



## GLOSSARY OF TERMS

### A

**ABSTRACT OF TITLE** - In real estate, an abbreviated list of all of the recorded deeds, mortgages, leases and instruments affecting the title to a particular piece of land.

**ABATEMENT** - A reduction or decrease. Usually applies to a decrease of assessed valuation of ad valorem taxes after the assessment, and levy.

**ABUT** - To adjoin or share a common boundary, or share even a small portion of a boundary.

**ACCELERATION CLAUSE (In a Mortgage)** - Specifies conditions under which the lender may advance the time when the entire debt which is secured by the mortgage becomes due. For example, many mortgages contain provisions that the note shall become due immediately upon the sale of the securing land without the lender's consent or upon failure of the landowner to pay an installment when due.

**ACCESS** - The right to enter and leave a tract of land from a public way, often the right to enter and leave over the lands of another.

**ACCOMMODATION RECORDING** - Recording of instruments with the county recorder by a title company merely as a convenience to a customer and without assumption of responsibility for correctness or validity.

**ACCRETION** - The slow build up of lands by natural forces such as wind, wave, or water.

**ACKNOWLEDGEMENT** - A formal declaration before a duly authorized officer (such as a *notary public*) by a person who has executed an instrument that such execution is his own act and deed. An acknowledgment is necessary to entitle an instrument (with certain specific exceptions) to be recorded, to impart constructive notice of its contents and to entitle the instrument to be used as evidence without further proof. The certificate of acknowledgment is attached to the instrument or incorporated therein.

**ACRE** - A measure of land totaling 43,560 square feet. A square acre is 208.75 feet on each side.

**ADJUSTABLE MORTGAGE LOANS (AMLs)** - Mortgage loans under which the interest rate is periodically adjusted to more closely coincide with current rates. The amounts and times of adjustment are agreed to at the inception of the loan. Also called: *Adjustable Rate Loans, Adjustable Rate Mortgages (ARM'S), Flexible Rate Loans, Variable Rate Loans.*

**ADMINISTRATOR** - A person appointed by the probate court to carry out the administration of a decedent's estate when the decedent has left no will. If a woman is appointed, she is called an administratrix.

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

**AGREEMENT OF SALE** - A written contract entered into between the seller (vendor) and buyer (vendee) for sale of real property (land) on an installment or deferred payment plan. It is also known as an agreement to convey, a long form Security Agreement or a real estate installment contract.

**AIR RIGHTS** - The right of the landowner to the space above his land, extending upward for a reasonable distance.

**ALTA** - American Land Title Association, a national association of title insurance companies, abstractors, and attorneys specializing in real property law which speaks for the title insurance and abstracting industry and establishes standard title policies and procedures, with headquarters in Washington, D.C.

**AMORTIZED LOAN** - A loan that is paid off, both interest and principal, by regular payments that are equal or nearly equal.

**ANNUAL PERCENTAGE RATE (APR)** - The yearly interest percentage of a loan, as expressed by the actual rate of interest paid. For example: 6% add-on interest would be much more than 6% simple interest, even though both would say 6%. The A.P.R. is disclosed as a requirement of federal truth in lending statutes.

**APPRAISAL** - A written analysis of the estimated value of a property prepared by a qualified appraiser.

**APPROVED ATTORNEY** - An attorney approved by a title insurance company as one whose opinions of title will be accepted by the company and relied upon for the issuance of title insurance policies.

**APPURTENANCE** - Anything that is or becomes part of the property because it is attached or closely related to the land. It may be a structure such as a well, barn or garage; or it may be a right or interest enjoyed by the previous owner, such as an easement.

**ASSESSED VALUATION** - The estimated value of property for tax purposes, usually determined by the tax assessor for the particular municipality.

**ASSESSMENT** - The imposition of a tax, charge or levy against real estate made by a unit of government or a condo association to cover the proportionate cost of an improvement such as streets, sewers, etc.

**ASSESSOR** - Municipal or county official who determines the value of property for taxation.

**ASSIGNEE** – One to whom a transfer of interest is made.

**ASSIGNOR** – One who makes an assignment.

**ASSUMPTION OF MORTGAGE** – An obligation undertaken by the purchaser of land to be personally liable for payments of an existing note secured by a mortgage.

