

TERMS:

A.L.T.A. TITLE POLICY A title insurance policy issued by title insurance companies that expands the risks insured against under the standard type of policy to include unrecorded physical easements, facts a physical survey would show, water and mineral rights, and rights of parties in possession (such as tenants and buyers under unrecorded instruments).

ALTA POLICY The title insurance policy issued to institutional lenders. The initials stand for American Land Title Association, an organization that regulates and standardizes the provisions within title policies.

ABATEMENT OF NUISANCE The act of ending or terminating a nuisance; a type of legal action brought to end a nuisance.

ABATEMENT OF JUDGMENT A document containing a condensation of the essential provisions of a court judgment.

ABSTRACT OF JUDGMENT A summary of money judgment. The summary is usually prepared so that it may be recorded, thereby creating a (judgement) lien on real estate owned by the judgment debtor.

ABSTRACT OF TITLE A summary of the instruments affecting title to a parcel of real property as shown by the public records.

ACCELERATE To make a note all due and payable at one time.

ACCELERATION CLAUSE A clause in a deed of trust or mortgage giving the lender the right to call all sums owing him or her to be immediately due and payable upon the occurrence of a certain event. It is also a clause that permits a debtor to pay off a loan before the due date.

ACCELERATION CLAUSE A clause in a promissory note, deed of trust, or mortgage that provides that upon default of a payment or some other stated event, the entire unpaid balance becomes immediately due and payable.

ACCEPTANCE An essential element of every contract, it is the consent to be bound by the offer. In deeds, it is the consent to accept a grant of real property.

ACCESS RIGHT The right of an owner to go into and out of his or her property.

ACCOMMODATION PARTY A person who, without receiving value, signs a promissory note to help another person borrow money or get credit.

ACCORD AND SATISFACTION The discharge of an existing contract by accepting the performance under a substitute contract. Generally, consideration under the new contract is different from and of lesser value than under the original contract, and satisfaction is the performance of that contract; the combination discharges the original contract.

ACCRETION A gradual addition to land from natural causes; for example, from gradual action of ocean or river waters.

ACCRUED DEPRECIATION (1) The difference between the cost of replacement new as of the date of the appraisal and the present appraised value. (2) The accumulated loss in value that has affected the improvements on real property.

ACKNOWLEDGMENT A formal declaration before an officer duly authorized as a notary public by a person who has executed an instrument, stating that the execution is his or her act and deed. A formal statement (usually before a notary public) by the person signing a deed or document that the instrument was actually and freely signed.

ACOUSTICAL TILE Blocks of fiber, mineral, or metal with small holes or a rough-textured surface to absorb sound, used as covering for interior walls and ceilings.

ACQUISITION The act or process by which a person procures property.

ACRE A measure of land equaling 160 square rods, 4840 square

yards, 43,560 square feet, or a tract about 208.71 feet square.

ADJACENT Located next to or near an object or parcel of property.

ADJOINING Located so as to touch an object or share a common property line.

ADJUSTED COST BASIS For tax purposes it is the cost of the property plus improvements and minus depreciation, amortization, and depletion.

ADMINISTRATOR A person appointed by the probate court to administer the estate of a deceased person. His or her duties include making an inventory of the assets, managing the property, paying the debts and expenses, filing necessary reports and tax returns, and distributing the assets as ordered by the probate court.

AD VALOREM According to value.

ADVERSE POSSESSION A method of acquiring property based on open and notorious possession, under a claim of right, color of title, continuous use for five years, and the payment of taxes. A method of acquiring property through continuous use of that property while paying taxes on it.

AFFIDAVIT A statement or declaration reduced to writing, sworn to or affirmed before some officer who has authority to administer an oath or affirmation, such as a notary public or a commanding officer in the service.

AFFIRM To confirm, swear, ratifying, verity.

AGENCY A special relationship of trust by which one person (agent) is authorized to conduct business, sign papers, or otherwise act on behalf of another person (principal).

AGENT One who represents another called a principal and has authority to act for the principal in dealing with third parties. The relationship is referred to as an agency. Someone authorized to act for another (called the principal) in business matters.

AGREEMENT A mutual understanding or compact between parties. Although often used synonymously with contract, technically it denotes mutual promise that fails as a contract for lack of consideration.

AGREEMENT OF SALE (1) A written contract between a buyer and seller setting out the terms of sale. (2) An installment sales contract covering real property, especially a long-term contract.

ALIENATION The transferring of property to another. Conveyance or transfer of title to real estate from one person to another person.

ALIENATION CLAUSE In a deed of trust or mortgage, a provision that if the secured property is sold or transferred, the lender has the option of accelerating the loan and declaring the entire unpaid balance immediately due and payable. Also called a "due-on-sale" clause.

ALL-INCLUSIVE DEED OF TRUST A financing device whereby a lender makes payments on the existing trust deeds of a borrower and takes from the borrower a junior trust deed with a face value in an amount equal to the amount outstanding on the old trust deeds and the additional amount of money borrowed.

ALLUVION (ALLUVIUM) Soil that has been deposited by accretion on the shore of a river or body of water and that increases the real property.

ALTER EGO A doctrine which holds that a corporation is really owned by shareholders as their own property, and therefore it should not be considered as a separate entity. Usually used to try to hold shareholders liable for corporate debts.

AMBULATORY Capable of being changed or revoked. In

wills, it refers to the concept that a will may be revoked or modified at any time up to the testator's death.

AMELIORATING WASTE Improvements to property that, while not damaging the value of the property, technically qualify as waste. For example, an apartment building constructed on property designated only for single-family structures is considered ameliorating waste.

AMENITIES As used in the real estate business, the features that make a piece of real property, especially a home, enjoyable.

AMORTIZATION (1) The liquidation of a financial obligation on an installment basis, which includes both principal and interest. (2) Recovery of cost or value over a period of time. The method or plan for the payment of a debt, bond, deed of trust, etc., by installments or sinking fund.

ANNUAL PERCENTAGE RATE (APR) The cost of credit as determined in accordance with Regulation Z of the Board of Governors of the Federal Reserve System for implementing the Federal Truth in Lending Act.

ANNUITY A sum of money received or paid yearly or at other fixed periods.

ANTICIPATION Affirms that value is created by the anticipated benefits to be derived in the future.

ANTICIPATORY BREACH Advance notice of intention to violate the terms of a contract.

APPEAL The review or rehearing by a higher court of a low (inferior) court's decision..

APPELLANT The party appealing a court decision. Either party may appeal; hence, the appellant could have been either the plaintiff or the defendant in the trial court.

APPRAISAL An estimate and opinion of value. An opinion or estimate of the fair market value of a property.

APPRAISER One qualified by education, training, and experience, who is hired to estimate the value of real and personal property on the basis of experience, judgment, facts, and use of formal appraisal processes.

APPURTENANT Attached to or considered part of land, because of being considered necessary and incidental to the use of that land. Commonly applied to easements that are considered part of property.

ASSESSED value placed on property as a basis for taxation. A value used by the tax assessor before July 1978. It represented 25 percent of the assessor's fair market value. After deducting any exemptions from assessed value, one applied the tax rate to the net figure to determine annual property taxes.

ASSESSMENT The valuation of property for the purpose of levying a tax, or the amount of tax levied.

ASSESSOR The official who has the responsibility of determining the assessed values.

ASSIGNEE One to whom property is assigned or transferred.

ASSIGNMENT A transfer to another of any property or right. The transfer of one's entire interest in property. Generally, the term is limited to intangible personal property (that is, stocks, bonds, promissory notes) and to leasehold estates.

ASSIGNMENT OF RENTS An assignment of future rents from property as security for a debt.

ASSIGNMENT OF RENTS CLAUSE A clause in a deed of trust or mortgage, providing that in the event of default, all rents and income from the secured property will be paid to the lender to help reduce the outstanding loan balance.

ASSIGNOR One who assigns or transfers property.

ASSUMPTION Acceptance of personal liability for another's debt or obligation. In the case of the sale of real estate, the buyer personally accepts and promises to pay off the existing deed of

trust.

ASSUMPTION OF AGREEMENT A contract by which a person agrees to pay a debt or obligation owed by someone else.

ASSUMPTION OF MORTGAGE OR DEED OF TRUST The taking of title to property by a grantee in which he or she assumes liability for payment of existing note secured by a mortgage or deed of trust against the property.

ATTACHMENT Seizure of property by court order before judgment, usually done to have it available in the event a judgment is obtained in a pending law suit. The actual or constructive seizure of property by court order during a lawsuit. The usual purpose is to hold the assets as security for the satisfaction of a judgment.

ATTACHMENT LIEN A lien on property arising because of an attachment of that property.

ATTEST (1) To affirm to be true or genuine. (2) An official act establishing authenticity.

ATTORNEY-IN-FACT An agent authorized to perform certain acts for another under a power of attorney. (See Power of Attorney.)

AVULSION The sudden tearing away or removal of land by the action of water flowing over or through it.

BACKFILL The replacement of excavated earth in a hole or against the side of a structure.

BALANCE SHEET A financial statement showing a person's assets, liabilities, and net worth.

BALLOON PAYMENT When the final payment on a note is greater than the preceding normal installments, the final installment is termed a balloon payment. An installment promissory note providing for the last payment to be much larger than any previous payment. By statute, any payment more than twice the smallest payment is a balloon payment, although in practice generally the term refers only to the last payment.

BASE AND MERIDIAN Imaginary lines used by surveyors from which they find, measure, and describe the location of lands.

BASEBOARD A board that goes around the room against the wall and next to the floor.

BASE MOLDING Molding used at the top of the baseboard.

BASE SHOW Molding used at junction of baseboard and floor, sometimes called a carpet strip.

BATTEN Narrow strips of wood or metal used to cover joints on the interior or exterior of a building; they are also used for decorative effect.

BEAM A horizontal structural member supporting a load.

BEARING WALL OR PARTITION A wall or partition that supports any vertical load, in addition to its own weight.

BENCH MARKS A location indicated on a permanent marker by surveyors.

BENEFICIARY (1) One entitled to benefit from a trust. (2) The lender on the security of a note and deed of trust. The creditor (lender) under a deed of trust.

BENEFICIARY STATEMENT (See Offset Statement.)

BEQUEATH To leave by will.

BEQUEST Personal property that is given by the terms of a will. A gift of personal property by will.. **BETTERMENT** An improvement on real property that increases the value and is considered a capital asset.

BILATERAL CONTRACT A contract in which the consideration given by each party is a promise: that is, a promise for a promise.

BILL OF SALE A written instrument given by the seller to the buyer to pass title to personal property.

BINDER A written statement that binds the parties to an agreement until formal contracts can be drawn; an agreement to cover a down payment as evidence of good faith.

BLACKTOP Asphalt paving used in streets and driveways.

BLANKET DEED OF TRUST A deed of trust binding more than one parcel of property as security. It is frequently encountered in subdivisions, where every lot in the subdivision is bound by the same deed of trust. As the lots are sold, they are released from the deed of trust by a partial release provision.

BLANKET MORTGAGE One mortgage or deed of trust that covers more than one piece of real property.

BLIGHTED AREA An area in which real property is declining in value because of destructive economic forces.

BOARD FOOT A unit of measurement for lumber: one foot wide, one foot long, one inch thick (144 cubic inches).

BONA FIDE Good faith.

BONA FIDE PURCHASER (BFP) A purchaser who pays fair value for property in good faith, and without notice of adverse claims.

BOND An obligation under seal. Real estate bonds are issued on the security of a mortgage or deed of trust. A certificate representing a contract for the payment of money, often used to repay certain loans or held as security to ensure the performance of a stated act.

BOOK VALUE An accounting term which is the difference between cost and the total amount of depreciation that has been taken.

BRACING Frame lumber nailed at an angle in order to provide stability to the structure.

BREACH The breaking of or failure of duty, either by an act or omission. The violation of or failure to perform an obligation.

BREEZE WAY A covered porch or passage, open on two ends, that connects the house and garage, or two parts of the house.

BRIDGING Wood or metal pieces used to brace floor joists.

BROKER An agent who earns income by arranging sales and other contracts. A real estate broker is an individual licensed by the state of California to arrange the sale or transfer of interests in real property for compensation.

BTU British Thermal Unit; the quantity of heat required to raise the temperature of one pound of water one degree Fahrenheit.

