

**ABSTRACT OF JUDGEMENT**

A condensation or summary of the essential provisions of a court judgement.

**ABSTRACT OF TITLE**

A summary of transactions affecting the title to a piece of land.

**ABUT**

To touch or border upon. A piece of land bordering on a street or an adjoining piece of property is said to abut such street or property.

**ACCELERATION CLAUSE**

A clause in an installment note permitting the payee to declare the entire unpaid balance immediately due and payable upon failure to pay an installment when due. Such a clause is subject, however, to a statutory right of reinstatement if the note is secured by a deed of trust or mortgage not being foreclosed by judicial process.

**ADMINISTRATOR**

Person appointed by a probate court as representative of a decedent's estate when the decedent left no will.

**ADVERSE POSSESSION**

The unauthorized occupation of land belonging to another, by a person who does not have the consent of the owner. The occupier is said to hold possession adversely to the rights and interests of the owner. In most states, by operation of law, title to the land becomes vested in such occupier after a fixed number of years of actual, open, notorious, exclusive, peaceful and adverse occupancy.

**AFFIDAVIT**

A written statement made under oath before a notary public or other judicial officer.

**AGREEMENT OF SALE**

A written compact in which a seller agrees to sell and a buyer agrees to buy, based on specific terms and conditions spelled out in writing and signed by both parties. It is sometimes called a contract of purchase, purchase agreement or sales agreement.

**AMORTIZED LOAN**

A loan that is completely paid off, both as to principal and interest, by a series of regular payments that are equal or nearly equal.

**APPRAISAL**

Opinion as to value of property; a conclusion resulting from an analysis of facts affecting fair market value.

**ASSESSED VALUATION**

The estimated value of property for tax purposes, usually fixed by the tax assessor.

**ASSESSMENT**

The act of fixing the amount of taxes or special improvement charges. (2) The amount of taxes or special improvement charges. Special improvement charges are usually for the costs of streets, sidewalks, sewers, etc.

**ASSIGNMENT**

(1) The act of transferring ownership of something from one person to another. (2) The instrument or paper by which one person transfers ownership of a right or an object to another.

**ASSUMPTION AGREEMENT**

Undertaking or adoption of a debt or obligation primarily resting on another person.

**CHAIN OF TITLE**

Beginning with a conveyance out of an original source of title such as a government, each succeeding deed, will or other medium which conveys and transfers the title to succeeding owners constitutes a link in the chain of title. The chain of title is the composite of all such links.

**CHATTEL**

Another name for personal property as distinguished from real estate. An article of movable property

**CLOSING**

In some areas a closing is called a "settlement." The process of completing a real estate transaction during which deeds, mortgages, leases and other required instruments are signed and/or delivered, an accounting between the parties is made, the money is disbursed. The documents are recorded, and all other details such as payment of outstanding liens and transfer of hazard insurance policies are attended to. In some areas this procedure is known as the closing of escrow.

### **CLOSING COSTS**

The expense normally incurred by a buyer and the seller when completing a real estate transaction. The costs are in addition to the price of the property and must be prepaid on the settlement day when documents are signed.

### **CLOSING STATEMENT**

A summation, in the form of a balance sheet, made at a closing, showing the amounts of debts and credits to which each party to a real estate transaction is entitled.

### **CLOUD ON TITLE**

An irregularity, possible claim, or encumbrance which, if valid, would adversely affect or impair the title.

### **CONDEMNATION**

(1) The taking of private property for public or quasi-public use, with compensation to the owner, under the right of eminent domain. All governments and so-called public service corporations, such as railroads and electric companies, have the right to condemn and take private property. (2) The destruction by government of private property which imperils the life, health or safety of the public.

### **CONVEYANCE**

The transfer of title to property from one person to another.

### **COVENANT**

(1) A formal agreement or contract between two parties in which one party gives the other certain promises and assurances, such as covenants of warranty in a warranty deed. (2) Agreements or promises contained in deeds and other instruments for performance or nonperformance of certain acts, or use or nonuse of property in a certain manner.

### **CONSERVATOR**

A person appointed by the probate court to take care of the person and/or property of an adult person who is not competent to act for himself.

### **CONVENTIONAL LOAN**

A loan secured by a mortgage or deed of trust which is not insured or guaranteed by a government agency.

### **CONVEYANCE**

A written instrument transferring the title to land or an interest therein from one party to another.

