

Common Title Terminology

**** NOTICE TO PUBLIC ****

The following is a list of common terminology used in the Real Estate and Title industry. The descriptions are general and are not intended to be complete legal definitions. We suggest you consult a real estate professional or an attorney for additional details on any of the words listed below.

Abstract of Title – A condensed history or summary of all transactions affecting a particular tract of land.

Abstract Plant – See Title Plant.

Access – The right to enter and leave a tract of land from a public way. Can include the right to enter and leave over the lands of another.

Accretion – The slow build-up of lands by natural forces such as wind or water.

Acknowledgment – The act by which a party executing a legal document goes before an authorized officer or notary public and declares the same to be his or her voluntary act and deed.

Adjustable Rate Mortgage (ARM or Variable Rate Mortgage) – Mortgage loans under which the interest rate is periodically adjusted, in accordance with some market indicator, to more closely coincide with the current rates. The extent and number of these adjustments are agreed to at the inception of the loan.

Administrator – A person appointed by a probate court to settle the affairs of an individual dying without a will. The term is “administratrix” if such a person is a woman.

Adverse Possession – The possession, by one person, of land belonging to another in a manner deemed adverse to the interest of the owner. In most states, by operation of law, title to the land becomes vested in such person after a fixed number of years if the owner fails to assert his or her rights.

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

Agent – A person or company that has the power to act on behalf of another or to transact business for another, e.g., a title agent under contract with Old Republic Title to issue policies of title insurance.

Agreement – A legally binding contract made between two or more persons.

Air Rights – The right to ownership of everything above the physical surface of the land.

ALTA – American Land Title Association, a trade association of the title insurance industry, which has adopted certain insurance policy forms to standardize coverage on a national basis. Its headquarters are in Washington, D.C.

Amortization – Payment to reduce the principal of a debt in regular, periodic installments.

Appraisal – A report from an independent third party detailing the estimated value of real estate.

Appurtenance – A right or privilege that is a part of the ownership of property, such as a right of way to a highway across the land of another. Water rights are also an example.

Assessment – The valuation of real estate for purpose of taxes or special improvement charges. Tax or special improvement charges. Special improvement charges are usually for the costs of streets, sidewalks, sewers, storm drainage, etc.

Assessor – A public official who evaluates property for the purpose of taxation.

Assignee – One to whom a transfer of interest is made. For example, the assignee of a mortgage or contract.

Assignment – A legal document transferring interest in real property from one party to another.

Assignor – One who makes an assignment. For example, the assignor of a mortgage or contract.

Assumable Mortgage – A mortgage which, by its terms, allows a new owner to take over its obligations.

Attachment – Legal seizure of property to force payment of a debt.

Attorney in Fact – One who holds a power of attorney from another allowing him or her to execute legal documents such as deeds, mortgages, etc., on behalf of the grantor of the power.

Back Title Letter – Also called “back title certificate” in some areas, and “starter” in others. When titles previously have been examined up to a certain date by reliable examiners, title companies sometimes give subsequent examiners of such titles a letter that sets forth the condition of the title at the time of the previous examination and authorizes them to begin their subsequent examination with the terminal date of the previous examination.

Balloon Note – A promissory note that calls for the minimum payment of principal and the payment of interest at regular intervals. This type of note requires a substantial final payment, which represents the entire principal.

Bankruptcy – A federal court proceeding held in a U.S. District Court wherein assets of an insolvent debtor are protected and distributed in an equitable manner.

Binder – Sometimes called “preliminary certificate” or “commitment.” (1) A preliminary report as to the condition of a title and a commitment to issue a title insurance policy in a certain manner when certain conditions are met. (2) A deposit in escrow of a small part of the purchase price of real estate as evidence of good faith and to bind an agreement to purchase.

Bureau of Land Management – The branch of government in charge of surveying and managing public lands.

C & R's – Covenants, Conditions and Restrictions. See “Conditions and Restrictions.”

Certificate of Title – A certificate issued by a title examiner stating the condition of a title.

