

COMMON TITLE TERMINOLOGY

Term	Definition
A	
Affidavit	A written statement or declaration, sworn to before an officer who has authority to administer an oath.
ALTA (American Land Title Association)	An organization, composed of title insurance companies, which has adopted certain insurance policy forms to standardize coverage on a national basis.
Amendment	A change, either to correct an error or to alter a part of an agreement without changing the principal idea or essence.
Articles of Incorporation	Documentation filed with the state which sets forth-general information about a corporation. More specific rules of the corporation would be contained in the by-laws.
B	
Bankruptcy	Proceedings under federal bankruptcy statutes to relieve a debtor (bankrupt) from insurmountable debt. The bankrupt's property is distributed by the court to the creditors as full satisfaction of the debts, in accordance with certain priorities and exemptions. Voluntary bankruptcy is petitioned by the debtor; involuntary by the creditors.
Beneficiary	(1) One for whose benefit trust is created. (2) In states in which deeds of trust are commonly used instead of mortgages, the lender (mortgagee) is called the beneficiary.
Binder	A report issued by a title insurance company setting forth the condition of title to certain property as of certain date, and setting forth conditions which, if satisfied, will cause a policy of title insurance to be issued. Also called a commitment. A policy of title insurance (used primarily by investors) calling for a reduced rate for a future policy if the property is sold within a specified period.
Broker, Real Estate	One who is licensed by the state to carry on the business of dealing in real estate. A broker may receive a commission for his or her part in bringing together a buyer and a seller, landlord and tenant, or parties to an exchange.
By-Laws	Rules and regulations, adopted by an association or corporation, which govern its activities.
C	
Cashier's Check	A check drawn by a bank on itself rather than on an account of a depositor. A cashier's check is generally acceptable to close a sale without waiting for the check to clear.
Certificate of Occupancy	A certificate issued by a local building department to a building renovator, stating that the building is in proper condition to be occupied.
Certified Check	A personal check drawn by an individual, which is certified (guaranteed) to be good. The bank holds the funds to pay the certified check and will not pay any other checks drawn on the account if such payments would impede payment of the certified check. The bank also will not honor a stop payment on a certified check.
Chain of Title	The chronological order of conveyance of a parcel of land, from the original owner (usually the government to the present owner).

Closing	(1) In real estate sales, the final procedure in which documents are executed and/or recorded, and the sale (or loan) is completed. (2) A selling term in which the client or customer is asked to agree to the sale or purchase and sign the contract. (3) The final call in a metes and bounds legal description which "closes" the boundaries of the property.
Closing Costs	Expenses incidental to the sale of real estate, such as loan fees, title fees, appraisal fees, etc.
Closing Statement	The statement that lists the financial settlement between buyer and seller, also the costs each must pay. A separate statement for buyer and seller is sometimes prepared.
Cloud on Title	An invalid encumbrance on real property, which, if valid, would affect the rights of the owner. For example: A sells lot 1, tract 1, to B. The deed is mistakenly drawn to read lot 2, tract 1. A cloud is created on lot 2 by the recording of the erroneous deed. The cloud may be removed by quitclaim deed, or, if necessary, by court action.
Commission	An amount, usually as a percentage, paid to an agent (real estate broker) as compensation for his services. The amount to a real estate broker is generally a percentage of the sale price or total rental.
Commitment	(1) Title insurance term for the preliminary report issued before the actual policy. Said report shows the condition of title and the steps necessary to complete the transfer of title as contemplated by buyer and seller. (2) A written promise to make or insure a loan for a specified amount and on specified terms.
Condominium	A structure of two or more units, the interior space of which are individually owned; the balance of the property (both land and building) is owned in common by the owners of the individual units. The size of each unit is measured from the interior surfaces (exclusive of paint or other finishes) of the exterior walls, floors, and ceiling. The balance of property is called the common area.
Contact of Sale	In some areas of the country, synonymous with land contract. In some areas, synonymous with purchase agreement.
Contingency	Commonly, the dependence upon a stated event, which must occur before a contract, is binding. For example: the sale of a house, contingent upon the buyer obtaining financing.
Conveyance	Transfer of title to land. Includes most instruments by which an interest in real estate is created, mortgaged, or assigned.
County Records	Public recorded documents by which notice is given of changes to title, liens, and other matters reflecting real estate.
D	
DBA (Doing Business As)	An identification of the owner or owners of a business and the business name. Not a partnership or corporation.
Declaratory Judgment	A determination by a court as to the legal rights of the plaintiff, with no order for relief. The judgment is binding on future litigation.
Deed	Any one of many conveyance or financing instruments, but generally a conveyance instrument, given to pass fee title to property upon sale.
Deed in Lieu	A deed from the owner (debtor) to a lender to prevent foreclosure. There are usually statutory provisions as to fairness of value and absence of coercion, which must be recited on the deed.
Deed in Lieu of Foreclosure	A deed given by an owner/borrower to a lender to prevent the lender from beginning foreclosure proceedings. The validity of the deed depends to some degree