BUILDING LINE Often called a setback line, a building line is a line running a certain distance from the street, in front of which an owner cannot build. These lines are set by law.

BUILDING PAPER A heavy waterproofed paper used as sheathing in exterior walls, or in roof construction as insulation and protection against moisture.

BUILT-INS Cabinets and other features built in as a part of the house.

BUSINESS AND PROFESSIONS CODE One of the 25 California codes containing the laws passed by the state legislature. It contains the statutes regulating the conduct of real estate brokers and establishes the Department of Real Estate.

BUSINESS OPPORTUNITY A term used to describe a business including its stock-in-trade, fixtures, and good will.

CAL-VET LOAN (CALIFORNIA VETERANS A PROGRAM ADMINISTERED BY THE STATE DEPARTMENT OF VETERANS AFFAIRS FOR THE DIRECT FINANCING OF FARMS AND HOMES FOR VETERANS WHO QUALIFY.)

CAPITAL ASSETS Assets of a permanent nature used in the production of income. Examples would include land, buildings, and equipment.

CAPITAL GAIN The gain recognized for federal and state income tax purposes when a taxpayer disposes of a capital asset.

CAPITALIZATION In appraising, a method of determining value of property by considering net income and a reasonable percentage of

return on the investment.

CAPITALIZATION RATE The percentage rate or rate of interest considered a reasonable return on the investment. It is used in the capitalization method of determining value based upon net return.

C.A.R. Abbreviation for the California Association of Realtors.

CARET California Association of Real Estate Teachers; a division of the California Association of Realtors.

CARPET STRIP (See Base Shoe.)

CASEMENT WINDOW Windows set in frames of wood or metal that swing outward.

CASH FLOW The new amount of cash a property produces when all cash income and other cash generated are added together and all cash expenses and other cash payments are deducted.

CAUSE OF ACTION A legal right, facts giving rise to an enforceable claim.

CAVEAT EMPTOR A Latin phrase meaning "let the buyer beware"; the legal maxim stating that the buyer must examine the goods or property and buy at his or her own risk.

C.C. & R. Abbreviation for covenants, conditions, and restrictions. Often used synonymously with general plan restrictions on a subdivision.

CERTIFICATE OF REASONABLE VALUE The Veterans Administrations's written appraisal of the value.(**CRV**) of a property.

CERTIORARI The Supreme Court order indicating that the court has decided to exercise its discretion and accept a case offered on appeal. The court reviews only those select cases that it deems worthy of review.

CHAIN OF TITLE A series of conveyances, encumbrances, and other instruments affecting the title from the time original patent was granted, or as far back as records are available. A history of the recorded ownership of real estate and claims against title to real estate.

CHATTEL The old name for personal property.

CHATTEL MORTGAGE A personal-property mortgage. (See Security Agreement.)

CHATTEL REAL In real estate, an estate less than a freehold estate, such as a lease.

CHATTLES (1) Personal property. (2) This term is sometimes used in a law to describe any interest in real or personal property other than a freehold.

CIRCUIT BREAKER An electrical device that automatically interrupts an electrical circuit when an overload occurs. Circuit breakers can be reset and today are used instead of fuses.

CIVIL CODE One of the 25 California codes containing the statutes passed by the state legislature. The most important code relating to contracts and real estate, the Civil Code defines the nature and requirements for contracts and real estate transactions, among its many other provisions.

CIVIL LAW A system of jurisprudence, sometimes called Roman law, wherein all the laws are set forth in advance to regulate conduct (as opposed to common law, where the principles of law develop on a case-by-case basis). In California the term also refers to the law relating to and between individuals, as opposed to criminal law.

CLAPBOARD Boards that are used for siding and that are usually thicker at one edge.

CLIENT A person represented by a broker or an attorney.

CLOUD ON TITLE A claim or document that affects title to real estate. The actual cloud may ultimately prove invalid, but its existence mars the title.

CLTA POLICY The title insurance policy issued to homeowners and noninstitutional lenders. The initials stand for the California Land Title Association, an organization that regulates and standardizes the provisions within title policies.

CODE OF CIVIL PROCEDURE One of the 25 California codes that contain the statutes passed by the state legislature. It contains most of the procedural requirements for enforcing rights granted by other codes, including the procedures for evictions, foreclosures, and lawsuits.

CODICIL An amendment to a will. **COLLAR BEAM** A beam that connects the pairs of opposite roof rafters above the attic floor.

COLLATERAL Property subject to a security interest; property used as security for a debt. (See Security Agreement.)

COLLATERAL SECURITY The transfer of property of other valuables to ensure the performance of a principal agreement; an obligation attached to a contract to guarantee its performance.

COLLUSION A secret agreement between two or more persons wishing to defraud another for a wrongful purpose or to obtain an object forbidden by law.

COLOR OR TITLE That which appears to be a good title but, in fact, is not; for example, a forged deed. A document that appears to convey title, but in fact is ineffective, conveying no title at all. It is one of the requirements for adverse possession and easement by prescription.

COMBED PLAYROOM A grooved building material used primarily for interior finish.

COMMERCIAL ACRE A term applied to the remainder of an acre of land after the area devoted to streets, sidewalks, curbs, and so on has been deducted from the acre.

COMMERCIAL PAPER Negotiable instruments used in business.

COMMINGLING The mixing of different funds so that they can no longer be distinguished. In domestic law it refers to the combination of separate property and community property, so that the separate property and community funds can no longer be distinguished; in such cases all property is considered community property. For brokers it refers to the mixing of clients' money with the broker's separate bank accounts.

COMMISSION An agent's compensation for performing the duties of his or her agency agreement. In the real estate business, it is usually a percentage of the selling price or a percentage of the lease or rents, for example.

COMMITMENT A pledge or a promise; a firm agreement.

COMMON LAW The body of law that grew from customs and practices developed and used in England. A body of unwritten law that developed in England from the general customs and usage. It was adopted in the United States and exercised by court decisions following the ancient English principles and the renitified law of a state.

COMMUNITY PROPERTY All property acquired by a husband and wife living together, except separate property. (See Separate Property.) Property owned in common by a husband and wife as a kind of marital partnership.

COMPACTION Packing or consolidation of soil. When soil is added to a lot to fill in low places or to raise the level of the lot, it is often too loose to sustain the weight of buildings. Therefore, it is necessary to compact the added soil so that it will carry the weight of the building without danger of settling or cracking.

COMPARATIVE MARKET ANALYSIS One of three methods in the appraisal process. A means of comparing similar type properties, which have recently sold, to the subject property.

COMPETENT Legally qualified or capable.

COMPOUND INTEREST Interest paid on the original principal

and also on the accrued and unpaid interest that has accumulated as the debt matures.

CONCLUSIVE PRESUMPTION A legal assumption that cannot be rebutted, and is therefore accepted as true and binding on the courts.

CONDEMNATION (1) The act of taking private property for public use by a political subdivision. (2) A declaration by proper governmental authorities that a structure is unfit for use. The taking of private property for public use through the exercise of the power of eminent domain.

CONDITION A provision in a contract stating that the contract will not go into effect or that it will terminate upon the occurrence of some specified future event. (1) A restriction added to a conveyance that, upon the occurrence or nonoccurrence of a some act or event, causes the estate to be defeated. (2) Contractual provision that upon the occurrence or nonoccurrence of a stated act or event, an obligation is created, destroyed, or defeated.

CONDITION PRECEDENT A condition that must occur before an estate is created or enlarged, or before some other right or obligation occurs.

CONDITION SUBSEQUENT A condition that, upon its failure or nonperformance, causes the defeat or extinguishment of an estate, right, or obligation.

CONDITIONAL COMMITMENT A loan commitment for a definite amount under certain terms and conditions. It is subject to an unknown purchaser's satisfactory credit rating.

CONDITIONAL SALE CONTRACT A contract for the sale of property whereby the seller retains legal title until the conditions of the contract have been fulfilled. The buyer has an equitable interest in the property. (See Security Agreement.) A contract for the sale of property by which possession is delivered to the buyer, but title remains with the seller until full payment or the satisfaction of other stated conditions.

CONDITIONAL USE PERMIT An exception to or relief from the application of a zoning ordinance, because of special authorization granted by the zoning authorities. The issuance rests on public policy benefits and prior authorization in the zoning ordinance.

CONDOMINIUM A system of individual ownership of units in a multifamily structure, combined with joint ownership of common areas of the structure and the land. The ownership of an individual unit in a multi-unit structure, combined with joint ownership of common walkways, land, and other portions of the property.

CONDUIT Usually a metal pipe in which electrical wiring is installed.

CONFESSION OF JUDGMENT Any entry of judgment upon the debtor's voluntary admission or confession.

CONFIRMATION OF SALE A court approval of the sale of property by an executor, administrator, guardian, or conservator.

CONSIDERATION Anything of value, or that is legally sufficient, given to induce someone to enter into a contract. The inducement for entering into a contract; usually money, services, or a promise, although it may consist of a legal benefit to the promissory or any legal detriment to the promises.

CONSTRUCTION The interpretation of an ambiguous term or provision in a statute or agreement.

CONSTRUCTIVE A fiction imputed by law.

CONSTRUCTIVE EVICTION A breach of the landlord's warranty of quiet enjoyment. Any acts by the landlord that substantially interfere with the tenant's use and enjoyment of the premises.

CONSTRUCTIVE NOTICE Notice given by the public records; that which is considered equivalent to actual notice even though there is not actual notice. (1) Notice given by a recorded document. (2) Notice imputed by a law because a person could have discovered certain facts upon reasonable investigation, and a "reasonable man" in the same situation would have conducted such an investigation.

CONSUMER CREDIT PROTECTION ACT A federal law that includes the truth-in-Leading Law.

CONSUMER GOODS Goods sold or purchased primarily for personal, family, or household purposes.

CONTINGENT Conditional, uncertain, conditioned upon the occurrence or nonoccurrence of some uncertain future event.

CONTINUATION STATEMENT A statement filed to extend the time limit on a financing statement that had been filed earlier.

CONTRACT OF SALE (See Conditional Sale Contract.)

CONVENTIONAL LOAN A loan that is made that is not federally insured or guaranteed.

CONVERSION The wrongful appropriation of another's goods to one's own use; to change from one character or use to another. (1) In tort, an unauthorized claim of ownership over another's personal property. (2) In property, the change of character of property from real to personal, or vice versa.

CONVEYANCE (1) The transfer of the title of real property from one to another. (2) An instrument that transfers an interest in real property from one person to another. The transfer of title to real estate from one person to another.

COOPERATIVE APARTMENT A form of ownership in which each individual apartment owner shares in a cooperative venture that entitles the owner to use, rent, or sell a specific apartment unit.

CORPORATION A group or a body of persons recognized by law as an individual person with rights and liabilities distinct from those of the persons comprising it. Since the corporation is created by law, it may continue for any length of time that the law prescribes. An artificial entity given authority to conduct business and possess many of the rights of natural persons. One of the key characteristics is that of perpetual existence..

COST BASIS See Adjusted Cost Basis.

CO-TENANCY Any form of joint ownership.

COUNTER FLASHING Flashing used on chimneys at roof-line to cover shingle flashing and prevent moisture entry.

COUNTER-OFFER The rejection of an offer by the submission of another offer, different in terms from the original offer. Any purported acceptance of an offer that introduces new terms is a rejection of that offer, and amounts to a counter-offer.

COVENANT An agreement or a promise to do or not to do a particular act. Covenant: A contractual agreement whereby one of the parties promises to perform or to refrain from doing certain acts.

CPM Certified Property Manager; a member of the Institute of Real Estate Property management of the National Association of Realtors.

CRAWL HOLE Exterior or interior opening permitting access underneath a building, as building codes may require.

CURTAIL SCHEDULE A list of the due dates and amounts by which the principal sum of an obligation will be reduced by partial payments.

DAMAGES The indemnity recoverable by a person who has sustained an injury to either his or her person, property or rights through the act or default of another. Compensation ordered by the courts for the loss of or injury to one's person or property.

DEALER A person who holds property primarily for sale to his or her customers in the ordinary course of his or her business.

DEBTOR (1) A party who "owns" the property that is subject to a security interest. (2) A person who owes a debt.

DEBT SERVICE The sum of money needed each payment period to amortize the loan or loans.

DECK Usually an open porch on the roof or another part of the structure.