Chain – A term of land measurement that is 66 feet in length. The measurement may change when used in fields other than surveying.

Chain of Title – The past series of ownerships or transfers in the history of title to a tract of land.

Claim – An adverse right or interest asserted by one party against another or against an insurer or indementia. Claims may arise from unpaid debts or taxes, as well as from hidden title defects such as fraud, forgery, missing heirs, etc.

Clear Title – Real property ownership free of liens, defects, encumbrances or claims.

Closing – Also known as “escrow” or “settlement.” The process of executing legally binding documents, such as deeds and mortgages most commonly associated with the purchase of real estate and the borrowing of money to assist in the purchase.

Clouded Title – An irregularity, possible claim or encumbered title that if valid, would adversely affect or impair the title.

Coinsurance – Two or more policies of title insurance issued by different insurers, each covering a portion of the same risk, which together provide total coverage of the risk.

Commitment to Insure – Also called “binder.” A report issued by a title insurance company, or its agent, committing the title insurance company to issue the form of policy designated in the commitment upon compliance with and satisfaction of requirements set forth in the commitment.

Common Interest Community (CIC) – Ownership characterized by mutual ownership of common areas, either jointly or through membership in an association, e.g., condominiums, planned unit developments, and town homes.

Condemnation – The taking of private property for a public purpose, with compensation to the owner under the right of eminent domain. Governmental units, railroads and utility companies have the right to condemn and take private property. Also, the destruction by government of private property that imperils the life, health or safety of the public.

Conditions and Restrictions – A common term used to designate conditions and restrictions on the use of land. Includes penalties for failure to comply. Commonly used by land sub dividers on newly platted areas.

Condominium – A system of individual fee ownership of units in a multi-unit structure, combined with joint ownership of common areas of the structure and land.

Conservator – See “Guardian.”

Contract for Deed – An agreement to sell and purchase under which title is held as security by the seller until such time as the required payments to the seller have been completed.

Conventional Loan – A loan secured by a mortgage or deed of trust for which the loan-to-value ratio is within an acceptable range for a particular lending institution.

Convey – The act of deeding or transferring title to another.

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

Cooperative – A residential multi-unit building owned by a corporation in which each unit is occupied by a member of the corporation pursuant to a lease or occupancy agreement.

Corrective Deed – A legal document used to correct a deed that has already been recorded with the municipality.

Covenant – 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.

Cul-de-Sac – The terminus of a street or alley. Usually lay out by modern engineers to provide a circular turn around for vehicles.

Curtsey – A right that a husband has in his wife's property at her death. It does not exist in all states.

Dedication – The setting aside of certain land by the owner and declaring it to be for public use. Examples: streets, sidewalks and parks.

Deed – A document through which a conveyance of property is affected.

Deed in Lieu – A legal document offered by a mortgagor to a mortgagee transferring ownership in lieu of a foreclosure.

Deed of Trust – See "Mortgage."

Deed Restriction – A covenant contained in a deed imposing limits on the use or occupancy of the real estate or the type, size, purpose or location of improvements to be constructed on it.

Defect – A blemish, imperfection or deficiency. A defective title is one that is irregular and faulty.

Delivery – The final and absolute transfer of a deed from seller to buyer in such a manner that it cannot be recalled by the seller. A necessary requisite to the transfer of title.

Depreciation – Loss in value occasioned by ordinary wear and tear, destructive action of the elements, or functional or economic obsolescence.

Devise – A disposition or gifting of real estate made by a will.

Dominant Estate – The property for the benefit of which a right-of-way easement exists across another's adjoining piece of land is said to be the dominant estate. The land across which the easement runs is said to be the servant estate.

Dower – A right that a wife has in her husband’s property at the time of his death. Does not exist in all states.

Due on Sale Clause – Provision in a mortgage or deed of trust which requires loan to be paid in full if property is sold or transferred.

Earnest Money – An advance payment of funds by the purchaser of a piece of real estate as evidence of good faith.

Easement – An interest in land to use all or part of the land owned by another for a specific purpose. An easement may, for example, entitle its holder to install and maintain sewer or utility lines.