	on "fairness" under the circumstances, and adequacy of consideration, which will be considered.
Deed of Trust	An instrument used in many states in place of a mortgage. Property is transferred to a trustee by a borrower (trustor), in favor of the lender (beneficiary), and reconveyed upon payment in full.
Deed Restrictions	Limitations on the use of property placed in conveyance deed by the grantor, which bind all future owners.
Defective Title	(1) Title to a negotiable instrument obtained by fraud. (2) Title to real property, which lacks some of the elements necessary to transfer good title.
Defendant	The person against whom a civil or criminal action is brought.
Deposit	(1) Money given by the buyer with an offer to purchase. Shows good faith. Also called earnest money. (2) A natural accumulation of resources (oil, gold, etc.) which may be commercially recovered and marketed.
Down Payment	Cash portion paid by a buyer from his own funds, as opposed to that portion of the purchase price that is financed.
E	
Easement	A right created by grant, reservation, agreement, prescription, or necessary implication, which one has in the land of another. It is either for the benefit of land (appurtenant), such as the right to cross parcel A to get to B, or "in gross", such as public utility easement.
Escrow	Delivery of a deed by a grantor to a third party for delivery to the grantee upon the happening of a contingent event. Contemporarily, in some states, all instruments necessary to the sale (including funds) are delivered to a third (neutral) party, with instructions as to their use.
Escrow Instructions	Instructions which are signed by both buyer and seller, and which enable an escrow agent to carry out the procedures, necessary to transfer real property, a business, or other assignable interest.
Escrow Officer	An escrow agent. In some states, one who has, through experience and education, gained a certain degree of expertise in escrow matters.
Execute	To complete; to fulfill a purposes, such as to execute an instrument, meaning to sign, seal (contemporarily, to notarize), and deliver.
F	
Federal Tax Lien	A lien attaching to property for nonpayment of a federal tax (estate, income, etc.). A federal tax lien differs from other liens in that it is not automatically wiped out by foreclosing on a mortgage or trust deed recorded before the tax lien (except by judicial foreclosure).
Fee Simple	An estate under which the owner is entitled to unrestricted powers to dispose of the property, and which can be left by will or inherited. Commonly, a synonym for ownership.
FHA (Federal Housing Administration)	A federal agency which insures first mortgages, enabling lenders to loan a very high percentage of the sale price.
Financing Costs	The cost and interest and other charges involved in borrowing money to build or purchase real estate.
Flood Insurance	Insurance indemnifying against loss by flood damage. Required by lenders (usually banks) in areas designated (federally) as potential flood areas. The insurance is private but federally subsidized.
FNMA (Fannie Mae)	A private corporation dealing in the purchase of first mortgages at a discount.
Foreclosure Sale	A sale of property used as security for a debt, to satisfy said debt.