DECLARATORY RELIEF A court's decision on the rights of the parties in a question of law, without ordering anything to be done.

DEDICATION An appropriation of land by its owner for some public use and accepted for such use by authorized public officials on behalf of the public. A gift of privately owned land to the public or for public use. It may be voluntary or involuntary.

DEED A written instrument that when properly executed and delivered conveys title.

DEED OF TRUST A security instrument transferring title to property to a third person (trustee) as security for a debt or other obligation.

DEFAULT (1) Failure to fulfill a duty or promise or to discharge an obligation. (2) Omission or failure to perform any act. Failure to perform a legal duty or to discharge a promise..

DEFAULT JUDGMENT A judgment obtained because the defendant failed to appear and defend his case.

DEFEASANCE CLAUSE The clause in a mortgage or deed of trust that gives the borrower the right to redeem his or her property upon the payment of his or her property upon the payment of his or her obligations to the lender.

DEFEASIBLE Capable of being defeated. A defeasible estate is one that has a condition attached to the title, which if broken causes the termination of that estate.

DEFENDANT The party being sued in a lawsuit; the party against whom an action is filed.

DEFERRED MAINTENANCE Maintenance and accumulated repairs that have been postponed.

DEFICIENCY JUDGEMENT A judgment given for the unpaid balance of a debt remaining after the surety is sold. A court decree holding a debtor personally liable for the shortage or insufficiency realized on the sale of secured property. The debtor owes the difference between the sale price of the property and the amount of the secured debt.

DELIVERY (OF A DEED) The unconditional, irrevocable intent of a grantor immediately to divest (give up) an interest in real estate by a deed or other instrument.

DEPOSIT Money given to another as security to ensure the performance of a contract. The money is usually intended to be applied toward the purchase price of property, or forfeited on failure to complete the contract.

DEPOSIT RECEIPT A contract used in the real estate business that includes the terms of the contract and acts as a receipt for "earnest money" to bind an offer for property by the prospective purchaser. The name given to most real estate contracts containing the terms of the sale of real estate, and receipt for earnest money deposited).

DEPRECIATION A loss in value from any cause. This loss in value to real property may be caused by age or physical deterioration, or by functional or economic obsolescence.

DESIST AND REFRAIN ORDER An order that the Real Estate Commissioner is empowered by law and refrain from committing an act in violation of the Real Estate Law.

DETERIORATION The process of gradual worsening or depreciation.

DEVISE A gift of real property by deed.

DEVESEE One who receives real property under a will.

DICTUM A written observation, remark, or opinion by a judge to illustrate or suggest an argument or rule of law not incidental to the case at hand, and which, therefore, although persuasive, is not binding on the judge.

DIRECTIONAL GROWTH The direction in which the residential sections of a city see .destined or determined to grow.

DISCLOSURE STATEMENT A statement that the Truth-in-Lending Law requires a creditor to give a debtor showing the finance charge, annual percentage rate, and other required information.

DISCOUNT To sell a promissory note before maturity at a price less than the outstanding principal balance of the note at the time of sale. It may also be the amount deducted in advance by the lender from the face of the note.

DISCOUNT POINTS A fee charged by the lender when making an FHA or VA loan to offset the lower interest rate the lender will receive compared with conventional loan interest rates. One point is equal to 1 percent.

DISCOUNT RATE The interest rate that is charged on money borrowed by banks from the Federal Reserve System.

DISSOLUTION OF MARRIAGE A divorce.

DISTRICT COURT The main trial court in the federal court system and the lowest federal court. It has jurisdiction in civil cases where the plaintiffs and defendants are from different states (diversity of citizenship) and the amount in controversy is over \$10,000, and in cases involving a federal question.

DIVESTMENT The elimination or removal of a right or title, usually applied to the cancellation of an estate in land.

DOMICILE A person's permanent residence.

DOMINANT TENEMENT The tenement obtaining the benefit of an easement appurtenant. That parcel of land that benefits from an easement across another parcel of property (SERVIENT tenement).

DONEE The person to whom a gift is made.

DONOR The person who makes a gift.

DOUBLE ESCROW An escrow that will close only upon the condition that a prior escrow is consummated. The second escrow is contingent upon and tied to the first escrow. While double escrow is not illegal, unless there is full and fair disclosure of the second escrow, there may be a possibility of fraud or other actionable conduct by the parties.

DOWER The right that a wife has in her husband's estate at his death. Dower has been abolished in California.

DUE-ON-ENCUMBRANCE CLAUSE A clause in a deed of trust or mortgage that provides that upon the excretion of additional deeds of trust or other encumbrances against a secured parcel of property, the lender may declare the entire unpaid balance of principal and interest due and owing.

DUE-ON-SALE CLAUSE An acceleration clause that grants the lender the right to demand full payment of the mortgage or deed of trust upon sale of the property. A clause in a deed of trust or mortgage that provides that if the secured property is sold or transferred, the lender may declare the entire unpaid balance immediately due and payable. Its use has been severely limited by recent court decisions. Also called an alienation clause.

DUE PROCESS OF LAW A constitutional guarantee that the government will not interfere with a person's private property rights without following procedural safeguards prescribed by law.

DURESS Unlawful constraint by force or fear.

EARNEST MONEY A deposit of money paid by a buyer for real property as evidence of good faith.

EASEMENT A right, privilege, or interest that one party has to use the land of another. Example: A right of way. A legal right to

use another's land for one's benefit or the benefit of one's property (right-of-way).

EASEMENT APPURTENANT An easement created for the benefit of a particular parcel of property. There is both a dominant and a servant estate. The easement is annexed to and part of the dominant property.

EASEMENT IN GROSS An easement that benefits a particular individual, not a parceling of property. Involves only a servant estate. A public utility easement is an example.

EAVES The lower projecting edge of a roof over the wall.

ECONOMIC LIFE The remaining useful life of an improvement or structure; that period during which an improvement will yield a return on the investment.

ECONOMIC OBSOLESCENCE The loss in value to property due to external causes such as zoning or a deteriorating neighborhood. It is also referred to as social obsolescence.

EFFECTIVE GROSS INCOME The amount of net income that remains after the deduction from gross income of vacancy and credit losses.

EGRESS Exit; the act or a venue or leaving property.

EIR Abbreviation for Environmental Impact Report.

EMBLEMENTS Things that grow on the land require annual planting and cultivation.

EMINENT DOMAIN The right of the government and certain others, such as public utilities, to acquire property for public or quasi-public use by condemnation, upon payment of just compensation to the owner. The constitutional or inherent right of a government to take private property for public good upon the payment of just compensation.

ENCROACHMENT The projection of a structure onto the land of an adjoining owner. A structure or natural object that unlawfully extends into another's property.

ENCUMBRANCE Any claim, interest, or right improperly possessed by another that may diminish the true owner's rights or value in the estate. Examples include mortgages, easements, or restrictions of any kind. A claim, lien, or charge on property.

ENDORSEMENT See Indorsement.

ENVIRONMENTAL IMPACT REPORT A report that must be prepared whenever any agency or individual considers a project that may have a significant impact on the environment, as directed by the California Environmental Quality Act.

EQUAL PROTECTION The Fourteenth Amendment to the U.S. Constitution and similar provisions in the California Constitution require each citizen to receive equal protection of the laws. There are no minimum standards of protection; all equally situated individuals must simply be treated equally. (The due process clause of the Constitution imposes certain minimum standards of protection.)

EQUITY (1) The interest or value that an owner has in real property over and above the liens against it. (2) A part of our justice system by which courts seek to supplement the strict terms of the law to fairness under the circumstances, rather than on fixed legal principles or statutes. (3) Ownership in property, determined by calculating the fair market value less the amount of liens and encumbrances.

EQUITY BUILD-UP The increase of the owner's equity due to mortgage principal reduction and value appreciation.

EQUITY OF REDEMPTION The right to redeem property during the foreclosure period. In California the mortgagor has the right to redeem within 12 months after the foreclosure sale.

EROSION The wearing away of the surface of the land by the

action of wind, water, and glaciers, for example.

ESCALATOR CLAUSE A clause in a contract that provides for the upward or downward adjustment of certain items to cover the specific contingencies set forth. A clause in a promissory note, lease, or other document that provides that upon the passage of a specified time or the happening of a stated event, the interest rate shall increase.

ESCHEAT The reversion of property to the state when there are no devisees or heirs capable of inheritance. Reversion of property to the state upon the death of an owner who has no heirs able to inherit.

ESCROW The deposit of instruments and funds with a third neutral party with instructions to carry out the provisions of an agreement or contract. A complete or perfect escrow is one in which everything has been deposited to enable carrying out the instructions. The neutral third party (stakeholder) who holds deeds or other documents pursuant to instructions for delivery upon completion or occurrence of certain conditions.

ESTATE The degree, quantity, nature, and extent of the interest that a person has in real property. (1) Ownership interest in real estate. (2) The quality and quantity of rights in property.

ESTATE AT WILL The occupation of real property by a tenant for an indefinite period. It may be terminated at will by one or both parties. A leasehold tenancy, which at common law could be terminated by either party at any time, without advance notice. Thirty days' notice are now required to terminate this type of estate in California..

ESTATE FOR LIFE A freehold estate whose duration is measured by and limited to the life or lives of one or more persons.

ESTATE FOR PERIOD TO PERIOD A leasehold tenancy that continues indefinitely for successive periods of time, until terminated by proper notice. When the periods are one month in duration, it is often called a month-to-month tenancy.

ESTATE FOR YEARS A lease that will expire at a definite time or date. A leasehold tenancy of a fixed duration, being a definite and ascertainable period of a year or any fraction of multiple thereof. It has a definite beginning and ending date, and hence a known and definite duration.

ESTATE OF INHERITANCE An estate that may go to the heirs of the deceased. All freehold estates are estates of inheritance, except life estates.

ESTOP To ban, stop, or impede.

ESTOPPEL A doctrine whereby one is forbidden to contradict or deny his or her own previous statement, act, or position. The doctrine that prevents a person from exercising a legal right, because that person previously acted in an inconsistent manner, so that a third person detrimentally relied on the earlier acts.

ET AL Abbreviation meaning and others (other person).

ET UX Abbreviation meaning and wife.

ETHICS A standard of conduct that all members of a given profession owe to the public, clients or patrons, and to other members of that profession.

EVICITION Dispossession by legal process, as in the termination of a tenant's right to possession through re-entry or other legal proceedings.

EVIDENCE All relevant information, facts, and exhibits admissible in a trial.

EXCEPTION (See Reservation.)

EXCHANGE A reciprocal transfer of properties between two or more parties.

EXCLUSIVE AGENCY A contract hiring the broker as the exclusive agent for the seller. If anyone, except the seller, finds a buyer, the broker has earned the commission.

EXCLUSIVE AGENCY LISTING A written agreement giving one

agent the exclusive right to sell property for a specified period of time, but reserving the right of the owner to sell the property himself or herself without liability for the payment of a commission.

EXCLUSIVE-RIGHT-TO-SELL LISTING A written agreement giving one agent the exclusive right to sell property for a specified period of time. The agent may collect a commission if the property is sold by anyone, including the owner, during the term of the listing agreement.

EXCLUSIVE RIGHT TO SELL AGENCY A contract hiring the broker as the only person authorized to sell property. If anyone, including the seller, finds a buyer, the broker earns the commissions.

EXCULPATORY CLAUSE A provision in leases and other instruments seeking to relieve one party of liability for his negligence and other acts. In residential leases such clauses are invalid, and in other leases the courts have limited the landlord's ability to escape liability for intentional acts, and for acts of affirmative negligence.

EXECUTE To complete, make, perform, do or to follow out. To sign a document, intending to make it a binding instrument. The term is also used to indicate the performance of a contract.

EXECUTION LIEN A lien arising because of an execution on property. A judgment is not self-executing; however, when a writ of execution has been obtained, the sheriff will levy (seize) property, which creates a lien on the property.

EXECUTOR A person named by the testator of a will to carry out its provisions as to the disposition of the estate. A personal representative appointed in a will to administer a decedent's estate.

EX PARTE By only one party or side. For example, an injunction obtained by evidence presented by only one side, without notice to the other parties.

EXPANSIBLE HOUSE A home designed for expansion and additions in the future.

EXPANSION JOINT A fiber strip used to separate units of concrete to prevent cracking due to expansion as a result of temperature changes.

FACADE The face of a building, especially the front face.