Egress – The right to leave a tract of land. Often used interchangeably with “access.”

Eminent Domain – The right of a government to take privately owned property for public purposes under condemnation proceedings subject to payment of its fair market value.

Encroachment – Any building, improvement or structure located on one property (such as a wall, fence or driveway) that intrudes upon the property of another.

Encumber – To burden a parcel of land with a lien or charge, e.g., a mortgage.

Encumbrance – Any interest, right, lien or liability attached to a parcel of land (such as unpaid taxes or an unsatisfied mortgage) that constitutes or represents a burden or charge upon the property.

Equity – The market value of real property, less the amount of existing liens.

Escheat – A reversion of property to the state in those cases where an individual dies without heirs or devisees, and, in some states, without a will.

Escrow – A procedure whereby a disinterested third party handles legal documents and funds on behalf of a seller and buyer, and delivers them upon performance by the parties.

Estoppels – A legal restraint that stops or prevents a person from contradicting or reneging on his previous position or previous assertions or commitments.

Examination of Title – The investigation and interpretation of the instruments and monuments incident to a chain of title to determine their effect and condition in order to reach a conclusion as to the status of the title.

Exception – A provision in a title insurance binder or policy that excludes liability for a specific title defect or an outstanding lien or encumbrance.

Execute – To sign a legal instrument. A deed is said to be executed when it is signed, sealed, witnessed and delivered.

Executor – A person appointed by the probate court to carry out the terms of a will. The term is “executrix” if that person is a woman.

Extended Mortgage – One in which the due date of a mortgage is extended for a longer period, often at a higher interest rate than the original mortgage.

Fannie Mae (FNMA) – Federal National Mortgage Association. A private corporation dealing in the purchase of first mortgages.

Fee Simple Deed or Estate – The absolute ownership of a parcel of land. The highest degree of ownership that a person can have in real estate, which gives the owner unqualified ownership and full power of disposition. Sometimes designated simply as “Fee.”

FHA (Federal Housing Administration) – A federal agency that insures first mortgages, enabling lenders to lend a very high percentage of the sale price.

Federal Housing Administration (FHA) Guarantee – An insurance contract in which HUD through FHA insures that the named lender will recover a specific percentage of the loan amount from the insurer (FHA) in the event that the loan goes bad.

Financing Statement – A document filed with the Register of Deeds or Secretary of State securing the title to personal property.

Fixed Rate Mortgage – A mortgage having a rate of interest that remains the same for the life of the mortgage.

Fixtures – Personal property that is attached to real property and is legally treated as real property while it is so attached. Examples: medicine cabinets, window blinds and chandeliers.

Flood Certification – A common term for a Federal Emergency Management Agency (FEMA) Standard Flood Hazard Determination Form (SFHDF). This determines whether land or a building is located within a Special Flood Hazard Area for purposes of flood insurance requirements under the National Flood Insurance Program.

Foreclosure – A legal proceeding in which real estate secured by a mortgage or deed of trust is sold to satisfy the underlying debt.

Forgery – The fraudulent signing of another’s name to an instrument such as a deed, mortgage or check.

Freddie Mac (FHLMC) – Federal Home Loan Mortgage Corporation. A federal agency that purchases both conventional and federally insured first mortgages from members of the Federal Reserve System and the Federal Home Loan Bank System.

Ginnie Mae – Government National Mortgage Association (also GNMA) is a wholly-owned United States corporation that guarantees privately issued securities backed by pools of mortgages insured by FHA

(Federal Housing Administration), FMHA (Farmers Home Administration) or VA (Veterans Administration).

Graduated Payment Mortgage – A loan in which monthly payments are relatively small in the beginning and gradually increase in dollar amount over the life of the mortgage.

Grant – To bestow or confer, with or without compensation, a gift such as land or money by one having control or authority over the gift.

Grant Deed – A legal document used to transfer interest in real property in which the grantor guarantees that the property hasn't been sold to another party and the property is free of liens.

Grantee – One to whom a grant is made.

Grantor – One who makes a grant.