G	
Gift Letter	A letter to HUD from the owner (giver) stating that a gift of money has been made to the buyer in order to purchase specific property. The relationship of the donor and recipient is stated, as well as the amount of gift.
Grantee	One to whom a grant is made, generally the buyer.
Grantor	One who grants property or property rights.
H	
Hard Money Mortgage	A mortgage given in return for cash, rather than to secure a portion of the purchase price, as with a purchase money mortgage.
Hazard Insurance	Real estate insurance protecting against loss caused by fire, some natural causes, vandalism, etc., depending upon the terms of the policy.
Home Warranty	Private insurance insuring a buyer against defects (usually in plumbing, heating and electrical) in the home he has purchased. The period of insurance varies and both new and used homes may be insured.
Homeowner's Association	(1) An association of people who own homes in a given area, formed for the purpose of improving or maintaining the quality of the area. (2) An association formed by the builder of condominiums or planned developments and required by statute in some states. The builder's participation as well as the duties of the association is controlled by statute.
I	
Indemnity Agreement	An agreement by which one party agrees to repay another for any loss or damage the latter may suffer.
Ingress and Egress	A right to enter upon and pass through land.
Institutional Lenders	Banks, savings and loan associations, and other businesses, which make loans to the public in the ordinary course of business, rather than individuals, or companies which may make loans to employees.
Insured Mortgage	A mortgage insured against loss to the mortgagee in the event of default and a failure of the mortgaged property to satisfy the balance owing plus costs of foreclosure. May be insured by F.H.A, VA, or by independent mortgage insurance companies.
Intestate	Without leaving a will, or leaving an invalid will, so that the property of the estate passes by the laws of succession rather than the direction of the deceased.
Involuntary Lien	A lien, such as a tax lien, judgment lien, etc., which attaches to property without the consent of the owner, rather than a mortgage lien, to which the owner agrees.
J	
Judgment	The decision of a court of law. Money judgments, when recorded, become a lien on real property of the defendant.
Judgment Creditor	A person, corporation, etc., that has been awarded a money judgment by a court. Recording an abstract of said judgment would create a lien on real property owned by the judgment debtor in the county where the abstract is recorded.
Judgment Debtor	A person, corporation, etc., against whom a money judgment has been awarded by the court.
L	
Legal Description	A method of geographically identifying a parcel of land, which is acceptable in a court of law.
Lender	Any person or entity advancing funds which are to be repaid. A general term encompassing all mortgagees, and beneficiaries under deeds of trust.

Line of Credit	An amount of money a borrower may obtain from a bank without special credit check. The money is generally for business purposes and the amount would not include the borrower's own home loan and other personal secured loans.
Lis Pendens	A legal notice recorded to show pending litigation relating to real property and giving notice that anyone acquiring an interest in said property subsequent to the date of the notice may be bound by the outcome of the litigation.
Listing Agent	A real estate agent obtaining a listing (see which), as opposed to the selling agent.
Loan Origination Fee	A one-time setup fee charged by the lender.
Loan Package	The file of all items necessary for the lender to decide to give or not to give a loan. These items would include the information on the prospective borrower (loan application, credit report, financial statement, employment letters, etc.), and information on the property (appraisal, survey, etc.). There may be a charge for "packaging" the loan.
Loan Policy	A title insurance policy insuring a mortgagee, or beneficiary under a deed of trust, against loss caused by invalid title in the borrower, or loss of priority of the mortgage or deed of trust.
Loan Servicing	The bookkeeping and collection of a loan. It may be done by the lender or by another for the lender.
M	
Management Fee	The amount paid for property management or the estimated value of such management if owner managed or the building is not yet built.
Metes and Bounds	Description of land by boundary lines, with their terminal points and angles. Originally metes referred to distance, bounds to direction; contemporarily, the words have no individual meaning of significance.
Mortgage	(1) To hypothecate as security, real property for the payment of a debt. The borrower (mortgagor) retains possession and use of the property. (2) The instrument by which real estate is hypothecated as security for repayment of a loan.
Mortgage Broker	One who, for a fee, brings together a borrower and lender, and handles the necessary applications for the borrower to obtain a loan against a real property by giving a mortgage or deed of trust as a security. Also called a loan broker.
Mortgage Company	A company authorized to service real estate loans, charging a fee for this service.
N	
NAR (National Association of REALTORS®)	An association of people engaged in the real estate business. Organized in 1908, it currently lists over half a million members. With headquarters in Chicago, it is dedicated to the betterment of the real estate industry through education, legislation, and high ethical standards for its members.
Notary Public	One who is authorized by the state or federal government, to administer oaths, and to attest to the authenticity of the signatures. A federal authorization may extend the authority to attest to the authenticity of certain documents, and to act as a notary in foreign countries.
Notice of Action	A recorded notice that property may be subject to a lien, or even that the title is defective, due to pending litigation. Notice of a pending suit. Also called "Lis Pendens".
Notice of Default	A notice is filed to show that the borrower under a mortgage or deed of trust is in default (behind on the payments).
O	
Offer	A presentation of proposal for acceptance, in order to form a contract. To be legally binding, an offer must be definite as to price and terms.