FAIR MARKET VALUE The amount of money that would be paid for a property offered on the open market for a reasonable length of time with both the buyer and the seller knowing all uses to which the property could be put and with neither party being under pressure to buy or sell. See market Value.

FANNY MAE The Federal National Mortgage Association (FNMA).

FEDERAL DEPOSIT INSURANCE CORPORATION A federal corporation that insures deposits in commercial banks (FDIC).

FEDERAL HOME LOAN BANK (FHLB) A district bank of the Federal Home Loan Bank System that lends only to savings and loan associations who are members.

FEDERAL HOME LOAN MORTGAGE CORPORATION (FHLMC) A federal corporation that provides savings and loan associations with a secondary mortgage money market for loans. It is also known as Freddy Mac.

FEDERAL HOUSING ADMINISTRATION (FHA) An agency of the federal government that insures mortgage loans.

FEDERAL NATIONAL MORTGAGE A federal corporation that provides lenders with a secondary

ASSOCIATION (FNMA) mortgage money market.

FEDERAL RESERVE SYSTEM The federal banking system of the United States under the control of a central board of governors (Federal Reserve Board). It involves a central bank in each of 12 geographical districts, with broad powers in controlling credit and the amount of money in circulation.

FEDERAL SAVINGS AND LOAN A federal corporation that insures deposits in savings and loan

INSURANCE CORPORATION (FSLIC) associations.

FEE An estate of inheritance in real property for life.

FEE SIMPLE An estate in real property by which the owner has the greatest possible power over the title. In modern use it expressly establishes the title of real property with the owner without limitation or end. He or she may dispose of it by sale, trade, or will, as he or she chooses. In modern estates the terms "Fee" and "Fee Simple" are substantially synonymous.

FEE SIMPLE ABSOLUTE The highest estate known at law. A freehold estate of indefinite duration, incapable of being defeated by conditions or limitations. Sometimes simply called fee or fee estate.

FEE SIMPLE DEFEASIBLE A fee simple estate to which certain conditions or limitations attach, such that the estate may be defeated or terminated upon the happening of an act or event. Also called a fee simple subject to a condition subsequent estates.

FEE SIMPLE SUBJECT TO A fee simple defeasible estate that requires the holder

CONDITION SUBSEQUENT of the future interest to act promptly to terminate the present interest, in order for that interest to be terminated.

FIDUCIARY A person in a position of trust and confidence, as between principal and broker. A fiduciary may not make a profit from his or her position without first disclosing it to the beneficiary.

FINANCING STATEMENT The instrument filed to perfect the security agreement and give constructive notice of the security interest, thereby protecting the interest of the secured parties. (See Security Agreement; Security Interest; and Secured Party.) The security interest in personal property. It is analogous to a mortgage on real property, except that it secures personal property. Under the U.C.C., it may be filed in Sacramento with the secretary of state.

FINDER'S FEE Money paid to a person for finding someone interested in selling or buying property. To conduct any negotiations of sale terms, the finder must be a licensed broker or he violates the law.

FINISH FLOOR The final covering on the floor, such as wood, linoleum, cork, or carpet.

FIRE STOP A solid, tight closure of a concealed space placed to prevent the spread of fire and smoke through the space.

FIRST AMENDMENT The constitutional amendment guaranteeing freedom of speech, press, assembly, and religion.

FIXTURE An item of personal property that has been so attached to real property as to be considered part of that real property.

.FIXTURES Items that were originally personal property but that have become part of the real property, usually because they are attached to the real property more or less permanently. Examples: Store fixtures built into the property and plumbing fixtures.

FLASHING Sheet metal or similar material used to protect a building from water seepage.

FOOTING The base or bottom of a foundation wall, pier, or column.

FORCIBLE DETAINER Wrongful retention of property by actual

or constructive force.

FORCIBLE ENTRY Entry into property without the consent of the owner, by acts that constitute more than mere trespass.

FORECLOSURE A legal proceeding to enforce a lien on such as a mortgage or deed of trust. The process by which secured property is seized and sold to satisfy a debt. A mortgage or involuntary lien must be sold by a court-ordered sale; a sale under a deed of trust may be either by court action or through a private trustee's sale.

FORFEITURE Loss of a legal right, interest, or title by default.

FORMAL WILL A will signed by the testator in the presence of two or more witnesses, who must themselves sign the will.

FOUNDATION That part of a structure or wall wholly or partly below the surface of the ground that is the base or support, including the footings.

FOURTEENTH AMENDMENT The constitutional amendment that directs that no state can deprive a person of life, liberty, or property without due process or equal protection of the law.

FRAUD Deception that deprives another person of his or her rights or injures him or her. False representation or concealment of material facts that induces another justifiably to rely on it to his detriment.

FREEHOLD An estate of fee. An estate in real property that is either a life estate or an estate in fee.

FRONT FOOT Property measurement for sale or valuation purposes. The property measurement is along the street line, and each front foot extends to the depth of the lot. It is usually used in connection with commercial property.

FROST LINE The depth of frost penetration in the soil.

FRACTIOUS Fruits, crops, and other plants. If the vegetation is produced by human labor, such as crops, it is called fructose industrials; vegetation growing naturally is called fructose naturals.

FURRING Strips of wood or metal fastened to wall to even it, form air space, or to give the wall greater thickness.

FUTURE ADVANCES Future (additional) loans made by a lender and secured under the original deed of trust. The advances may be either optional or obligatory, but the deed of trust or mortgage must provide in the security instrument that it will cover any such future advances.

FUTURE INTEREST An estate that does not or may entitle one to possession or enjoyment until a future time.

GABLE ROOF Pitched roof with sloping sides.

GAMBREL ROOF A curb roof, having a steep lower slope with a flatter upper slope above.

GARNISHMENT A legal process to seize a debtor's property or money in the possession of a third party.

GENERAL PLAN RESTRICTIONS Covenants, conditions, and restrictions placed on a subdivision or other large tract of land, designed to benefit and burden each lot in the tract.

GIFT A voluntary transfer of property without consideration.

GIFT DEED A deed for which there is no material consideration.

GIRDER A beam used to support other beams, joists, and partitions.

GOVERNMENT NATIONAL MORTGAGE ASSOCIATION (GNMA) programs for federally aided housing. The corporation is also known as Ginny Mae.

GRADE Ground level at the foundation.

GRADUATED LEASE Usually a long-term lease that provides for adjustments in the rental rate on the basis of some future

determination. For example, the rent may be based upon the result of appraisals to be made at predetermined times in the future.

GRANT (1) To transfer. (2) A deed. (3) When used in a deed, a technical term implying certain warranties. A transfer or conveyance of real estate.

GRANT DEED In California, a deed in which the word grant is used as a work of conveyance and therefore by law implies certain warrandice deed used to transfer property in California. By statute it impliedly contains only two limited warranties.

GRANTEE The buyer; a person to whom a grant is made.

GRANTOR The seller; one who signs a deed. The seller or person who executes a grant.

GRID A chart used in rating the borrower, property, and neighborhood.

GROSS INCOME Total income before expenses are deducted.

GROSS RENT MUTIPLIER A number that reflects the ratio between the sales price of a property and its gross monthly rents. It is used in the income approach of appraising property.

GROUND LEASE An agreement leasing land only, without improvements, ordinarily with the understanding that improvements will be placed on the land by the tenant.

GROUND RENT (1) Earnings from the ground only. (2) Earnings of improved property after an allowance is made for earnings of improvements. (3) A perpetual rent that a grantor in some states may reserve to himself or herself and his or her heirs when he or she conveys real property.

HAZARD INSURANCE Insurance that protects the owner and lender against physical hazards to property such as fire and windstorm damage.

HEADER A beam placed perpendicularly to joists and to which joists are nailed in the framing of openings such as windows, doors, and stairways.

HEIRS Persons who succeed to the estate of someone who dies intestate (without a will). It sometimes indicates anyone who is entitled to inherit a decedent's property.

HEREDITAMENT A term usually referring to real estate and all that goes with it as being incidental.

HIGHEST AND BEST USE An appraisal phrase that means that use of real property that is most likely to produce the greatest net return on land or buildings, or both, over a given period of time.

HIP ROOF A pitched roof with sloping sides and ends.

HOLDER IN DUE COURSE One who has taken a negotiable note, check, or bill of exchange in due course (1) before it was past due; (2) in good faith; (3) without knowledge that it has been previously dishonored and without notice of any defect at the time it was negotiated to him or her; (4) for value. Someone who acquires a negotiable instrument in good faith and without any actual or constructive notice of defect. The acquisition must occur before the note's maturity. Such a holder takes the note free from any personal defenses (such as failure of consideration, fraud in the inducement) that may be available against the maker.

HOLOGRAPHIC WILL A will that is entirely written, dated, and signed by the testator in the testator's handwriting. No witnesses are needed.

HOMEOWNER'S EXEMPTION An exemption or reduction in real property taxes available to chosen Who reside on their property as of March 1. The current amount is \$70 off the normal tax bill otherwise due.

HOMESTEAD (1) A home upon which the owner or owners have recorded Declaration of Homestead, as provided by California statutes, that protects the home against judgments up to a specified amount. (2) A probate homestead is a similarly protected home property set aside by a California probate court

for a widow or minor children. A special, limited exemption against certain judgments available to qualified homeowners.

HUNDRED PERCENT LOCATION A retail business location considered the best available for attracting business.

HYPOTHECATE To give something as security without giving up possession of it. To pledge property; to pledge a security interest in property without the transfer of possession.

ILLUSORY CONTRACT An agreement that gives the appearance of a contract, but in fact is not a contract because it lacks one of the essential elements.

IMPLIED Not expressed by words, but presumed from facts, acts, or circumstances.

IMPOUND ACCOUNT A trust account established by the lender to pay property taxes and hazard insurance.

INCOME APPROACH An appraisal technique used on income producing properties. Also known as the capitalization approach.

INCOMPETENT Someone incapable of managing his or her own affairs by reason of age, disease, weakness of mind, or any other cause.

INCREMENT Any increase. (1) A term frequently used to refer to the increased value of land because of population growth and increased wealth in the community. (2) "Unearned increment" is used in this connection since the values increased without effort on the part of the owner.

INDEBTEDNESS A debt or obligation.

INDEMNIFICATION Compensation to a person who has already sustained a loss. For example, insurance payment for a loss under policy.

INDIRECT LIGHTING A method of illumination in which the light is reflected from the ceiling or other object outside the fixture.

INDORSEMENT (1) The act of signing one's name on the back of a check or a note, with or without further qualification. (2) The signature described above.

INGRESS The act of or avenue for entering property.

INHERIT To take property through a deceased's estate.

INJUNCTION An order issued by a court to restrain one or more parties to a suit or proceeding from performing an act deemed inequitable or unjust in regard to the rights of some other party or parties in the suit or proceeding.

INJUNCTION A court order prohibiting certain acts, or ordering specific acts.

INSTALLMENT A partial payment of a debt due in a series of payments.

INSTALLMENT NOTE A note that provides that payments of a certain sum or amount be paid in more than one payment on the dates specified in the instrument.

INSTALLMENT-SALE METHOD A method of reporting capital gains by installments for successive tax years to minimize the impact of capital gains tax in the year of the sale.

INSTALLMENT SALES CONTRACT Also known as an agreement of sale or a land contract.

INSTITUTIONAL LENDER Lenders who make a substantial number of real estate loans, such as banks, savings and loan associations, and insurance companies.

INSTRUMENT A written legal document created to affect the rights of the parties.

INTEREST The charge or cost for the use of money.

INTEREST RATE The percentage of a sum of money charged for its use.

INTERPLEADER A court proceeding initiated by a stakeholder, such as a broker or escrow agent.

INTESTATE A person who dies without a will.

INVESTOR A person who holds property primarily for future appreciation in value for federal and state income tax purposes..

INVITEE A person who enters another's land because of an express or implied social invitation, such as a social guest. The term also covers certain government workers who enter someone's land, such as police officers and firefighters. Classification of such status was revoked by a recent court case.

INVOLUNTARY CONVERSION The loss of real property due to destruction, seizure, condemnation, foreclosure sale, or tax sale.

INVOLUNTARY LIEN Any lien imposed on property without the consent of the owner.

IRREVOCABLE Incapable of being recalled or revoked; unchangeable.

