnie Mae](#).

### **security deposit**

A payment required by a [landlord](#) to ensure that a [tenant](#) pays rent on time and keeps the rental unit in good condition. If the tenant damages the property or leaves owing rent, the landlord can use the security deposit to cover what the tenant owes.

### **security interest**

An interest that a lender takes in the borrower's property to assure repayment of a debt.

### **self- amortized loan**

A loan which will retire the debt by systematic payments of principal and interest, so that at the end of the loan period, the balance will be zero.

### **servicing a loan**

The ongoing process of collecting your monthly mortgage payment, including accounting for and payment of your yearly tax and/or homeowners insurance bills.

### **servient tenement**

Property that is subject to use by another for a specific purpose. For example, a beachfront house that has a public walkway to the beach on its premises would be a servient tenement.

### **setback**

The distance a building must be set back from the property lines in accordance with local zoning ordinances or deed restrictions.

### **shared equity mortgage**

A home loan in which the lender gets a share of the equity of the home in exchange for providing a portion of the **down payment**. When the home is later sold, the lender is entitled to a portion of the proceeds.

### **short sale (of house)**

A sale of a house in which the proceeds fall short of what the owner still owes on the mortgage. Many lenders will agree to accept the proceeds of a short sale and forgive the rest of what is owed on the mortgage when the owner cannot make the mortgage payments. By accepting a short sale, the lender can avoid a lengthy and costly foreclosure, and the owner is able to pay off the loan for less than what he owes. See also **deed in lieu** (or **foreclosure**).

### **simple interest**

Interest computed only on the principal balance. Contrast with **compound interest**.

### **single-family home**

A free-standing, residential structure, designed to accommodate one family. Single-family homes include traditional houses, as well as **patio homes**.

### **special warranty deed**

A warranty deed which, instead of warranting the title from sovereignty of the soil to the last grantee, merely warrants the title against every person whomsoever lawfully claiming or to claim the same, or any part thereof, by, through or under the grantor.

### **specific lien**

A claim that only applies to or affects a certain property or group of properties. Contrast with *general lien*.

### **specific performance**

Carrying out of the precise terms agreed upon in a contract. Also see *suit for specific performance*.

### **spite fence**

An unsightly fence erected for no other purpose than to irritate a neighbor. Such a fence may be illegal under local fence height and appearance regulations or state laws that specifically bar spite fences. Even if it doesn't violate regulation or laws, the fence may still be illegal if it was built with malicious intent.

### **statute of frauds**

The law which requires among other things, that all contracts transferring real estate, or for the leasing of property for over one year, must be in writing to be enforceable.

### **statutory year**

A year composed of twelve months, each with thirty (30) days, for a total of **360** days in a statutory year. Also known as a banker's year. Contrast with *calendar year*.

### **steering**

The illegal practice of directing members of minority groups to, or away from, certain areas or neighborhoods; *channeling*. See *Fair Housing*.

### **subject to mortgage**

The buyer of an already mortgaged property makes the payments, but does not take personal responsibility for the loan. Should the mortgage be foreclosed and the property sold for a lesser amount than is owed, the grantee-buyer is not personally liable for the deficiency, but the grantor-seller is. Contrast with *assumption of mortgage*.

### **sublease**

A rental agreement or lease between a tenant and a new tenant (called a sublessee) who will either share the rental or take over from the first tenant. The sublessee pays rent directly to the tenant. The tenant is still completely responsible to the landlord for the rent and for any damage, including that caused by the sublessee. Most landlords prohibit subleases unless they have given prior written consent. Compare with *assignment*.

### **subpoena**

A legal process ordering a witness to appear and give testimony or to present documents under penalty of law.

### **substitution, principle of**

The principle which states that a buyer will pay no more for a property than the cost of an equally desirable alternative property.

### **succession**

The passing of property or legal rights after death. The word commonly refers to the distribution of property under a state's intestate succession laws, which determine who inherits property when someone dies without a valid will. When used in connection with real estate, the word refers to the passing of property by will or inheritance, as opposed to gift, grant, or purchase.

### **suit for specific performance**

A legal action brought by either a buyer or a seller to enforce performance of the terms of a contract.

### **taking**

See *eminent domain*.

### **tenancy by the entirety**

A special kind of property ownership that's only for married couples. Both spouses have the right to enjoy the entire property, and when one spouse dies, the surviving spouse gets title to the property (called a *right of survivorship*). It is similar to *joint tenancy*, but it is available in only about half the states.

### **tenancy in common**

A type of ownership in which two or more people have an undivided interest in property, without the right of survivorship. Upon death of one of the owners, his/her interest passes to his/her heirs or devisees. Contrast with *joint tenancy*.

### **tenant**

Anyone, including a corporation, who rents real property, with or without a house or structure, from the owner (called the *landlord*). The tenant may also be called the "*lessee*."