**ATTACHMENT** – Legal seizure of property to force payment of a debt.

**ATTORNEY IN FACT** - A person given the right or authority to act on behalf of another to carry out business transactions and implement documents.

## **B**

**BANKRUPTCY** - A special proceeding under federal, or in some instances state, laws by which the property of a debtor is protected by the court and may be divided among the debtor's creditors and the debtor.

**BILL OF SALE** - An invoice signed by the seller reciting that he has sold to the buyer the personal property therein described.

**BINDER OF COMMITMENT** - An enforceable agreement that upon satisfaction of the requirements, which are, stated in the binder and payment of the appropriate fees the insurer will issue the specified title insurance policy subject only to the exceptions stated in the binder. A binder sets forth status of title as of a particular date.

**BLANKET MORTGAGE OR TRUST DEED** - A mortgage or trust deed that covers more than one lot or parcel of real property, and often an entire subdivision. As individual lots are sold, a partial reconveyance from the blanket mortgage is ordinarily obtained.

**BOND** - An insurance agreement under which one party becomes surety to pay, within stated limits, financial loss caused to another by specified acts or defaults of a third party. (OR) An interest bearing security evidencing a long-term debt, issued by a government or corporation, and sometimes secured by a lien on property.

**BOUNDARIES** - The perimeters or limits of a parcel of land as fixed by legal description which is usually a metes and bounds description.

**BUILDING PERMIT** - A document obtained from the local government, allowing for the construction of a structure in accordance with the terms of the permit.

**BUILDING (Restriction) LINE OR SETBACK** - A line fixed at a certain distance from the front and/or sides of a lot or at a certain distance from a road or street, which line marks the boundary of the area within which no part of any building may project. This line may be established by a filed plat of subdivision, by restrictive covenants in deeds or leases. By building codes or by zoning ordinances.

**BUREAU OF LAND MANAGEMENT** - The branch of government in charge of surveying public lands.

**BUYDOWN** - A payment to the lender from the seller, buyer, third party, or some combination of these, causing the lender to reduce the interest rate during the early years of a loan. The buydown is usually for the first one to five years of the loan.

## C

**CAPITALIZATION RATE** - The percentage (acceptable to an average buyer) used to determine the value of income property through capitalization.

**CERTIFICATE OF TITLE** - In areas where attorneys examine abstracts or chains of title, a written opinion, executed by the examining attorney, stating that title is vested as stated in the abstract.

**CERTIFIED CHECK** - A personal check drawn by an individual which is certified (guaranteed) to be good. The bank holds the funds to pay the certified check and will not pay any other checks drawn on the account if such payment would impede payment of the certified check. The bank also will not honor a stop payment of a certified check.

**CHAIN OF TITLE** - The successive ownerships or transfers in the history of title to a tract of land.

**CLEAR TITLE** - A title that is free of liens or legal questions as to ownership of the property.

**CLOSING (Settlement)** - The process of completing a real estate transaction during which deeds, mortgages, leases or other required instruments are signed or delivered. Additionally, the accounting between parties is made, monies disbursed and recording of all pertinent documents prepared.

**CLOSING AGENT** - At the final stage in a real estate transaction, or the closing, a closing agent assures that all documentation, including sale related documents and loan/mortgage documents for the entire transaction, are completed and signed properly, including the title search and title insurance.

**CLOSING COSTS** - Fees paid at the time of your real estate closing, including any attorney's fees, fees for preparing and filing a mortgage, fees for title search, taxes, and insurance, as well as origination fees, discount points, appraisal fee, survey, deed recording fee, credit report charges and other costs.

**CLOSING PROTECTION LETTER (CPL)** - A letter of authorization from a Title Company, for an individual or agency conducting a settlement on behalf of the Title Company and Lender which includes the execution of all documents and disbursements of funds.

**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 at closing.

**CLOUD ON TITLE** - Any conditions revealed by a title search which affect the title to property; usually relatively unimportant items but which cannot be removed without a quitclaim deed or court action.