### **COVENANTS**

Agreements contained in deeds and other instruments for the performance or non-performance of certain acts, or the use or non-use of property in a certain manner.

### **DEED**

A conveyance of realty; a writing signed by grantor, whereby title to realty is transferred from one to another.

### **DEED OF TRUST**

An instrument used in many states in place of a mortgage. Property is transferred to a Trustee by the borrower (Trustor) in favor of the lender (Beneficiary) as security for a loan. The Deed of Trust is reconveyed upon payment in full.

**DESCRIPTION**

A reference to maps, plats, instruments, etc., recorded in the County Recorder's office or the Federal Land Office. Careful interpretation of these documents can locate or identify a property.

**EARNEST MONEY**

The advance, by a purchaser, of a small part of the purchase price as evidence of good faith.

**EASEMENT**

A right held by a person to enjoy or make limited use of another's real property.

**EMINENT DOMAIN**

The right of a government to take privately owned property for public purposes under condemnation proceedings upon payment of its reasonable value.

**ENCROACHMENT**

The extension of a structure from the real estate to which it belongs across a boundary line and onto adjoining property.

**ENCUMBRANCE**

A claim, right, or lien upon the title to real estate, held by someone other than the real estate owner

**ENDORSEMENT**

A writing on a negotiable instrument by which property mentioned is assigned and transferred. Also, a notation on an instrument to change, clarify or enlarge its contents. In insurance it is a provision or rider added to the insurance policy to alter the terms of the insurance contract.

**ESCROW**

A transaction in which an impartial third party acts as agent for both seller and buyer, or for both borrower and lender, in carrying out instructions, delivering papers and documents, and dispersing funds. The holding of funds and/or documents by a neutral third party with the understanding that everything will be delivered when certain conditions are met.

**EXAMINATION**

In title industry parlance, to peruse and study the instruments and muniments incident to a chain of title and to determine their effect and condition in order to reach a conclusion as to the status of the title.

**EXECUTOR/EXECUTRIX**

A male/female person or a legal entity who is designated in a will as a representative of the decedent's estate.

**FEDERAL HOUSING ADMINISTRATION (FHA)**

A Federal agency, created by the National Housing Act of 1934, for the purpose of expanding and strengthening home ownership by making private mortgage financing possible on a long-term, low down payment basis. The vehicle is a mortgage insurance program, with premiums paid by the homeowner, to protect lenders against loss on these higher risk loans. Since 1965, FHA has been part of a newly created Department of Housing and Urban Development (HUD).

**FIDUCIARY**

A person who bears a special relationship of trust, confidence, and responsibility to others, such as a trustee or agent.

**FIXTURE**

Personal property which is permanently attached to real estate such as plumbing fixtures. So long as a fixture is permanently attached, it is usually regarded as part of real property.

**FORECLOSURE**

A legal proceeding for the collection of real estate mortgages and other types of liens on real estate, which results in cutting off the right to redeem the mortgaged property and often involves a judicial sale of the property to pay the mortgage debt.

### **HOMESTEAD**

(1) Property designated by the head of a family as his home, which is protected by law from forced sale to pay his debts. (2) Land claimed by a settler under the national homestead act. (3) Under some state laws, the real estate upon which one's home is situated.

### **INDEMNITY AGREEMENT**

An agreement to compensate another party for a potential loss. A "hold-Harmless" agreement.

### **JOINT TENANTS**

Two or more persons who hold title to real estate jointly, with equal rights to share in its enjoyment during their respective lives with the provision that upon the death of a joint tenant, his share in property passes to the surviving tenants, and so on, until the full title is vested in the last survivor. A joint tenant cannot legally sell or encumber his interest without the consent or joinder of all of the other joint tenants.

### **JUDGMENT LIEN**

A statutory lien created by recording an "abstract of judgement".

### **JUNIOR MORTGAGE**

A mortgage lower in lien priority than a first mortgage

### **LEGACY**

A gift of personal property by will.

### **LIEN**

A charge upon property for the payment of a debt or performance of an obligation. A form of an encumbrance. Examples include taxes, special assessments, judgements and mortgages. In addition, there are mechanic's and materialmen's liens for furnishing labor or materials.

### **LIS PENDENS**

A pending lawsuit. A lis pendens notice is legal notice to the world that a lawsuit is pending, particularly as relates to real estate.

### **LOSS PAYABLE CLAUSE**

An endorsement to an insurance policy (hazard) specifying parties (lenders) entitled to participate in proceeds in the event of a loss.