IRRIGATION DISTRICTS Quasi-political districts created under special laws to provide for water services to property-owners in the district.

JALOUSIE A screen or shutter consisting of overlapping horizontal slats that is used on the exterior to keep out sun and rain while admitting light and air.

JAMB The side post or lining of a doorway, window, or other opening.

JOINT The space between the adjacent surfaces of two components joined and held together by nails, glue, or cement, for example.

JOINT NOTE A note signed by two or more persons who have equal liability for payment.

JOINT TENANCY Joint ownership by two or more persons with right of survivorship. Four unities must be present: time, title, interest, and possession. Property held by two or more people with right of survivorship.

JOINT VENTURE In legal effect it is a partnership for a limited, specific business project.

JOISTS One of a series of parallel beams to which the boards of floor and ceiling laths or plaster boards are nailed and supported in turn by larger beams, girders, or bearing walls.

JUDGMENT A court of competent jurisdiction's final determination of a matter presented to it. The final decision by a court in a lawsuit, motion, or other matter.

JUDGMENT AFFIRMED A decision by an appellate court reaffirming, approving, and agreeing with an inferior court's decision.

JUDGMENT DEBTOR A person who has an unsatisfied money judgment levied against him or her.

JUDGMENT LIEN A money judgment that, because it has been recorded, has become a lien against the judgment debtor's real property.

JUDGMENT REVERSED A decision by an appellate court disagreeing with an inferior court's decision and modifying the decision to conform with its findings.

JUNIOR LIEN A lien lower in priority or rank than another or other liens.

JUNIOR MORTGAGE A mortgage second in lien to a previous mortgage.

JURISDICTION The authority of a court to hear and decide a particular type of case. The power of a court to hear and decide a case or issue..

LACHES Unreasonable delay in asserting one's legal rights.

LAND CONTRACT A contract used in the sale of real property when the seller wishes to retain legal title until all or a certain part of the purchase price is paid by the buyer. It is also referred to as an installment sales contract or an agreement of sale.

LANDLOCKED Property totally surrounded by other property with no means of ingress or egress.

LANDLORD The person who leases property; the owner of the property.

LAND SALES CONTRACT A contract for the sale of property, by which possession is delivered to the buyer, but title remains with the seller until full payment or the satisfaction of other stated conditions.

LANDS, TENEMENTS, AND Inheritable lands or interest.

HEREDITAMENT

LATE CHARGE A charge made by a lender against a borrower who fails to make loan installments when due. **LATE SUPPORT** The support that the soil of an adjoining owner gives to his or her neighbor's land.

LATH A building material of wood, metal gypsum, or insulating board fastened to the frame of a building to act as a plaster base.

LEASE A contract between owner and tenant, setting forth conditions upon which the tenant may occupy and use the property and the term of the occupancy.

LEASEHOLD ESTATE The estate of a tenant under a lease. (See Estate for Years.)

LEGACY A gift of money by will.

LEGAL DESCRIPTION A description recognized by law; a description by which property can be definitely located by reference to government surveys or approved recorded maps.

LESSEE A tenant; the person who is entitled to possession of property under a lease.

LESSOR A landlord; the property owner who executes a lease.

LETTER OF INTENT An expression of intent to invest, develop, or purchase without creating any firm legal obligation to do so.

LEVY To execute upon; to seize and sell property to obtain money to satisfy a judgment.

LIABILITIES Debts or claims that creditors have against assets.

LICENSE Personal, nonassignable authorization to enter and perform certain acts on another's land.

LICENSEE Under the law before 1968, which classified persons who entered upon others' land, a licensee was someone who entered upon land with the owner's express or implied permission for a business purpose.

LIEN A lien makes the debtor's property security for the payment of a debt or the discharge of an obligation. A charge or claim against property as security for payment of a debt or obligation.

LIFE ESTATE An estate in real property that continues for the life of a particular person. The "life" involved may be that of the owner or that of some other person. An estate in property whose duration is limited to and measured by the life of a natural person or persons.

LIMITED PARTNERSHIP A partnership composed of some partners whose contribution and liability are limited. There must always be one or more general partners with unlimited liability and one or more limited partners with limited liability. A special partnership composed of limited and general partners. The general partners have unlimited liability and total management, whereas the limited partners have to voice in the management and their only financial exposure is to the extent of their investment. In some ways the limited partners' interest is similar to that of stockholders in a corporation.

LINTEL A horizontal board that supports the load over an opening such as a door or window.

LIQUIDATED DAMAGES CLAUSE An agreement between the parties that in the event of a breach, the amount of damages shall be liquidated (set or fixed). The amount is set before the breach, usually at the time of making the contract, on the assumption that the exact amount of damages is difficult to

determine because of the nature of the contract.

LIS PENDENS A notice of pending litigation recorded to give constructive notice of a suit that has been filed. A recorded notice that a lawsuit is pending, the outcome of which may affect title to property.

LISTING An employment contract between a broker and his principal (client).

LISTING AGREEMENT An employment contract authorizing a broker to sell, lease, or exchange an owner's property.

LITIGATION A civil lawsuit; a judicial controversy.

LOAN COMMITTEE The committee in a lending institution that reviews and approves or disapproves the loan applications recommended by a loan officer.

LOAN CORRESPONDENT A loan agent usually used by distant lenders to help the lender make real estate loans.

LOAN PACKAGE A group of documents prepared along with a loan application to give the prospective lender complete details about the proposed loan.

LOAN TRUST FUND ACCOUNT (See Impound Account.)

LOAN VALUE The lender's appraised value of the property.

LOUVER An opening with a series of horizontal slats set at an angle to permit ventilation without admitting rain, sunlight, or vision.

MAI A term that designates a person who is a member of the American Institute of Appraisers of the National Association of Realtors.

MANDAMUS A court decree ordering a lower court judge, public official, or corporate officer to perform an act acquired of that office.

MARGINAL LAND Land which barely pays the cost of working or using it.

MARGIN OF SECURITY The difference between the amount of secured loan(s) on a property and its appraised value.

MARKETABLE TITLE Title free and clear of reasonable objections and doubts; also called merchantable title.

MARKET DATA APPROACH (See Comparative Market Analysis.)

MARKET PRICE The price paid regardless of pressures, motives, or intelligence.

MARKET VALUE (1) The price at which a willing seller would sell and a willing buyer would buy, neither being under abnormal pressure. (2) As defined by the courts, it is the highest price estimated in terms of money that a property will bring if exposed for sale in the open market, allowing a reasonable time to find a purchaser with knowledge of the property's use and capabilities for use.

MATERIAL FACT A fact that would be likely to affect a person's decision in determining whether to enter into a particular transaction.

MECHANIC'S LIEN A lien given by statute to persons supplying labor, materials or other services to improve real property. Whenever a contractor, laborer, or material man provides labor or materials to improve real property and is not paid, that person is entitled to a lien against the property as a means of securing payment. Certain statutory steps must be taken to file, record, and foreclose the lien. Memo to set: A document filed in a lawsuit which asks to be placed on the waiting list ("docket") for the next available court date.

MENACE A threat to use duress. (See Duress.)

MERCHANTABLE TITLE (See Marketable Title.)

MERGER OF TITLE The combination of two estates. Also refers to the joining of one estate burdened by an encumbrance and another estate benefited by the encumbrance. Whenever a benefit and a burden are merged, the encumbrance is extinguished.

MERIDIANS Imaginary north-south lines that intersect base lines to form a starting point for the measurement of land.

METES AND BOUNDS Terms used to describe the boundary lines of land, setting forth all the boundary lines together with their

terminal points and angles. Metes

means measurements. Bounds means boundaries.

MINOR (1) A person under the age of majority. (2) In California all persons under eighteen years of age - the age of majority in California. Someone under age 18.

MINUS CASH FLOW An event that takes place when there is not enough cash to cover expenses and service the mortgage debt.

MISREPRESENTATION An intentional or negligent suggestion or statement of a material fact in a false manner with the intent of deceiving someone into taking a course of action he would not otherwise normally pursue.

MITIGATION Facts or circumstances that tend to justify or excuse an act or course of conduct.

MONTH-TO-MONTH TENANCY A lease of property for a month at a time, under a periodic tenancy that continues for successive months until terminated by proper notice, usually 30 days.

MOBILE HOME A stationary, nonmotorized vehicle designed and equipped for human habitation. It may be transported to a home site by special equipment.

MOLDING Usually patterned strips used to provide ornamental variation of outline or contour, such as cornices, bases, window and door jambs.

MONUMENT A fixed object and point established by surveyors or others to establish land locations.

MORATORIUM The temporary suspension, usually by statute, of the enforcement of liability for debt.

MORTGAGE An instrument by which property is hypothecated to secure the payment of a debt or obligation.

MORTGAGE A contract by which property is hypothecated (pledged without delivery) for the repayment of a loan.

MORTGAGEE One to whom a mortgagor gives a mortgage to secure a loan or performance of an obligation: the lender under a mortgage. (See Secured Party.) A creditor (lender) under a mortgage.

MORTGAGE GUARANTY INSURANCE Insurance against financial loss available to mortgage lenders from the Mortgage Guaranty Insurance Corporation, a private company organized in 1956.

MORTGAGOR One who gives a mortgage on his or her property to secure a loan or assure performance of an obligation; the borrower under a mortgage. (See Debtor.) A borrower (property owner) of money under a mortgage.

MULTIPLE LISTING A listing, usually an exclusive-right-to-sell, taken by a member of an organization composed of real estate brokers with the provisions that all members will have the opportunity to find an interested client; a cooperative listing. A listing taken by a broker and shared with other brokers through a specialized distribution service, usually provided by the local real estate board. Generally, such listings are exclusive right to sell listings.

MUNICIPAL COURT An inferior trial court having jurisdiction in cases involving up to \$15,000 in money damages and in unlawful detainer actions in which the rental value is under \$1,000 per month.

MUTUAL ASSENT An agreement between the parties in a contract. The offer and acceptance of a contract.

MUTUAL WATER COMPANY A water company organized by or for water-users in a given district, with the object of securing an ample water supply at a reasonable rate. Stock is issued to users.

NAR National Association of Realtors.

NAREB National Association of Real Estate Boards. This trade organization is now known as the National Association of Realtors.

NEGATIVE AMORTIZATION Occurs when normal payments on a loan are insufficient to cover all interest then due, so that unpaid interest is added to principal. Thus, even though payments are timely made, the principal grows with each payment.

NEGLIGENCE Either the failure to act as a reasonable, prudent person, or the performance of an act that would not be done by a reasonable, prudent person.

NEGOTIABLE INSTRUMENT A check or promissory note that meets specified statutory requirements and is therefore easily transferable in somewhat the same manner as money. The negotiable instrument can be passed by endorsement and delivery (or in some cases by mere delivery), and the transferee takes title free of certain real defenses (such as failure of consideration, fraud in the inducement) that might exist against the original maker of the negotiable instrument.

NEPA Abbreviation for the National Environmental Protection Act, a federal statute requiring all federal agencies to prepare an Environmental Impact Statement and meet other requirements whenever a major federal action is anticipated that could significantly affect the environment.

NET LISTING A listing that provides that the agent may retain as compensation for his or her services all sums received over and above a stated net price to the owner. An employment agreement that entitles the broker to a commission only in the amount, if any, that the sales price of the property exceeds the listing price.

NONFREEHOLD ESTATE A lease tenancy. (See under Estates for the four types of leasehold estates.)

NONJUDICIAL FORECLOSURE foreclosure and sale of property without resort to court action, by private sale. For deeds of trust the foreclosure provisions are outlined by the statutes and the requirements in the security instrument, which include a notice of default, right to reinstate, publication of sale, and trustee's sale.

NOTARY PUBLIC An individual licensed by the state to charge a fee for acknowledging signatures on instruments.

NOTE A signed written instrument promising payment of a stated sum of money. Shortened name for a promissory note.

NOTICE OF COMPLETION A notice recorded after termination of work on improvements, limiting the time in which mechanic's liens can be filed against the property.

NOTICE OF DEFAULT A notice that is recorded in the county recorder's office stating that a trust deed is in default and that the holder has chosen to have the property sold. The trustor (property owner) has three months after the date of recording to reinstate the loan. Recorded notice that a trustor has defaulted on his secured debt.