**COLLATERAL** - Marketable real or personal property which a borrower pledges as security for a loan. In real estate transactions, the property is the collateral. The borrower risks losing the property if the loan is not repaid according to the terms of the mortgage or deed of trust.

**COMMERCIAL PROPERTY** - Property intended for use or occupancy by businesses, rather than as a dwelling.

**COMMISSION** - Compensation paid to a real estate agent (usually by the seller) for services rendered in connection with the sale, exchange, or lease of property.

**COMMITMENT** - A binding contract with a title company to issue a specific title policy, showing only those exceptions contained in the commitment and any intervening matters after the date of the commitment and prior to the effective date of the policy. The commitment contains all information included in the preliminary title report, plus a list of the title company's requirements to insure the transaction. It also includes the standard exceptions from coverage that will appear in the policy.

**COMMON ELEMENTS** - Lands or improvements on land that are designated for common use and enjoyment by all occupants, tenants or owners. A pool, tennis court, hot tub or common halls would all be part of the Common Area.

**COMMUNITY DRIVEWAY** - A driveway which is jointly owned, used and maintained by two or more persons. Usually, a portion of each owner's property is burdened by the driveway.

**COMMUNITY PROPERTY** - A category of property, existing in some states, in which all property (except property specifically acquired by husband or wife as separate property) acquired by a husband and wife, or either, during marriage, is owned in common by the husband and wife.

**COMPARABLE SALES** - Sales that have similar characteristics as the subject property, used for analysis in the appraisal. Commonly called "comps".

**CONDEMNATION** - The taking of private property by the government for public use - as for a street or a storm drain - upon making just compensation to the owner. This right or power of government to take property for a necessary public use is called *eminent domain*.

**CONDITIONS AND RESTRICTIONS** - A series of regulations set up by neighborhoods or housing developments that govern various construction features, such as setbacks, fence heights and types, house paint colors, etc.

**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.

**CONTINGENCY** - A condition that must be met before a contract is legally binding.

**CONTRACT** - A legally enforceable agreement between two or more competent parties made either orally or in writing.

**CONVEY** - To give, transfer, sell, deed or otherwise change the ownership of one's property.

**CONVEYANCE** - Legal term for transferring the title of a property from one party to another, typically by deed.

**COOPERATIVE** - a residential multi-unit building owned by and operated for the benefit of persons living within.

**CO-TENANCY** - Ownership of the same interest in a particular parcel of land by more than one person (e.g. tenancy in common, joint tenancy, tenancy by the entireties.)

**COVENANT** - A clause in a mortgage that obligates or restricts the borrower and that, if violated, can result in foreclosure proceedings.

**COVENANTS, CONDITIONS AND RESTRICTIONS (CC&Rs)** - Usually refers to a written recorded declaration which sets forth certain covenants, conditions, restrictions, rules or regulations established by a subdivider or other landowner to create uniformity of buildings and use within tracts of land or groups of lots. The restrictions also can be established by deed. CC & R's are sometimes referred to as *private zoning*.

**CUL DE SAC** - The terminus of a street or alley. Usually laid out by modern engineers to provide a circular turnaround for vehicles. In French "the bottom of the sack."

## D

**DEBT** - Money owing from one person to another.

**DEBTOR** - One who owes a debt.

**DEED** - Written document by which an estate or interest in real property is transferred from one person to another. The person who transfers the interest is called the "grantor." The one who acquires the interest is called the "grantee."

**DEED-IN-LIEU** - Deeding property to the lender when a property owner is faced with an inevitable foreclosure and loss of property. The purpose is to avoid foreclosure notification being sent to the credit bureaus.

**DEED OF TRUST** - A written document by which the title to land is conveyed as security for the repayment of a loan or other obligation. It is a form of mortgage. The landowner or debtor is called the "trustor." The party to whom the legal title is conveyed (and who may be called on to conduct a sale thereof if the loan is not paid) is the "trustee." The lender is the "beneficiary." When the loan is paid off, the trustee is asked by the beneficiary to issue a "recon" or reconveyance. This reconveyance corresponds to the release that the holder of a mortgage executes when the mortgage is paid off.