### **tenants in common**

See *tenancy in common*.

### **tenement**

Everything that may be occupied under a lease by a tenant.

The actual life of a mortgage, at the end of which the mortgage becomes due and payable unless

the lender renews the mortgage.

### **time is of the essence**

A clause, which if included in a contract, makes failure to perform by a specified date a material breach or violation of the contract.

### **timeshare**

An arrangement under which a purchaser receives an interest in real property and the right to use an accommodation or amenities, or both, for a specified period and on a recurring basis. Used primarily for selling vacation properties.

### **title**

The right of ownership of a property.

### **title company**

A company that provides title insurance policies. Title companies may also act as escrow agents, conduct title searches, and hold closings.

### **title insurance**

Protection for lenders or homeowners against financial loss resulting from legal defects in the title.

### **title search**

Checks all the records relating to the property to determine whether the seller can sell the property and can do so free of liens.

### **title theory state**

The system in which the lender has legal title to the mortgaged property and the borrower has equitable title. Contrast with *lien theory state*.

### **torrens system**

A system of land registration used in some states in which clear title is established with a governmental authority, which issues title certificates to owners.

### **townhouse**

A dwelling unit usually with two, three or four floors, and shared structural walls. It can be individually owned, a *condominium*, a *cooperative*, a *planned unit development* or a rental property.

### **transaction fee**

A fee which may be charged each time you draw on a home equity credit line.

### **triple net lease**

See *net lease*.

### **trust deed**

The most common method of financing real estate purchases in California (most other states use mortgages). The trust deed transfers the title to the property to a trustee--often a title company-- who holds it as security for a loan. When the loan is paid off, the title is transferred to the borrower. The trustee will not become involved in the arrangement unless the borrower defaults on the loan. At that point, the trustee can sell the property and pay the lender from the proceeds. In some states, it is more commonly referred to as a *deed of trust*.

### **trustee**

One who, as agent for others, handles money or holds title to their land.

### **underwriting**

The process of verifying data and approving a loan.

### **unlawful detainer**

An *eviction* lawsuit. **usufruct**

The right to use property—or income from property—that is owned by another.

### **usury**

Charging more than the rate of interest allowed by law.

### **VA**

The Veterans Administration, a federal agency which guarantees loans made to qualified veterans on approved property.

### **vara**

A measurement of length of  $33 \frac{1}{3}$  inches.

### **variable rate**

An interest rate that changes periodically in relation to an index. Payments may increase or decrease accordingly.

**variance**

An exception to a **zoning** ordinance, usually granted by a local government. For example, if you own an oddly shaped lot that could not accommodate a home in accordance with your city's **setback** requirement, you could apply at the appropriate office for a variance allowing you to build closer to a boundary line.

**vendee**

Purchaser.

**vendor**

Seller.

**view ordinance**

A law adopted by some cities or towns with desirable vistas--such as those in the mountains or overlooking the ocean--that protects a property owner from having his or her view obstructed by growing trees. View ordinances don't cover buildings or other structures that may block views.

**village acre**

A lot size used in the Houston area to denote a 40,000 square foot parcel. In the Memorial Villages of Bunker Hill, Hedwig, Hillshire, Hunter's Creek, Piney Point and Spring Valley, lot sizes are often expressed in village acres or a fractions of village acres. The term was coined by developers who successfully lobbied for slightly smaller, minimum lot size requirements, in the cities' **zoning** regulations.

**virtual home tour**

Any method used to provide internet users with a graphical presentation of a home, or homes. Presentations may include web s, java applets, streaming video, panoramic images and bubble views.

**void**

Having no legal force or effect; legally invalid.

**voidable**

A contract which appears valid and enforceable on the surface but may be declared invalid by one of the parties, such as a contract entered into by a minor.

**waiver**

The intentional or voluntary relinquishment of a known claim or right.

**walk through**

**(1)** A Buyer's on-site inspection of the property being purchased, just prior to closing.

**(2)** A detailed inspection of a new construction home, in which punch list and cosmetic items are addressed, prior to final acceptance.

### **warranty deed**

A type of deed that contains express assurances about the legal validity of the title being transferred. See *general warranty deed* and *special warranty deed*.

### **writ of execution**

A court order which authorizes and directs the proper officer of the court (usually the sheriff) to carry into effect the judgment or decree of the court.

### **zero lot line**

A term generally used to describe the positioning of a structure on a lot so that one side rests directly on the lot's boundary line (no set back). Where allowed by zoning and/or deed restrictions, it is used for "*patio homes*."

### **zoning**

Exercise of police power of city in regulating and controlling the character or use of property. Zoning laws divide cities into different areas according to use, from single-family residences to industrial plants. Zoning ordinances control the size, location, and use of buildings within these different areas.