NOTICE OF NONRESPONSIBILITY A notice provided by law designed to relieve a property owner from responsibility for the cost of work done on the property or materials furnished for it when the work or materials were ordered by a person in possession. Notice relieving an owner from possession. Notice relieving an owner from mechanic's liens for work on property not ordered by that owner.

NOTICE TO QUIT A notice to a tenant to vacate rented property. Also called a three-day notice. Notice given to a tenant in default of his lease terms or on his rent, which directs him either to cure the default or to vacate the premises.

NOVATION The acceptance of a new contract in substitution for the old contract, with the intent that the new contract will extinguish the original contract. Sometimes encountered in transfers of deeds of trust, where the new owner assumes the debt and the lender, through novation, releases the former owner from any liability under the original promissory note and deed of trust.

NUISANCE Anything that is injurious to health or indecent or offensive to the senses, or any obstruction to the free use of property so as to interfere with the comfortable enjoyment of life or property or unlawfully obstructs the free passage or use, in the customary manner, of any navigable lake or river, bay, stream, canal, or basin, or any public park, square, street, or highway. A legal wrong arising from acts or use of one's property in a way that unreasonably interferes with another's use of his property.

OBLIGEE A promisor; a person to whom another is bound by a promise or another obligation.

OBSOLESCENCE Loss in value due to reduced desirability and usefulness of a structure because its design and construction become obsolete; loss because of becoming old-fashioned and not in keeping with modern needs.

OFFER A proposal to create a contract, which signifies the present intent of the offeror to be legally bound by his proposal.

OFFEREE A person to whom an offer is made.

OFFEROR A person who makes an offer.

OFFSET STATEMENT Statement by owner of a deed of trust or mortgage against the property, setting forth the present status of the debt and lien. Also called a beneficiary statement.

OPEN-END MORTGAGE OR DEED OF TRUST A mortgage containing a clause that permits the mortgagor or trustor to borrow additional money without rewriting the mortgage or deed of trust.

OPEN LISTING An authorization given by a property-owner to a real estate agent in which the agent is given the nonexclusive right to secure a purchaser. Open listings may be given to any number of agents without liability to compensate any except the one who first secures a buyer ready, willing, and able to meet the terms of the listing or who secures the acceptance by the seller of a satisfactory offer.

OPTION A right to have an act performed in the future; a right given for a consideration to purchase or lease a property upon specified terms within a specified time; a contract to keep an offer open for a particular period of time. The right of a person to buy or lease property at a set price at any time during the life of a contract.

OPTION LISTING A listing that also includes an option, permitting the broker to buy the property at the stated price at any time during the listing period.

ORAL CONTRACT A verbal agreement, one not reduced to writing.

ORDINANCE A law passed by a political subdivision of the state (such as a town, city, or county).

ORIENTATION Placement of a house on its lot with regard to its exposure to the rays of the sun, prevailing winds, privacy from the street, and protection from outside noises.

R-MORE CLAUSE A simple prepayment clause that permits the borrower to make a normal payment or any larger amount, up to and including the entire outstanding balance, without a prepayment penalty.

OSTENSIBLE AGENCY An agency implied by law because the principal intentionally or inadvertently caused a third person to believe someone to be his agent, and that third person acted as if that other person was in fact the principal's agent.

OVERHANG The part of the roof that extends beyond the walls and that shades buildings and covers walks.

OVER IMPROVEMENT An improvement that is not the highest and best use for the site on which it is placed, by reason of excessive size or cost.

OWNERSHIP The right of a person to use and possess property to the exclusion of others.

PAROL Oral or verbal.

PAROL EVIDENCE RULE A rule of courtroom evidence that once the parties make a written contract they may not then introduce oral agreements or statements to modify the terms of that written agreement. An exception exists for fraud or mistake, which will permit the parties to offer evidence to vary the terms of the writing.

PARQUET FLOOR Hardwood flooring laid in squares or patterns.

PARTIAL RECONVEYANCE In a deed of trust or mortgage, a clause that permits release of a parcel or part of a parcel from the effects and lien of that security instrument. The release usually occurs upon the payment of a specified sum of money.

PARTITION ACTION A legal action by which co-owners seek to sever their joint ownership. The physical division of property between co-owners, usually through court action.

PARTNERSHIP An association of two or more persons to unite their property, labor or skill, or any one or combination thereof, in prosecution of some joint business, and to share the profits in certain proportions. An agreement of two or more individuals jointly to undertake a business enterprise. If it is a general partnership, all partners have unlimited liability and, absent other agreements, share equally in the management and profits of the business.

PARITY WALL A wall erected on the line between two adjoining properties that are under different ownership for the use of both owners.

PATENT Conveyance of title to government land.

PENNY The term, as applied to nails, that serves as a measure of nail length and is abbreviated by the letter d.

PERCENTAGE LEASE A lease on property, the rental for which is determined by the amount of business done by the tenant, usually a percentage of gross receipts from the business, with provision for a minimum rental.

PERIMETER HEATING Baseboard heating or any system in which the heat registers are located along the outside walls of a room, especially under the windows.

PERIODIC TENANCY A leasehold estate that continues indefinitely for successive periods of time, until terminated by proper notice. When the periods are one month in duration, it is often called a month-to-month lease.

PERSONAL INJURY A term commonly used in tort (e.g. negligence cases) indicating an injury to one's being or body (for example, cuts or broken bones) as opposed to injury to his property.

PERSONAL PROPERTY Any property that is not real property. (See Real Property.) Property that is movable, as opposed to real property, which is immovable; also includes intangible property and leasehold estates.

PETITIONER A person who petitions the court on a special proceeding or a motion.

PIER A column of masonry used to support other structural members.

PITCH The incline or rise of a roof.

PLAINTIFF The party who initiates a lawsuit; the person who sues another.

PLATE A horizontal board placed on a wall or supported on posts or studs to carry the trusses of a roof or rafters directly; a shoe or base member as of a partition or other frame; a small flat board placed on or in a wall to support girders and rafters, for example.

PLEDGE Deposition of personal property by a debtor with a creditor as security for a debt or engagement.

PLEDGE One who is given a pledge as security. (See Security Party)

PLEDGER One who gives a pledge as security. (See Debtor)

PLOTTAGE INCREMENT The appreciation in unit value created

by joining smaller ownerships into one large single ownership.

PLYWOOD (1) Laminated wood made up in panels. (2) Several thicknesses of wood glued together with grains at different angles for strength.

POINTS (See Discount Points)

POLICE POWER The right of the state to enact laws and regulations and its right to enforce them for the order, safety, health, morals, and general welfare of the public. The power of the state to prohibit acts that adversely affect the public health, welfare, safety, or morals. (Zoning and building codes are examples of exercise of the police power.)

POWER OF ATTORNEY An instrument authorizing a person to act as the agent of the person granting it. A special power of attorney limits the agent to a particular or specific act, as a landowner may grant an agent special power of attorney to convey a single and specific parcel of property. Under a general power of attorney, the agent may do almost anything for the principal that the principal could do himself or herself. A document authorizing a person (an attorney-in-fact) to act as an agent.

POWER OF TERMINATION The future interest created whenever there is a grant of a fee simple subject to a condition subsequent estate. The future interest matures into a present interest estate only if the holder timely and properly exercises his right upon a breach by the current holder of the fee estate.

PREFABRICATED HOUSE A house manufactured, and sometimes partly assembled, before delivery to the building site..

PREJUDGEMENT ATTACHMENT An attachment of property made before the trial, with the intent of holding that property as security, to have an asset to sell if the court judgment is favorable to the attaching party.

PAYMENT CLAUSE A provision in a promissory note, deed of trust, or mortgage, permitting the debtor to pay off the obligation before maturity.

PREPAYMENT PENALTY Penalty for the payment of a note before it actually becomes due.

A fee or charge imposed upon a debtor who desires to pay off his loan before its maturity. Not all prepayment clauses provide for a penalty, and in many real estate transactions the law regulates the amount of penalty that may be changed.

PRESCRIPTION Securing of an easement by open, notorious, and uninterrupted use, adverse to the owner of the land for the period required by statute, which, in California, is five years. A method of obtaining an easement by adverse use over a prescribed period of time.

PRESENT INTEREST An estate in land that gives the owner the right to occupy his property immediately; as opposed to a future interest, which grants only the right to occupy the premises at some future date.

PRESUMPTION That which may be assumed without proof. A conclusion or assumption that is binding in the absence of sufficient proof to the contrary.

PRIMA FACIE (1) Presumptive on its face. (2) Assumed correct until overcome by further proof. Facts, evidence, or documents that are taken at face value and presumed to be as they appear (unless proven otherwise).

PRINCIPAL The employer of an agent. Someone who hires an agent to act on his behalf. The term also refers to the amount of an outstanding loan (exclusive of interest).

PRIORITY That which comes first in point of time or right. superior, higher, or preferred rank or position.

PRIVITY Closeness or mutuality of a contractual relationship.

PROBATE Court supervision of the collection and distribution

of a deceased person's estate.

PROCEDURAL LAW The law of how to present and proceed with legal rights (for example, laws of evidence, enforcement of judgments). It is the opposite of substantive law.

PROCURING CAUSE That event originating from another series of events that, without a break

in continuity, results in an agent's producing a final buyer. Proximate cause. A broker is the procuring cause of a sale if his or her efforts set in motion an unbroken chain of events that resulted in the sale.

PROFIT A PRENDRE An easement coupled with a power to consume resources on the burdened property.

PROMISSORY NOTE A written promise to pay a designated sum of money at a future date.

PROPERTY Anything that may be owned. Anything of value in which the law permits ownership.

PRORATION OF TAXES Division of the taxes equally or proportionately between buyer and seller on the basis of time of ownership.

PUNITIVE DAMAGES Money awarded by the court for the sole purpose of punishing the wrongdoer, and not designed to compensate the injured party for his damages.

PURCHASE MONEY INSTRUMENT A mortgage or deed of trust that does not permit a deficiency judgment in the event of foreclosure and sale of the secured property for less than the amount due on the promissory note. It is called purchase money since the deed of trust and mortgage was used to buy all or part of the property.

PURCHASE-MONEY MORTGAGE OR A mortgage or deed of trust given as part or all of the consideration

PURCHASE-MONEY DEED OF TRUST for the purchase of property or given as security for a loan to obtain money for all or part of the purchase price.

QUARTER ROUND A molding whose profile resembles a quarter of a circle.

QUASI Almost as if it were.

QUASI-CONTRACT A contract implied by law; that is, the law will imply and consider certain relationships as if they were a contract.

QUIET ENJOYMENT The right of an owner to the use of property without interference with his or her possession or use.

QUITE TITLE A court action brought to establish title and to remove a cloud from the title.

QUIET TITLE ACTION A lawsuit designed to remove any clouds on a title to property. It forces the claimant of an adverse interest in property to prove his right to title; otherwise he will be forever barred from asserting it.

QUITCLAIM DEED A deed to relinquish any interest in property that the grantor may have, but implying no warranties. A deed that transfers only whatever right, title, or interest, if any, the grantor owns, without implying any warranties.

RADIANT HEATING A method of heating, usually consisting of coils or pipes placed in the floor, wall, or ceiling.

RAFTER One of a series of boards of a roof designed to support roof loads.

RANGE A strip of land six miles wide, determined by a government survey, running in a north-south direction.

RATIFICATION The adoption or approval of an act performed on behalf of a person without previous authorization. Approval and confirmation of a prior act performed on one's behalf by another person without previous authority.

READY, WILLING, AND ABLE BUYER A purchaser of property, who is willing to buy on terms acceptable to the seller, and who further possesses the financial ability to consummate the sale. Producing such a buyer

sometimes earns the broker a commission, even though a sale is not forthcoming.

REAL ESTATE BOARD An organization whose members consist primarily of real estate brokers and salespersons.

REAL ESTATE INVESTMENT TRUST A specialized form of holding title to property that enables investors to pool their resources and purchase property, while still receiving considerable tax advantages, without being taxed as a corporation. Also known as REIT.

REAL ESTATE TRUST A special arrangement under federal and state law whereby investors may pool funds for investments in real estate and mortgages and yet escape corporation taxes.

REAL PROPERTY Land and anything affixed, incidental, or appurtenant to it, and anything considered immovable under the law. Land, buildings, and other immovable property permanently attached thereto.

REALTOR A real estate broker holding active membership in a real estate board affiliated with the National Association of Realtors.