**DEED RESTRICTIONS** - Limitations in the deed to a property that dictate certain uses that may or not be made of the property.

**DEFECT** - A blemish, imperfection or deficiency. A defective title is one that is irregular and faulty.

**DEFICIENCY JUDGMENT** - A judgment against a person liable for the debt secured by a mortgage in an amount by which the funds derived from a foreclosure or trustee's sale are less than the amount due on the debt.

**DEMAND NOTE** - A note having no date for repayment, but due on demand of the lender.

**DEPARTMENT OF VETERAN AFFAIRS** - An independent agency of the federal government, the VA functions as a home loan guaranty program designed to encourage lenders to offer long-term, low down payment mortgages to eligible veterans by guaranteeing the lender against loss.

**DEVISE** - A transfer of real property, usually by will or deed. In wills, "bequest" was used for personal property and "devise" for real property.

**DOWER** - The legal right or interest a wife acquires in property her husband held before or acquired anytime during marriage.

## E

**EARNEST MONEY** - Down payment made by a purchaser of real estate as evidence of good faith; a deposit or partial payment.

**EASEMENT** - The right to use the land of another for a specific limited purpose. Examples include utility lines, driveways, and ingress and egress. Easements can be temporary or permanent.

**EGRESS** - The right to leave a tract of land. Often used interchangeably with 'Access'.

**EMINENT DOMAIN** - The right of the government or a public utility to acquire property for necessary public use with proper compensation to the owner.

**ENCROACHMENT** - An obstruction, building, or part of a building that intrudes beyond a legal boundary onto neighboring private or public land, or a building extending beyond the building line.

**ENCUMBRANCE** - Any right to, or interest in, land that affects its value including outstanding loans, unpaid taxes, easements, or deed restriction also called a cloud on title.

**EQUITY** - The interest or value which an owner has in real estate over and above the debits against it.

**EQUITY PARTICIPATION** - A type of mortgage transaction in which the lender, in addition to receiving a fixed rate of interest on the loan, acquires an interest in the borrower's land and shares in the profits derived from the land.

**ESCHEAT** - A reversion of property to the state in those cases where an individual dies without heirs or devisees and without a will.

**ESCROW** - The depositing of money or documents from a real estate transaction with an impartial third party (escrow agent), to be disbursed to the rightful party when all conditions of the transaction have been met.

**ESTATE** - All that a person or entity owns, including both real and personal property. Also, the property that one leaves after death, his collective assets and liabilities.

**EXAMINATION OF TITLE** - An inspection by a title company of public records and other documents to determine the chain of ownership of a property based on a title search or abstract.

**EXCEPTION** - A provision in a title insurance policy that excludes liability for a specific title defect or an outstanding lien or encumbrance.

**EXECUTOR** - A person appointed by the probate court to carry out the terms of a will. The term is executrix if such a person be a woman.

## F

**FAIR MARKET VALUE** - The price a property will bring given that both buyer and seller are fully aware of market conditions and comparable properties.

**FANNIE MAE (Federal National Mortgage Association or FNMA)** - A government sponsored corporation owned solely by private investors, Fannie Mae operates under a congressional charter that directs their efforts to increase the availability and affordability of homeownership for low, moderate, and middle income Americans.

**FEDERAL HOUSING ADMINISTRATION (FHA)** - Assists home buyers by providing mortgage insurance to lenders to cover most losses that may occur if a borrower defaults. This encourages mortgage lenders to make home loans to borrowers who might not qualify for conventional mortgage loans.

**FEDERAL TAX LIEN** - An encumbrance registered on title to a property securing a tax debt owed by the property owner to the national government.

**FEE SIMPLE** - Outright true ownership of real estate, free of mortgages, liens or other claims against title.

**FHA LOAN** - A loan that is insured by the Federal Housing Authority. This type of loan is geared toward providing moderate to low income families mortgages, and is subject to the qualifying guidelines set forth by the Federal Housing Authority.