Guardian – One appointed by the court to administer the affairs of an individual not capable of administering his or her own affairs.

Harbor Line – An arbitrary line set by authorities on navigable rivers, beyond which wharves and other structures may not be built. Also designated as line of navigation.

Heir – One who might inherit or succeed to an interest in land of an individual who dies without leaving a will (intestate).

Herediments – Any and all kinds of estates, interest and rights in real estate that can be inherited.

Hiatus – A gap or space unintentionally left, when attempting to describe adjoining parcels of land.

Home Equity Conversion Mortgage – A reverse or reverse annuity mortgage in which HUD through FHA guarantees that the borrower will receive monthly payments from the insurer (FHA) in the event the lender is unable to make payments to the borrower.

Home Repair Loan – Used for repairs and additions to existing structures without affecting existing mortgage. Typically 10 years or less in length.

Homeowners Insurance – Real estate insurance protecting against loss caused by fire, some natural causes, vandalism, etc., depending on the terms of the policy. Also includes coverage such as personal liability and theft away from home.

HUD (Department of Housing and Urban Development) – The federal department responsible for the major housing programs in the United States.

Improvements – Those additions to raw lands tending to increase overall value of said property.

Index – An alphabetical listing in the public records of the names of parties to recorded real estate instruments together with the book and page number of the record; The listing in abstract and title

plants of recorded real estate instruments in groups according to land descriptions, known as a geographic index. The alphabetical listing, by names of the parties, of all recorded instruments that affect but do not describe particular real estate, such as judgments, powers of attorney, wills and probate proceedings. Such indexes are known by various names, such as “general index,” “judgment index” and “name index.”

Indemnify – To make payment for a loss.

Ingress – The right to enter a tract of land. Often used interchangeably with “access”.

Instrument – Any written document having a legal effect.

Insurance – A contract of indemnity against specified perils.

Insurance Loan – When cash value of a life insurance policy is borrowed by the insured.

Interim Financing – Temporary or short term loans. Often used with new construction. Usually replaced with a permanent long-term mortgage.

Intestate – Designates the estate or condition of failing to leave a will at death. “To die intestate.”

Joint Tenancy – An estate where two or more persons hold real estate jointly for life, the survivors to take the full ownership of the property.

Judgment – The determination of a court regarding the rights of parties in an action. A judgment of debt on a property owner can create a lien on all of that owner’s land within a certain jurisdiction.

Judgment Docket – The record book of a County Clerk where a judgment is entered in order that it may become a lien upon the property of the debtor.

Junior Mortgage – A mortgage lower in lien priority than another.

Land Contract – See “Contract for Deed.”

Landmark – Any conspicuous object that helps establish land boundaries.

Lender’s Policy – A form of title insurance policy which insures the validity, enforceability and priority of a lender’s lien. This form does not provide protection for the owner.

Leasehold – The right to possession and use of land for a fixed period of time. The lease is the agreement that creates the right.

Lessee – One who takes lands upon a lease. A tenant holding a leasehold.

Lessor – A landlord; one who gives a leasehold to a lessee.

License – Permission to go upon or use the land of another, the permission being a personal privilege and not constituting an interest in the land.

Lien – A monetary charge imposed on a property, usually arising from some debt or obligation.

Lien Waiver – Also called “waiver of liens.” A waiver of mechanics’ lien rights, signed by contractors or subcontractors.

Life Estate – A grant or reservation of the right of use, occupancy and ownership for the life of an individual.

Link – A term of land measurement being 1/100th of a chain or 66/100ths of a foot.

Lis Pendens – A notice recorded in the official records of a county to indicate that a suit is pending affecting the lands where the notice is recorded.

Loan Policy – also called “mortgage policy.” A title insurance policy insuring a mortgagee, or beneficiary under a deed of trust, against loss caused by invalidity or unenforceability of a lien, or loss of priority of the mortgage or deed of trust. Also see “Lender’s Policy.”

Loss Payable Clause – Provision added to a Fire and Casualty Policy which says any loss will be paid to two or more parties as their interest may appear. Usually the owner and the mortgage lender.