Origination Fee	A fee made by a lender for making a real estate loan. Usually a percentage of the amount loaned, such as one percent.
Owner's Policy	Title insurance for the owner of the property, rather than a lien holder.
P	
Planned (Unit) Development	A subdivision of five or more individually owned lots with one or more other parcels owned in common or with reciprocal rights in one or more other parcels. The lots are generally small, being the exact size of the improvements, or slightly larger.
Power of Attorney	An authority by which one person (principal) enables another (attorney in fact) to act for him. (1) General power -- Authorizes sale, mortgaging, etc. of all property of the principal. Invalid in some jurisdictions. (2) Special Power -- Specifies property, buyers, price and terms. How specific it must be varies in each state.
Preliminary Title Report	A report showing the condition of title before a sale or loan transaction. After completion of the transaction, a title insurance policy is issued.
Private Mortgage Insurance	Insurance against a loss by a lender in the event of default by a borrower (mortgagor). The insurance is like insurance by a governmental agency such as FHA, except that a private insurance company issues it. The premium is paid by the borrower and is included in the mortgage payment.
Prorate	To divide in proportionate shares, such as taxes, insurance, rent or other items which buyer and seller share as of the time of closing, or other agreed upon time.
Proration	To divide (prorate) property taxes, insurance premiums, rental income, etc., between buyer and seller proportionally to time of use or the date of closing.
Public Records	Usually at a county level, the records of all documents, which are necessary to give, notice. The records are available to the public. All transactions for real estate sales should be recorded.
Public Report	A report given to prospective purchasers in a new subdivision, stating the conditions of the area (costs of common facilities, availability of schools, noise factor if near an airport, etc.) issued by the real estate commission.
Purchase Agreement	An agreement between a buyer and seller of real property.
Q	
Quitclaim Deed	A deed operating as a release; intended to pass any title, interest, or claim, which the grantor may have in the property, but not containing any warranty of a valid interest or title in the grantor.
R	
Real Estate	(1) Land and anything permanently affixed to the land, such as buildings, fences and those things attached to the buildings, such as light fixtures, plumbing and heating fixtures, or other such items that would be personal property if not attached. The term is generally synonymous with real property, although in some states a distinction may be made. (2) May refer to rights in real property as well as the property itself.
Real Estate Owned (REO)	Most commonly refers to property owned by a lender from foreclosure of mortgages or trust deeds. The property is usually for sale.
REALTOR®	A designation given to a real estate broker or sales-associate who is a member of a board associated with the National Association of Realtors® or with the National Association of Real Estate Boards.
Recital	Setting forth in a deed or other writing some explanation for the transaction. For example: A deed may state that the property is being transferred in lieu of foreclosure.