**FIDUCIARY** - A person who has a legal and ethical duty to act in the best interests of another person. Examples include an executor or a guardian.

**FINANCE CHARGE** - A finance charge is any fee or charge representing the cost of credit, or the cost of borrowing. It includes not only interest but other charges as well, such as transaction fees.

**FINANCING STATEMENT** - A document prepared for filing with Register of Deeds or Secretary of State indicating that personal property or fixtures is encumbered with a debt.

**FIRST MORTGAGE** - The mortgage that is in the first lien position. This means that should the property be foreclosed (or more typically when the property is sold), the first lien gets paid before any other liens.

**FORECLOSURE** - Legal process by which a mortgagor(s) of real property is deprived of his interest in that property due to failure to comply with terms and conditions of the mortgage.

**FREDDIE MAC (Federal Home Loan Mortgage Corporation or FHLMC)** - An affiliate of the Federal Home Loan Bank, which creates a secondary market in conventional residential loans and in FHA and VA loans by purchasing mortgages from members of the Federal Reserve System and the Federal Home Loan Bank System.

**FREE AND CLEAR TITLE** - Title to real property which is absolute, unencumbered by any liens, mortgages, clouds or other encumbrances.

**FRONTAGE** - The extent of a building or of land along a road or a waterway.

**FULL DISCLOSURE** - In real estate, revealing all the known facts which may affect the decision of a buyer or tenant. A broker must disclose known defects in the property for sale or lease.

## G

**GINNIE MAE (Government National Mortgage Association or GNMA)** - A government corporation which provides a secondary market for housing mortgages and special assistance to mortgagee financing housing under special FHA mortgage insurance programs.

**GOVERNMENT SURVEY** - The survey from which our present land description system of sections, townships, ranges, etc. was developed.

**GRANT** – A transfer of real estate between individuals by deed.

**GRANTEE** - A person to whom a grant is made, or the person named in a deed to receive title to property.

**GRANTOR** - Person selling, granting, transferring or conveying property.

**GUARDIAN** - An individual appointed by the courts who is authorized to make legal and financial decisions for another individual.

## H

**HAZARD INSURANCE** - Real estate insurance protecting against fire, some natural causes, vandalism, etc., depending upon the policy. Buyer often adds liability insurance and extended coverage for personal property.

**HEIR** - One who inherits the estate or property of another.

**HIATUS** - A Gap or space unintentionally left between, when attempting to describe adjacent parcels of land.

**HOLD HARMLESS CLAUSE** - A provision in a contract that relieves a party to the contract from liability.

**HOMEOWNER'S ASSOCIATION** - A group of homeowners within a community, neighborhood or complex who make decisions, pay to maintain and repair land and common areas and/or enforce community rules and covenants.

**HOMESTEAD** - The real estate occupied by the owner as his home. Also a property tax exemption in Michigan - claiming homestead on your primary residence substantially decreases the amount you pay in property taxes. Some states grant statutory exemptions, protecting homestead property against the rights of creditors.

**HUD (Department of Housing and Urban Development)** - HUD is a U.S. governmental agency which works to create decent homes and suitable living environments for all Americans by addressing housing needs, improving and developing American communities, and enforcing fair housing laws.

**HUD SETTLEMENT STATEMENT (HUD-1)** - A summary of the financial portion of the real estate transaction required by the Department of Housing and Urban Development.

## I

**IMPOUND ACCOUNT (Escrow Account)** - A reserve account often required by lenders to cover future payments of taxes, lease rent, insurance, etc.

**IMPROVEMENTS** - Those additions to raw lands tending to increase value such as buildings, streets, sewer, etc.

**INCOME PROPERTY** - Real estate owned, operated, developed or improved to produce income rather than used as a primary residence for the owner.

**INDEMNITY** - Insurance against possible loss or damage. A title insurance policy is a contract of indemnity.

**INDENTURE** - A deed or other real estate contract executed between two or more parties, similar to a contract.

**INGRESS** - The right enter a tract of land. Often used interchangeably with 'Access'.

**INSPECTION** - An examination of a property by the buyer, agent, title insurance company, or other interested party.

**INSURANCE** - A contract in which one party agrees to compensate another party for any losses or damages caused by risks identified in a contract in exchange for the payment of a lump sum or periodic amounts of money. There are many types of insurance that apply to the mortgage process, such as hazard insurance, PMI (private mortgage insurance), title insurance and mortgage insurance.