### **MARKETABLE TITLE**

A title which is free from reasonable doubt in law and in fact.

### **MECHANIC'S LIEN**

A lien on real estate, created by operation of law, which secures the payment of debts due to persons who perform labor or services or furnish materials incident to the construction of buildings and improvements on the real estate.

### **METES AND BOUNDS**

A land description in which boundaries are described by courses, directions, distances, and monuments.

### **MORTGAGE**

(From the Latin terms "mors" or "mort" meaning death or dead.) A temporary and conditional pledge of property to a creditor as security for the payment of a debt which may be satisfied or canceled by payment.

### **MORTGAGEE**

The holder of a mortgage. The party to whom a mortgage is made.

**MORTGAGOR**

A person who mortgages property. A person who executes a mortgage.

**NOTARY PUBLIC**

A person authorized by law to take acknowledgments and to administer oaths.

**NOTE**

An instrument containing an express and absolute promise of signer (i.e. maker) to pay to a specified person or order, or bearer, a definite sum of money at a specified time. Two party instrument made by the maker and payable to payee which is negotiable if signed by the maker and contains an unconditional promise to pay sum certain in money, on demand or at a definite time, to order or bearer. U.C.C. Sec. 3-104(1). A note not meeting these requirements may be assignable but not negotiable.

**NOTICE OF DEFAULT**

Recorded notice that a default has occurred under the terms of a deed of trust.

**PERSONAL PROPERTY**

Temporary or movable property as distinguished from real estate.

**POWER OF ATTORNEY**

A legal instrument authorizing one to act as another's agent or attorney.

**QUIET TITLE**

An action to establish title to real property or to remove a cloud on title.

**QUIT CLAIM DEED**

A deed which does not imply that the grantor holds title, but which surrenders and gives to the grantee any possible interest or rights which the grantor may have in the property.

**REAL PROPERTY**

Land and buildings as opposed to personal property. (chattels)

**REAL ESTATE**

Land, including all inherent natural attributes and any man-made improvements of a permanent nature placed thereon.

**RECONVEYANCE**

A deed which the trustee executes to transfer a title, which has been held, back to the borrower. This is done after the borrower has paid off the deed of trust originally issued as security for the promissory note (loan).

**RIDER**

Addition, amendment or endorsement to a document, e.g., An insurance contract.

**RIGHT OF WAY**

(1) The right to pass over property owned by another, usually based upon an easement. (2) A path or thoroughfare over which passage is made. (3) A strip of land over which facilities such as highways, railroads, or power lines are built.

**SEPARATE PROPERTY**

Property acquired before marriage, and property acquired during marriage by gift, devise, descent or bequest.

**SERVIENT ESTATE**

Incident to an easement, the property upon or across which an easement exists.

**SETTLEMENT**

Act or process of adjusting or determining; an adjusting; an adjustment between persons concerning their dealings or difficulties; an agreement by which parties having disputed matters between them reach or ascertain what is coming from one to the other; arrangement of difficulties; composure of doubts or differences; determination by agreement; and liquidation.

**SUBROGATION**

The legal doctrine under which the law substitutes one creditor or claimant for another. When a title insurance company pays a claim under a title insurance policy, it is entitled to step into the shoes of the insured with respect to any rights the insured may have against parties who warranted the title to him.

**TENANTS IN COMMON**

Two or more persons in whom title to a single piece of real estate is vested in such a manner that they have a common or equal right to possession and enjoyment of the property, but each holds a separate individual interest or estate in the property. Each owner may sell or encumber his respective interest or dispose of it by will, and if he/she dies without leaving a will, his/her heirs inherit his/her undivided interest.

**TITLE**

(1) A combination of all the elements that constitute the highest legal right to own, possess, use, control, enjoy, and dispose of real estate or an inheritable right or interest therein. (2) The rights of ownership recognized and protected by the law.

**TITLE INSURANCE**

Indemnity against loss resulting from defects in or liens upon a title.

**TITLE SEARCH**

The collection and review of recorded documents affecting a specific parcel of land. An experienced title officer or attorney reviews and analyzes all material relating to the search, then determines the sufficiency and status of title for issuance of a title insurance policy.

**TRUSTEE**

Person who holds title in trust for the benefit of another person.

**TRUSTOR**

A property owner who deeds property to a trustee as security for repayment of a loan.