Recordation	Filing instruments for public record (and notice) with a recorder (usually a county official).
Recorder's Office	The county office where instruments are recorded, giving public notice.
Recording	Filing documents affecting real property as a matter of public record, giving notice to future purchasers, creditors, or other interested parties. Recording is controlled by statute and usually requires the witnessing and notarizing of an instrument to be recorded.
Recording Fee	The amount paid to the recorder's office in order to make a document a matter of public record.
Referral	In real estate business, generally the act of a past client recommending a real estate broker or agent to one currently a buyer or seller. Also, any recommendation by one real estate agent of another for a referral fee.
Refinance	(1) The renewing of an existing loan with the same borrower and lender. (2) A loan on the same property by either the same borrower or lender. (3) The selling of loans by the original lender.
Release	An instrument releasing property from the lien of the mortgage, judgment, etc. When a trust deed is used, the instrument is called a reconveyance. In some areas, a "discharge" is used instead of a release.
Right of Survivorship	The right of a survivor of a deceased person to the property of said deceased. A distinguishing characteristic of a joint tenancy relationship.
Right of Way	A strip of land, which is used as a roadbed, either for a street or railway. The land is set aside as an easement or in fee, either by agreement or condemnation. May also be used to describe the right itself to pass over the land of another.
S	
Sales Associate	One who is licensed to work in real estate under a licensed broker.
Satisfaction	Discharge of an obligation by payment of the amount due, as on mortgage, trust deed, or contract; or payment of a debt awarded, such as satisfaction of a judgment. Also, the recorded instrument stating said payment has been made.
Second Mortgage	A mortgage which ranks after a first mortgage in priority. Properties may have two, three or more mortgages, deeds of trust, or land contracts, as liens at the same time. Legal priority would determine whether they are called a first, second, third, etc. lien.
Secondary Financing	A loan secured by a mortgage or trust deed, which lien is junior (secondary) to another mortgage or trust deed.
Selling Agent	The real estate agent obtaining the buyer rather than listing the property. The listing and selling agent may be the same person or company.
Settlement Statement	A statement prepared by broker, escrow, or lender, giving a complete breakdown of costs involved in a real estate sale. A separate statement is prepared for the buyer and seller.
Simultaneous Issue	A simultaneous issuance by a little insurance company of policies insuring both an owner and a lender. The Lender's policy is issued at a reduced rate.
Standard Coverage Policy	A title insurance policy used in several states, not having as broad coverage as the nationally recognized American Land Title Association (A.L.T.A.) policies.
Statutory Lien	An involuntary lien (created by law rather than contract). Includes tax liens, judgment liens, mechanic's liens, etc.
Subordination Agreement	An agreement by which an encumbrance is made subject (junior) to a junior encumbrance. For example: A loan on vacant land is made subject to a subsequent construction loan.

T	
Tax Deed	(1) Deed from tax collector to government body after a period of non-payment of taxes according to statute. (2) Deed to a purchaser at a public sale of land taken for delinquent taxes. The purchaser receives only such title as the former owners had, and strict procedures must be followed to prevent attachment of prior liens.
Tax Lien	(1) A lien for nonpayment of property taxes. Attaches only to the property upon which the taxes are unpaid. (2) A federal income tax lien. May attach to all property of the one owing the taxes.
Testate	Having written a last will and testament.
Title Company	An agency issuing the policy of a title insurance company.
Title Insurance	Insurance against loss resulting from defects of title to a specifically described parcel of real property. Defects may run to the fee (chain of title) or to encumbrance.
Title Insurance Company	A company which issues insurance regarding the title of real property.
Title Order	An order for a search of title to some parcel of property, eventually leading to the issuance of a policy of title insurance.
Title Search	A review of all recorded documents affecting a specific piece of property to determine the present condition of the title.
Transfer Tax	State tax on the transfer of real property. Based on purchase price or money changing hands. Check statutes for each state. Also called the documentary transfer tax.
U	
Underwriter	One who insures another. A small title insurance company may buy insurance from a larger one (the underwriter) for all or part of the liability of its policies. A larger title company may buy part of the insurance from another company on high liability policies.
Unmarketable Title	Not salable. A title which has serious defects.
Unrecorded Instrument	A deed, mortgage, etc., which is not recorded in the county recorder's office and, therefore, not protected under recording statutes. Valid between the parties involved, but not against innocent third parties.
V	
Variable Interest Rate	An interest rate which fluctuates as the prevailing rate moves up or down. In mortgages there are usually maximums as to the frequency and amount of fluctuation. Also called "flexible interest rate".
Vested	Present ownership rights, absolute and fixed. Modernly, ownership rights, even though on a land contract or subject to a mortgage or deed of trust.
Veteran's Administration (VA) Loans	Housing loans to veterans by banks, savings and loans, or other lenders which are insured by the Veteran's Administration, enabling veterans to buy a residence with little or no down payment.
Voluntary Lien	A lien placed against real property by the voluntary act of the owner. Most commonly, a mortgage or deed of trust.
W	
Warranty Deed	A deed used in many states to convey fee title to real property. Until the widespread use of title insurance, the warranties by the grantor were very important to the grantee. When title insurance is purchased, the warranties become less important as means of recovery by the grantee for defective title.