Lot – Any portion or parcel of real property. Usually refers to a portion of a subdivision.

Majority – The age at which a person is entitled to handle his or her own affairs.

Marketable Title – A good title about which there is no fair or reasonable doubt.

Market Value – The average of the highest price that a buyer, willing but not compelled to buy, would pay and the lowest price a seller, willing but not compelled to sell, would accept.

Mechanic’s Lien – A lien on real estate created by operation of law, that 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.

Minor – One who because of insufficient age or status is legally incapable of making contracts.

Monument of Survey – Visible marks or indications left on natural or other objects indicating the lines and boundaries of a survey. May be posts, pillars, stones, cairns, and other such objects. May also be fixed natural objects, blazed trees, roads and even a water course.

Monuments of Title – Written evidence (documents) that an owner possesses to prove his or her title to property.

Mortgage – A conditioned pledge of property to a creditor as security for the payment of a debt.

Mortgage-Backed Security – A security evidencing either the ownership of an interest in a mortgage loan or pools of mortgage loans, or a separate obligation secured by a mortgage loan or pool of mortgage loans.

Mortgage Banker – A specialized lending institution that lends money solely with respect to real estate and secures its loans with mortgages on the real estate.

Mortgage Broker – A person or company that buys and sells mortgages for another on commission or who arranges for and negotiates mortgage contracts.

Mortgage Insurance – Insurance written by an independent mortgage insurance company protecting the mortgage lender against loss incurred by a mortgage default, thus enabling the lender to lend a higher percentage of the sale price.

Mortgage Revenue Bonds – Issued by communities as a means of providing lower cost mortgage funds to certain qualified borrowers.

Mortgagee – The holder of a mortgage. The party to whom a mortgage is made, generally the lender.

Mortgagee Policy – See Loan Policy or Lender's Policy.

Mortgagor – A person who mortgages property. A person who executes a mortgage, generally the property owner.

Multiple Listing Service – The pooling in a central bureau of listings of properties for sale. These listings are held individually by members of a group of real estate brokers, with the agreement that any member of the group may sell the properties, and in the case of a sale, the commission will be divided between the broker making the sale and the broker who filed the listing.

Negative Amortization – An actual increase in the principal amount of real estate loan because of the addition of matured but unpaid interest to the loan balance. Usually, the result of monthly payments which are temporarily set at a lower than needed level.

Notary – One authorized to take acknowledgments. See "Acknowledgment."

Note – Also called "promissory note." A written promise to pay a sum of money, usually at a specified interest rate, at a stated time to a named payee.

Owner's Policy – A policy of title insurance insuring an owner of real estate against loss occasioned by defects in, liens against or unmarketability of the owner's title.

Ownership – The right to possess and use property to the exclusion of others.

Patent – A document or grant by which the federal or state government originally transferred title to public lands to an individual. The first in the series of transfers by which title comes down to present owners.

Personal Representative – A person appointed by the probate court to administer a decedent's estate. See also "Executor" or "Administrator."

Plat – Also called "plat map." A map dividing a parcel of land into lots, as in a subdivision. A plat book contains the plat maps for a given area.

Point – Also called "commission points" or "discount points." One percent of the amount of the loan.

Power of Attorney – A legal document used to authorize an individual or principal to act of the behalf of another in business or legal matters.

Premium – The amount payable for an insurance policy.

Prescriptive Easement – A right to use another's property that is not inconsistent with the owner's rights and that is acquired by an open, notorious, adverse, and continuous use for the statutory period, for example 20 years.

P.M.I. – Private Mortgage Insurance. An insurance contract which ensures that the named lenders will recover a specific percentage of the loan amount from the insurer in the event the loan goes bad. Many lenders require this on higher percentage loans.

Points – A one-time special fee or extra charge paid to a lender in order to secure a loan. Expressed as a percentage of face amount of mortgage.

Policy – A written contract of title insurance.

Policy owner – The insured on a title insurance policy.

Power of Attorney – An instrument authorizing another to act on one's behalf as his or her agent or attorney.