REBUTTABLE PRESUMPTION A presumption that is not conclusive and that may be contradicted by evidence. A presumption that applies unless proven inapplicable by the introduction of contradictory evidence.

RECAPTURE (1) The rate of interest necessary to provide for the return of an investment. (2) A provision in tax laws that reduces certain benefits from claiming depreciation.

RECEIVER A neutral third party, appointed by the court to collect the rents and profits from property, and distribute them as ordered by the court. Often used as a remedy when mere damages are inadequate.

RECONVEYANCE A conveyance to the landowner of the legal title held by a trustee under a deed of trust. The transfer of property back from a lender who holds an interest as security for the payment of a debt. In a deed of trust, the beneficiary reconveys property upon satisfaction of the promissory note.

RECORDATION Filing of instruments for record in the office of the county recorder. The act of having a document filed for record in the county recorder's office. Once recorded, the instrument gives constructive notice to the world.

REDEMPTION Buying back one's property after a judicial sale. The repurchasing of one's property after a judicial sale.

REFORMATION A legal action to correct a mistake in a deed or other document.

REINSTATEMENT A right available to anyone under an accelerated promissory note secured by a deed of trust or mortgage on property. If a deed of trust is foreclosed by trustee's sale, the debtor may have up to three months from the recording of the notice of default to pay the amount in arrears plus interest and costs, thereby completely curing the default (reinstating) without penalty.

REJECTION Refusal to accept an offer. Repudiation of an offer automatically terminates the offer.

RELEASE To give up or abandon a right. The release of rights may be voluntary, as when one voluntarily discharges an obligation under a contract. The release may be involuntary, by operation of the law; for example, one's wrongful conduct may bar him from asserting his rights. In deeds of trust a partial release clause frees certain property from the security of the deed of trust upon the payment of specified sums of money.

RELEASE CLAUSE A stipulation in a deed of trust or mortgage that upon the payment of a specific sum of money to the holder of the deed of trust or mortgage, a particular lot or

area shall be removed from the blanket lien on the whole area involved.

.RELICTION The gradual lowering of water from the usual watermark.

REMAINDER An estate that vests after the termination of the prior estate, such as after a life estate. Example: A life estate may be granted to Adams, with the remainder granted to Baker. Most commonly, an estate (future interest) that arises in favor of a third person after a life estate.

REMAND To send back to a lower court for further action.

REMEDY The means by which a right is enforced, preserved, or compensated. Some of the more common remedies are damages, injunctions, rescission, and specific performance.

RENT The consideration paid by a tenant for possession of property under a lease.

RESCISSION The unmaking of a contract, and the restoring of each party to the same position each held before the contract arose.

RESCISSION OF CONTRACT The cancelling of a contract by either mutual consent of the parties or legal action.

RESERVATION A right or interest retained by a grantor when conveying property; also called an exception.

RESIDUE That portion of a person's estate that has not been specifically devised.

RESPONDEAT SUPERIOR This Latin phrase, "let the master answer," means that an employer is liable for the tortious acts of an employee, and a principal is liable for the acts of an agent. To be liable, the acts must be within the "course and scope" of the agency or employment. For example, an employer would not be liable for the acts of an employee while at home and not doing work for the employer.

RESPONDENT The person against whom an appeal is taken; the opposite of an appellant.

RESTRICTION A limitation on the use of real property arising from a contract or a recorded instrument. An encumbrance on property that limits the use of it; usually a covenant or condition.

RETALIATORY EVICTION A landlord's attempt to evict a tenant from a lease because the tenant has used the remedies available under the warranty of habitability.

REVERSION The right a grantor keeps when he or she grants someone an estate that will or may end in the future. Examples: The interest remaining with a landlord after he or she grants a lease, or the interest an owner of land has after he or she grants someone a life estate. Any future interest (estate) left in the grantor. The residue of an estate left in the grantor after the termination of a lesser estate.

REVOCATION Withdrawal of an offer or other right, thereby voiding and destroying that offer or right. It is a recall with intent to rescind.

RIDGE The horizontal line at the junction of the top edges of two sloping roof surfaces. (The rafters at both slopes are nailed at the ridge.)

RIDGE BOARD The board placed on edge at the ridge of the roof to support the upper ends of the rafters; also called roof tree, ridge piece, ridge plate, or ridgepole.

RIGHT OF SURVIVORSHIP The right to acquire the interest of a deceased joint-owner. It is the distinguishing feature of a joint tenancy.

RIGHT OF WAY The right to pass over a piece of real property or to have pipes, electrical lines, or the like go across it. An easement granting a person the right to pass across another's property.

RIPARIAN RIGHTS The right of a landowner with regard to a stream crossing or adjoining his or her property.

RISER (1) The upright board at the back of each step of a stairway. (2) In heating, a riser is a duct slanted upward to carry hot air from

the furnace to the room above.

RULE AGAINST PERPETUITIES A complex set of laws designed to prevent excessive restrictions on the transferability of property. The rule holds that "no interest is good unless it must vest, if at all, not later than 21 years after some life in being at the creation of the interest."

SAFETY CLAUSE In a listing agreement, a provision that if anyone found by the broker during his listing period purchases the property within a specified time after the expiration of the listing, the broker receives his full commission.

SALE-LEASEBACK A situation in which the owner of a piece of property sells it and retains occupancy by leasing it from the buyer.

SALES CONTRACT A contract between buyer and seller setting out the terms of sale.

SALESPERSON An individual licensed to sell property, but who must at all times be under the supervision and direction of a broker.

SANDWICH LEASE A leasehold interest that lies between the primary lease and the operating lease. Example: A leases to B; B subleases to C; C subleases to D. C's lease is a sandwich lease.

SASH A wood or metal frame containing one or more windowpanes.

SATISFACTION Discharge of a mortgage or deed of trust lien from the records upon payment of the secured debt. Discharge of an obligation or indebtedness by paying what is due.

SEAL An impression mark or stamp made to attest to the execution of an instrument.

SECONDARY FINANCING A loan secured by a second mortgage or a second deed of trust.

SECTION A square mile of land, as established by government survey, containing 640 acres.

SECURED DEBT An obligation that includes property held as security for the payment of that debt; upon default, the property may be sold to satisfy the debt.

SECURED PARTY The party having the security interest in personal property. The mortgagee, conditional seller, or pledgee is referred to as the secured party.

SECURITY AGREEMENT An agreement between the secured party and the debtor that creates a security interest in personal property. It replaced such terms as chattel mortgage, pledge, trust receipt, chattel trust, equipment trust, conditional sale, and inventory lien.

DEPOSIT A deposit made to assure performance of an obligation, usually by a tenant. A sum of cash given as collateral to ensure faithful performance of specified obligations.

SECURITY INTEREST A term designating the interest of a secured creditor in the personal property of the debtor.

SEIZIN The possession of land under a claim of freehold.

SENIOR LIEN A lien that is superior to or has priority over another lien. Also, the first deed of trust or loan on a property.

SEPARATE PROPERTY Property that is owned by a husband or wife and that is not community property. It is property acquired by either spouse prior to marriage or by gift or inheritance after marriage; also, in California, it is the income from separate property after marriage. Property held by a married person that is not community property; it includes property owned before marriage and property acquired after marriage by gift or inheritance.

SEPTIC TANK An underground tank in which sewage from the house is reduced to liquid by bacterial action and drained off.

SERVIENT ESTATE That parcel of property which is

burdened by and encumbered with an easement.

SERVIENT TENEMENT An estate burdened by an easement.

SET-BACK ORDINANCE An ordinance prohibiting the erection of a building or structure between

the curb and the set-back line. (see Building Line)

SEVERALTY Sole ownership of property. Ownership by one person.

SEVERALTY OWNERSHIP Ownership by only one person; sole ownership.

SHAKE A hand-split shingle, usually edge-grained.

SHEATHING Structural covering, such as boards, plywood, or wallboard, placed over the exterior studding or rafters of a house.

SHERIFF'S DEED A deed given by court order in connection with the sale of property to satisfy a judgment.

SILL The board or piece of metal forming the lower side of an opening, such as a door sill or window sill.

SINKING FUND (1) A fund set aside from the income from property that, with accrued interest, will eventually pay for replacement of the improvements. (2) A similar fund set aside to pay a debt.

SMALL CLAIMS COURT A branch of the Municipal Court. The rules of this court forbid parties to be assisted by attorneys, dispense with most formal rules of evidence, and have all trials heard by judges. The monetary limit of cases before the court is \$1,500.

SOIL sole ownership carrying waste from the house to the main sewer line.

SOLD TO THE STATE A bookkeeping entry on the county tax rolls indicating that the property taxes are delinquent. The entry begins the five-year redemption period, after which the property may be physically sold to the public for back taxes.

SOLE OR SOLE PLATE A structural member, usually two-by-four, on which wall and partition studs rest.

SPAN The distance between structural supports, such as walls, columns, piers, beams, and girders.

SPECIAL ASSESSMENT Legal charge against real estate by a public authority to pay the cost of public improvement, as distinguished from taxes levied for the general support of government.

SPECIFIC PERFORMANCE A legal action to compel performance of a contract; for example a contract for the sale of land. A contract remedy by which one party is ordered by the court to comply with the terms of the agreement.

SPOUSE A person's husband or wife.

SRA The Society of Real Estate Appraisers.

STARE DECISIS A fundamental principle of law, which holds that courts should follow prior decisions on a point of law. A proper decision is a binding precedent on equal or lower courts having the same facts in controversy.

STATUTE A written law.

STATUTE OF FRAUDS The state law that provides that certain contracts must be in writing in order to be enforceable in the courts. Examples: real property leased for more than one year or an agent's authorization to sell real estate. A law that requires certain contracts (including most real estate contracts) to be in writing to be enforceable.

STATUTE OF LIMITATIONS A statute that requires lawsuits to be brought within a certain time to be enforceable. The basic periods are one year for personal injury, two years for oral contracts, three years for damages to real or personal property, four years for written contracts, and three years from date of discovery for fraud.

STEPPED-UP BASIS A higher, increased tax value of property

given as the result of most sales or taxable transfers. The tax basis is used in computing capital gains and losses on the transfer of property.

STOP NOTICE A notice served on the owner of property or custodian of funds. It requests, with certain penalties for noncompliance, that any funds due to a general contractor be paid to the claimant, laborer, or material man.

STRAIGHT-LINE DEPRECIATION An accounting procedure that sets the rate of depreciation as a fixed percentage of the amount to be depreciated; the percentage stays the same each year.

STRAIGHT MORTGAGE OR DEED OF TRUST A mortgage or deed of trust in which there is no reduction of the

principal during the term of the instrument. Payments to interest are usually made on an annual, semiannual, or quarterly basis.

STRAIGHT NOTE A promissory note that is unamortized. The principal is paid at the end of the term of the note.

STRING, STRINGER (1) A timber or other support for cross-members (2) In stairs, the support on which the stair treads rest.

STUDS OR STUDDING Vertical supporting timbers in walls and partitions.

SUB CHAPTER-S CORPORATION A corporation that, for federal tax purposes only, is taxed similarly to a partnership. The corporate entity is disregarded for most federal tax purposes, and the shareholders are generally taxed as individual partners.

SUBJACENT SUPPORT Support that the soil below the surface gives to the surface of the land.

SUBJECT TO (1) Burdened by and liable for an obligation. (2) A method of taking over a loan without becoming personally liable for its payment.

"SUBJECT TO" MORTGAGE OR DEED When a grantee takes a title to real property subject

to a mortgage or deed of trust, he or she is not responsible to the holder of the promissory note for the payment of any portion of the amount due. The most that he or she can lose in the event of a foreclosure is his or her equity in the property. In neither case is the original maker of the note released from his or her responsibility. (See also Assumption of Mortgage or Deed of Trust.)

SUBLEASE A lease given by a tenant.

SUBORDINATE To make subject or junior to.

SUBORDINATION AGREEMENT In a mortgage or deed of trust, a provision that a later lien shall have a priority interest over the existing lien. It makes the existing lien inferior to a later lien, in effect exchanging priorities with that later lien.

SUBORDINATION CLAUSE Senior lien that makes it inferior to what would otherwise be a junior lien.

SUBROGATE To substitute one person for another's legal rights to a claim or debt.

SUBROGATION The substitution of another person in place of the creditor with regard to an obligation.

