

# TITLE & TERMS

To the unfamiliar, it can often confuse and bewilder. Fannie Mae and Freddie Mac. ARMS and APR. Clear title and Clouded title. Though these terms have special meaning to real estate professionals, they may often be meaningless to the consumer. To help you better understand the language of real estate, the California Land Title Association has defined some of today's most common title, escrow, real estate and lending terms.

**Abstract of Judgement:** A summary of the essential provisions of a court judgement. When recorded, an abstract of judgement creates a general lien on all of the real property of the judgement debtor in the county in which it is recorded.

**Acknowledgement:** A formal declaration made before a duly authorized officer (usually a notary public) by a person who has executed an instrument that such execution is his or her act and deed.

**Adjustable Rate Mortgage (ARM):** A mortgage in which the interest rate is adjusted periodically according to a preselected index. The terms, adjustment schedule and index to be used can vary based on the particular lender.

**Agency:** A relationship created when one person (the principal) delegates to another (the agent) the right to act on his or her behalf in business transactions.

**All-inclusive Trust Deed (wrap-around mortgage):** A financing technique which involves the creation of a new trust deed which includes the balance due on the existing note plus any new funds advanced.

**American Land Title Association (ALTA):** A national association of title insurance companies, abstractors, and agents. The association adopts standard title policy forms.

**Amortization:** The process of paying off a debt in installments over a given period of time without a final balloon payment.

**Annual Percentage Rate (APR):** An expression of the percentage relationship of the total finance charges to the total amount to be financed, as required under the federal Truth-in-Lending Act.

**Appraisal:** An opinion of the value of property resulting from an analysis of facts affecting market value.

**Assessed Valuation:** The value that a taxing authority places upon real or personal property for the purpose of taxation.

**Assumable:** A mortgage loan which can be transferred to another person without a change in the terms of the loan.

**Balloon Payment:** The unpaid principal amount of a loan due on a specific date in the future. Usually the amount that must be paid in a lump sum at the end of the term.

**Beneficiary:** The person who is entitled to receive funds or property under the terms and provisions of a will, trust, insurance policy or security instrument. In connection with a mortgage loan the beneficiary is the lender.

**Beneficiary's Statement:** The statement of a lender which gives the remaining principal balance due on a note and other information concerning the loan. It is usually obtained in escrow when the owner wishes to sell or refinance.

**Bill of Sale:** An instrument by which title to personal property is transferred or conveyed.

**Bona Fide Purchaser (BFP):** One who buys property in good faith, for fair value, and without notice of any adverse claim or right of third parties.

**Broker:** A person licensed to act as an agent for another in negotiating the sale, purchase, of real property in return for a fee or commission.

**Buydown:** A financing technique used to reduce the monthly payment for the home buying borrower during the initial years of ownership. Under some buydown plans, a residential developer, builder, or the seller will make subsidy payments (in form of the of points) to the lender that "buydown," or lower, the effective interest rate paid by the home buyer, thus reducing monthly payments for a set period of time.

**California Land Title Association (CLTA):** A statewide association of title insurers and underwritten title companies. The association adopts standard title policy forms.

**CC and Rs (Covenants, Conditions and Restrictions):** Limitations placed on the use and enjoyment of real property. These are found most often in condominiums and planned unit developments.

**Chain of Title:** A chronological list of recorded instruments tracing title to land, from the original owner to the present owner.

**Cap:** The maximum which an adjustable rate mortgage may increase, regardless of index changes.

**Clear Title:** Title to property which is free from liens, defects of other encumbrances.

**Closing:** The process of completing a real estate transaction during which the seller delivers title to the buyer in exchange for payment of the purchase price. Called a "settlement" in some areas.

**Closing Costs:** Expenses, beyond the selling price, such as loan fees, title fees, etc. Paid when documents are executed and/or recorded and the sale is complete.

**Closing Statement:** A summary, in the form of a balance sheet, showing the amounts of debits and credits to which each party to a real estate transaction is entitled upon closing.

**Cloud on Title:** Any document, claim, unreleased lien or encumbrance, which, if valid, would affect or impair title to a property.

**Commission:** Compensation due a real estate broker for acting on behalf of the principal.

**Community Property:** Property acquired during a marriage by either a husband or wife, or both, which is not separate property.

**Comparables (comps):** An abbreviation for comparable properties used for comparative purposes in the appraisal process.

**Consideration:** A required element in all contracts by which something of value, including a promise, is exchanged for the act or promise of another.

**Contingency:** Action conditioned upon a certain event. Acceptance of the terms of a contract based on something else happening or certain conditions being met.

**Conveyance:** The transfer of title or an interest in real property by means of a written instrument such as a deed of trust.

**Deed of Trust:** A security agreement creating a lien by which title to real property is transferred to a third-party trustee as security for an obligation owed by the trustor (borrower) to the beneficiary (lender).

**Demand:** The lender's statement of the amount due to pay off a loan.

**Documentary Transfer Tax:** The tax, based on sales price, less loans which are being assumed, which is charged by the city and/or county on the transfer of real property.

**Due-on-Sale-Clause:** A clause in a mortgage loan which gives the lender the right to demand payment in full when the property changes ownership. Not applicable to FHA or VA loans.

**Earnest Money:** The cash deposit paid by a prospective buyer as evidence of good faith to bind a sale of real estate.

**Easement:** A limited right or interest in land of another that entitles the holder of the right to some use, privilege or benefit over the land.

**Encumbrance:** A claim, right or lien upon real property, held by someone other than the owner.

**Endorsement:** A rider attached to an insurance policy to expand or limit coverage. Also spelled indorsement.

**Equity:** The value of a person's interest in real property after all liens and charges have been deducted.

**Escrow:** The process in which a disinterested third party holds money and documents for delivery to the respective parties in a transaction on performance of established conditions.

**Exception:** A provision in a title insurance binder or policy which excludes liability for a specified title defect or an outstanding lien or encumbrance.

**Fair Market Value:** An appraisal term for the price which a property would bring in a competitive market given a willing seller and willing buyer, each of whom has a reasonable knowledge of all pertinent facts, with neither being under any compulsion to buy or sell.