Power of Sale – A clause in a will, mortgage, deed of trust or trust agreement authorizing the sale or transfer of land in accordance with the terms of the clause.

Principal – (1) A sum of money owed as a debt on which interest is payable. (2) A person who empowers another to act as his representative or agent. (3) The person having prime responsibility for an obligation as distinguished from one who acts as a surety or endorser.

Prorate – To allocate between seller and buyer their proportionate share of an obligation paid or due. For example, a proration of real property taxes or fire insurance premiums.

Purchase Money Mortgage – A mortgage given by a purchaser to a seller on the subject property to secure payment of a part of the purchase price.

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

Quiet Title – An action in a proper Court to remove record defects or possible claims of other parties named in the action.

Range – A part of the government survey, being a strip of land six miles in width, and numbered east or west of the principal meridian.

Real Estate – Also called “real property.” Land and anything permanently affixed to the land, such as building, fences and those things attached to the buildings, such as light fixtures, plumbing and heating fixtures, or other such items that would be personal property if not attached. May refer to rights in real property as well as the property itself.

Realty – A brief term for real property.

Recording – The noting in a public office of the details of a legal document – such as a deed or mortgage – affecting the title to real estate. When such an instrument is properly recorded, it is considered to be a matter of public record. Legally, that means that all subsequent purchasers are deemed to have constructive knowledge of that information.

Redeem – Literally “to buy back.” The act of buying back lands after a mortgage foreclosure, tax foreclosure, or other execution sale.

Reinsurance – A contractual relationship between two insurance companies under which one insurer assumes a portion of the risk of the insurance policy written by the other.

REIT – Real Estate Investment Trust. A product of federal tax legislation formed as a business trust, under a special state REIT statute or as a corporation for the purpose of investing in real estate or mortgages on real estate.

Release – To relieve from debt or security or abandon a right, such as the release of a mortgage lien from a part or all of the land mortgaged. The instrument affecting a release.

REMIC – Real Estate Mortgage Investment Conduit. A product of 1986 federal tax legislation in which a business entity such as a corporation, partnership, or trust in which substantially all of the assets consist of qualified mortgages and permitted investments, elects to be treated as a REMIC. Qualification avoids treatment as a corporation for tax purposes.

Reverse or Reverse Annuity Mortgage – A mortgage for which the borrower pledges home equity in return for regular (monthly) payments, rather than a lump sum distribution of loan proceeds. Repayment is usually not required until the home is sold, or the borrower’s estate is settled, provided the borrower continues to live in the home and keeps current all taxes and insurance.

Restrictions – Limitations on the use of property imposed or created by deeds or other documents in the chain of title. A restriction, for example, may prohibit the placement of trailer or the construction of a commercial structure on the property.

Right-of-Way – The right which one has to pass across the lands of another. An easement.

Riparian Rights – The rights of owners of lands bordering watercourses which relate to the water and its use.

Sale Agreement – A contract entered into between a buyer and seller, setting forth the terms, provisions and conditions of a sale of real estate.

Sale and Leaseback – The sale of an asset to a buyer who immediately leases it back to the seller.

Satisfaction – A legal document drawn by the mortgagee that states that the mortgage is paid in full and released.

Search – A careful exploration and perusal of the public records in an effort to find all recorded instruments relating to a particular chain of title.

Second Mortgage – A mortgage ranking in priority immediately below a first mortgage.

Section or Section of Land – A parcel of land comprising one square mile or 640 acres.

Set Back Lines – Those lines which delineate the required distances for the location of structures in relation to the perimeter of the property.

Settlement Statement – A balance sheet showing the source of funds and the distribution of funds in connection with a specific real estate transaction, including purchase and mortgage closings. (also referred to as a closing statement)

Sole and Separate Property – A term used to describe property that is owned by a married person separate from his/her spouse.

Special Warranty Deed – A legal instrument used to transfer interest in real property in which the grantor guarantees no defects in title only during his ownership period.

Subordination – The act or process by which a person's rights are ranked below the rights of others. For example, a second mortgagee's rights are subordinate to those of the first mortgagee.