SUBSTANTIATIVE LAW The laws describing rights and duties. Differs from procedural law, which only describes how to enforce and protect rights.

SUCCESSION The inheritance of property.

SUCCESSOR IN INTEREST The next succeeding owner of an interest in property. The transferee or recipient of a property interest.

SUPERIOR COURT The principal trial court of the state; a court of unlimited monetary and subject matter jurisdiction, and an appeal court for decisions of municipal courts and small claims courts.

SUPREME COURT The highest court in the California and the federal court structure. This court is almost exclusively an appeals court, accepting (by certiorari) only those cases that, in the court's desecration, involve issues of significant magnitude and social importance.

SURETY One who guarantees the performance by another, a guarantor.

SURVEY The process by which a parcel of land is located on the ground and measured.

SYNDICATION A group of individuals pooling their resources to purchase property through the holding vehicle of a partnership, corporation, or other association. Each individual owns share in the legal entity formed to acquire and hold title to the property.

TAX A compulsory charge on property or individuals, the payment of which supports a government.

TAX BASIS The tax value of property to the taxpayer. It is a figure used to compute capital gains and losses.

TAX DEED Deed issued to the purchaser at a tax sale.

TAX SALE Sale of property after a period of nonpayment of taxes.

TENANCY A leasehold estate. (For specific types of leases see Estates.)

TENANCY-IN-COMMON Ownership by two or more persons who hold an undivided interest in real property, without right of survivorship; the interests need not be equal.

TENANT One who leases real property from the owner.

TENEMENTS All rights in real property that pass with a conveyance of it.

TENTATIVE MAP The Subdivision Map Act requires subdividers initially to submit a tentative map of their tract to the local planning commission for study. The approval or disapproval of the planning commission is noted on the map. Thereafter, the planning commission requests a final map of the tract embodying any changes.

TENURE IN LAND The manner in which land is held.

TERMITES Ant like insects that feed on wood.

TERMITE SHIELD A shield, usually of noncorrodible metal, placed on top of the foundation wall or around pipes to prevent passage of termites.

TESTAMENT The written declaration of one's last will.

TESTAMENTARY DISPOSITION A gift passing by will.

TESTATE Describes a person who dies leaving a will.

TESTATOR A person who makes a will. Technically, a testator is a male and a testatrix is a female, although in common use testator refers to anyone who makes a will.

THIRTY-DAY NOTICE A notice terminating a periodic tenancy without cause, by ending a tenancy thirty days from date of service.

THREE-DAY NOTICE A notice giving a tenant three days in which to cure a default or quit the premises. It is the first step in an unlawful detainer action, as the means of terminating a lease for cause. When rent is delinquent, it is sometimes called a notice to quit or pay rent.

THRESHOLD A strip of wood or metal beveled on each edge and used above the finished floor under outside doors.

"TIME IS OF THE ESSENCE" These words, when placed in an agreement, make it necessary that all time limitations and requirements be strictly observed.

TITLE Evidence of the owner's right or interest in property. (1) The right of ownership. (2) The evidence of a person's ownership or interest in property.

TITLE INSURANCE Insurance written by a title company to protect a property-owner against loss if title is defective or not marketable. A special policy of insurance issued by a title company, insuring the owner against loss of or defect in title to the insured property. The policy may be either a CLTA policy, issued to the

property owner and to noninstitutional lenders, or an ALTA policy, issued to institutional lenders.

TOPOGRAPHY Nature of the surface of the land. Topography may be level, rolling, or mountainous.

TORRENS TITLE A title included in a state-insured title system no longer used in California.

TORT (1) A wrongful act. (2) A wrong or injury. (3) Violation of a legal right. A civil wrong, not arising from a breach of contract. Most

torts lie in negligence, although they could also be intentional torts

(such as assault and battery, trespass) or strict liability torts.

TORTFEASOR A person who commits a tort.

TORTUOUS Conduct which amounts to a tort.

TOWNSHIP A territorial subdivision that is six miles long and six miles wide and that contains 36 sections, each one mile square.

TRADE FIXTURES Articles of personal property that are annexed to real property but that are necessary to the carrying on of a trade and are removable by the owner. Fixtures installed to further one's

trade, business, or profession. They are an exception to the general rule that fixtures are part of a building. Such fixtures installed by a tenant may be removed before the expiration of the tenancy.

TRADE-IN Method of guaranteeing an owner a minimum amount of cash on the sale of his or her present property to permit him or her to purchase another. If the property is not sold within a specified time at the listed price, the broker agrees to arrange financing to purchase the property at an agreed-upon discount.

TRANSFER Conveyance; passage of title.

TRANSFeree The person to whom a transfer is made.

TRANSFEROR The person who makes a transfer.

TREADS Horizontal boards of a stairway.

TRESPASS An invasion of an owner's rights in his or her property. (1) Unauthorized entry onto another's land. (2) Invasion of another's rights or property.

TRESPASSER One who trespasses. The importance of this classification of individuals on property is created by the methods for removal and the liability of the property owner if the trespasser is injured on his property.

TRIM The finish materials in a building, such as moldings applied around openings (window trim, door trim) or at the floor and ceiling (baseboard, cornice, picture molding).

TRUST A right of property, real or personal, held by one party called the trustee for the benefit of another party called the beneficiary. Arrangement whereby one person holds property for the benefit of another under fiduciary (special confidential) relationship.

TRUST DEED Deed given by a borrower to a trustee to be held pending fulfillment of an obligation, which is usually repayment of a loan to a beneficiary. A deed of trust.

TRUSTEE One who holds property in trust for another. The person who holds property in trust for another. In a deed of trust, the person who holds bare legal title in trust.

TRUSTEE'S DEED The deed issued by the beneficiary after the foreclosure and sale under a deed of trust.

TRUSTEE'S SALE The private sale of property held by a trustee under a deed of trust as part of the foreclosure proceedings.

TRUSTOR (1) One who conveys his or her property to a trustee. (2) The borrower or debtor under a deed of trust.

TRUTH IN LENDING LAW A complex set of federal statutes

designed to provide a borrower with a means of discovering and comparing the true costs of credit. Under Regulation Z of the act, certain borrowers of property have three days after accepting a loan to rescind without cost or liability.

UNDUE INFLUENCE Taking any fraudulent or unfair advantage of another's necessity

or weakness of mind. Using a position of trust and confidence improperly to persuade a person to take a course of action. By relying on the trusted confidant, the decision maker fails to exercise free will and independent judgment.

UNEARNED INCREMENT An increase in value of real estate due to no effort on the part of the owner, often due to an increase in population.

UNENFORCEABLE Incapable of being enforced at law. An example of an unenforceable contract is an oral listing agreement to pay a broker a commission.

UNIFORM COMMERCIAL CODE A group of statutes establishing a unified and comprehensive scheme for regulation of security transactions in personal property and other commercial matters, superseding the existing statutes on chattel mortgages, conditional sales, trust receipts, assignment of accounts receivable, and other similar matters.

UNILATERAL One-sided, ex parte.

UNJUST ENRICHMENT A legal doctrine that prevents a person from inequitably benefitting from another's mistake, poor judgment, or loss. In a land sales contract the vendor may no longer keep both the property and the buyer's excess payments (over his damages) in the event of breach, because to do so would unjustly enrich him at the buyer's expense.

UNLAWFUL Illegal.

UNLAWFUL DETAINER An action to recover possession of real property. A lawsuit designed to evict a defaulting tenant, or anyone unlawfully in possession of property, from premises. It is summary in nature, entitled to a priority court trial, and litigates only the right to possession of property (and damages resulting therefrom).

UNSECURED DEBT A debt not backed by specific property to satisfy the indebtedness in case of default.

URBAN PROPERTY City property; closely settled property.

USURY Claiming a rate of interest greater than that permitted by law. Charging

Charging a greater rate of interest on loans than the rate allowed by law (10 percent in many cases).

VALID (1) Legally sufficient and authorized by law. (2) Having force or binding force. Fully effective at law; legally sufficient.

VALLEY The internal angle formed by the junction of two sloping sides of a roof.

VALUATION (1) Estimated worth or price. (2) The act of valuing by appraisal.

VARIABLE INTEREST RATE An interest rate that fluctuates in a set proportion to changes in an economic index, such as the cost of money. Extensive regulations cover use of VIRs in loans on residential property.

VARIANCE An exception or departure from the general rule. An exception granted to a property owner, relieving him from obeying certain aspects of a zoning ordinance. Its granting is discretionary with the zoning authorities and is based on undue hardship suffered by the property owner because of unique circumstances affecting his property.

VENDEE Purchaser or buyer of real property.

VENDOR Seller of real property.

VENEER Thin sheets of wood placed over another material.

VENT A pipe installed to provide a flow of air to or from a drainage system or to provide a circulation of air within such system to protect

trap seals from siphonage and back pressure.

VENUE The location in which a cause of action occurs; it determines the court having jurisdiction to hear and decide the case. For real estate, the court having proper venue is one in the county in which the property is located.

VERIFICATION A sworn statement before a duly qualified officer as to the correctness of the contents of an instrument. Written certification under oath and/or penalty of perjury, confirming the truth of the facts in a document.

VERSUS Against (abbreviated v. or vs.). Used in case names, with the plaintiff's name given first.

VESTED Bestowed upon someone, such as title to property. Absolute, not contingent or subject to being defeated.

VETERAN'S EXEMPTION A deduction from the annual property tax allowed to a qualified veteran residing on residential property. Since July 1978, it has amounted to \$40 off the normal tax bill.

VOID To have no legal force or effect; that which is unenforceable.

Unenforceable, null, having no legal effect.

VOIDABLE An instrument that appears to be valid and enforceable on its face but is, in fact, lacking some essential requirement. May be declared void, but is valid unless and until declared void..**VOLUNTARY LIEN** Any lien placed on property with the consent of the owner or as a result of the voluntary act of the owner.

WAIVE To give up a right.

WAIVER Giving up of certain rights or privileges. The relinquishment may be voluntary and knowing, or it may occur involuntarily through action of the parties. The action resulting in the waiver is unilateral, and requires no action or reliance by the other party.

WARRANTY An absolute undertaking or promise that certain facts are as represented. Occasionally used interchangeably with guarantee.

WARRANTY DEED A deed that is used to convey real property and that contains warranties of title and quiet possession; the grantor thus agrees to defend the premises against the lawful claims of third persons. It is commonly used in other states, but in California the grant deed has replaced it. Used predominantly in states that do not have title insurance companies. This deed contains six full warranties of protection to the buyer, including warranties that the seller owns the property, that it is unencumbered, and that the seller will defend title against any defects.

WARRANTY OF HABITABILITY Implied warranty in residential leases. The landlord covenants by implication that the premises are suitable for human occupancy. The implied warranties are found in the statutes and implied by common law.

WASTE The destruction, or material alteration of or injury to premises by a tenant-for-life, or tenant, or tenant-for-years. Example: a tenant cutting down trees or mining coal. The destruction, injury, material alteration, or abusive use of property by a person rightfully in possession, but who does not own the fee or entire estate (for example, by a lessee or life tenant).

WATER TABLE Distance from the surface of the ground to a depth at which natural ground water is found.

WILL A document that directs the disposition of one's property after death.

WITNESSED WILL A formal will, signed by the testator in the presence of two or more witnesses, each of whom must also sign the will.

WRAP AROUND MORTGAGE (DEED OF TRUST) (See All-Inclusive Deed of Trust.)

TRUST)

WRAP-AROUND DEED OF TRUST A sophisticated financing package that permits the seller to sell his property without paying off the outstanding deed of trust. The buyer's larger loan, which is used to purchase the property, includes provisions for paying off the seller's existing loan.

WRIT A process of the court under which property may be seized. An order from the court to the sheriff or other law enforcement officer directing and authorizing a specific act.

WRIT OF ATTACHMENT A writ authorizing and directing the physical attachment (seizure) of property.

WRIT OF EXECUTION An order directing the sheriff to seize property to satisfy a judgment.

WRIT OF IMMEDIATE POSSESSION An order authorizing a landlord to obtain immediate possession of a tenant's premises, pending the outcome of an unlawful detainer action or other court proceeding.

ZONE The area set off by the proper authorities in which the real property can be used for only specific purposes.

ZONING Act of city or county authorities specifying the type of use to which property may be put in specific areas. A government's division of a city or other geographic area into districts, and the regulation of property uses within each district.