Sub-surface Right – The right of ownership to things lying beneath the physical surface of the property.

Surety – A person who agrees to be responsible for a debt or obligation of another. The pledge or agreement by which one undertakes responsibility for the debt or obligation of another.

Tenancy in Common – An estate or interest in land held by two or more persons, each having equal rights of possession and enjoyment, but without any right of succession by survivorship between the owners.

Tenant – Any person occupying real property with the owner’s permission.

Testament – Another term for a will. Commonly referred to as “last will and testament.”

Testate – The estate or condition of leaving a will at death. “To die testate.”

Testator – A man who makes or has made a testament or will.

Testatrix – A woman who makes or has made a testament or will.

Title – 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. The rights of ownership recognized and protected by the law.

Title Covenants – Covenants ordinarily inserted in conveyances and in transfers of title to real estate for the purpose of giving protection to the purchaser against possible insufficiency of the title received. A group of such covenants known as “common law covenants” includes: covenants against encumbrances; covenants for further assurance (in other words, to do whatever is necessary to rectify title deficiencies); covenants of good right and authority to convey; covenants of quiet enjoyment; covenants of seizing; covenants of warranty. (See Warranty or Covenant.)

Title Defect – Any possible or patent claim or right outstanding in a chain of title that is adverse to the claim of ownership. Any material irregularity in the execution or effect of an instrument in the chain of title.

Title Insurance Policy – A contract of title insurance under which the insurer, in keeping with the terms of the policy, agrees to indemnify the insured against loss arising from claims against the insured interest.

Title Plant – Also called “abstract plant” in some areas. A geographically filed assemblage of title information that helps in expediting title examinations, such as copies of previous attorneys’ opinions, abstracts, tax searches and copies or take-offs of the public records.

Title Search – An examination of public records, laws, and court decisions to disclose the current facts regarding ownership of real estate.

Torrens Title – A system whereby, after court proceedings, a certificate is issued setting forth the extent of the applicant’s estate in land subject to the exceptions shown. Most popular in the early 1900’s, the system was adopted in 19 states. It is presently used only in parts of six states.

Township – A division of territory six miles square, containing 36 sections or 36 square miles.

Tract – A particular parcel of land.

Trust – A property right held by one as a fiduciary for the benefit of another.

Trustee – A person holding property in trust as a fiduciary for the benefit of another.

Underwriter – An insurance company that issues insurance policies to the public or to another insurer.

VA Guarantee – An insurance contract in which the Veterans Administration (VA) insures that the named lender will recover a specific percentage of the loan amount from the insurer in the event the loan goes bad.

Variable Interest Rate – Also called “flexible interest rate.” An interest rate that fluctuates as the prevailing rate moves up or down. In mortgages, there are usually maximums as to the frequency and amount of fluctuation.

Veterans Administration (VA) Loans – Housing loans to veterans by banks, savings and loans, or other lenders that are guaranteed by the Veterans Administration, enabling veterans to buy a residence with little or no down payment.

Vendee – A purchaser of real property under land contract.

Vendor – A seller of real property under land contract.

Vest – To pass to a person an immediate right or interest. Title may be said to vest in John Smith.

Vestee – A non-legal term used by title insurers to indicate the owner of real property in a policy or report.

Waiver – The voluntary and intentional relinquishment of a known right, claim or privilege.

Warranty – In a broad sense, an agreement or undertaking by a seller to be responsible for present or future losses of the purchaser occasioned by deficiency or defect in the quality, condition or quantity of the thing sold. In a stricter sense, the provision or provisions in a deed, lease or other instrument conveying or transferring an estate or interest in real estate under which the seller becomes liable to the purchaser for defects in or encumbrances on the title. (See Title Covenants.)

Warranty Deed – A legal instrument used to transfer interest in real property in which the grantor guarantees no defects in title as far back as the origin of the property.

Will – A written document providing for the distribution of property owned by a person after his or her death.

Zoning – Laws passed by local governments regulating the size, type, structure, nature and use of land or buildings.