**INTESTATE** - Without leaving a will, or leaving an invalid will so that the property of the estate passes by the laws of succession rather than by the direction of the deceased.

## J

**JOINT TENANCY** - A form of ownership in which the tenants own a property equally. If one dies, the other would automatically inherit the entire property.

**JUDGMENT** - A decree of a Court. In practice, this is the lien or charge upon the lands of a debtor resulting from the Court's award of money to a creditor.

**JUDGMENT LIEN** - The charge upon the lands of a debtor resulting from the decree of a court properly recorded in the office of the county recorder in the county in which the property is located.

**JUNIOR MORTGAGE** - A mortgage that is subordinate to claims of a prior lien or mortgage.

## L

**LEASE** - An agreement by which an owner of real property (lessor) gives the right of possession to another (lessee), for a specified period of time (term) and for a specified consideration (rent).

**LEGAL DESCRIPTION** - A description of the exact location of a piece of real property stated in terms of lot, block, tract, part lot, metes and bounds, recorded instruments, or US Government survey.

**LENDER'S TITLE INSURANCE (Lender's Policy or Loan Policy)** - An insurance policy which protects the lender against claims and losses that may arise if the title is unmarketable or defective.

**LESSEE** - One who takes lands upon a lease.

**LESSOR** - One who grants lands under a lease.

**LIBER** - The legal book in which the deed is recorded at the County court house.

**LIEN** - A legal claim against a property that must be paid off when the property is sold. An encumbrance against property for money, either voluntary or involuntary. All liens are encumbrances but all encumbrances are not liens.

**LIFE ESTATE** - A form of estate giving a beneficiary all property rights except the right to sell. The right to the estate is terminated upon the death of the beneficiary.

**LIS PENDENS** - The recording of a notice with the county records office that legal action is pending on a piece of property.

**LOT** - Generally, any portion or parcel of real property having fixed boundaries. Usually refers to a portion of a subdivision.

## **M**

**MAJORITY** - The age at which a person is entitled to handle his own affairs.

**MARKET VALUE** - The average between the highest price which a buyer is willing to pay and the lowest price a seller is willing to accept.

**MARKETABLE TITLE** - Typically defined as such title that is insurable by a title company, it is a title free of liens and defects.

**MECHANIC'S LIEN** - A lien placed on real estate which secures the payment of debts that are due to persons who perform labor or services or furnish materials for the construction of buildings and improvements on real estate, and which attaches to the land as well as the improvements.

**METES AND BOUNDS** - A means of describing land by directions and distances rather than reference to a lot number. Generally used when land has not been subdivided into lots

**MORTGAGE** - A document signed by a borrower when a home loan is made that gives the lender a right to take possession of the property if the borrower fails to pay off the loan. Some states refer to it as a Deed of Trust.

**MORTGAGEE** - A designation for the person/entity who lends the money for the property.

**MORTGAGOR** - A designation for the person/entity who borrows the money for the property and who pledges the property as security for the loan.

## **N**

**NOTE** - A legal document that obligates a borrower to repay a mortgage loan at a stated interest rate during a specified period of time.

**NOTARY PUBLIC** - An official authorized by law to attest and certify certain documents by his hand and official seal.

## O

**OPEN-END MORTGAGE** - A mortgage or deed of trust written so as to secure and permit advancing of funds in addition to the amount originally loaned.

**OWNER'S TITLE INSURANCE** - A policy of title insurance insuring an owner of real estate against possible loss from defects in, liens against, or unmarketability of the owner's title.

**OWNERSHIP** - The right to possess and use property to the exclusion of others.

## P

**PARCEL** - Any area of land contained within a single description.

**PARTITION** - Division of land, usually by a legal proceeding, among the parties who were formerly co-owners.

**PATENT** - A document issued for the purpose of granting public lands to an individual.

**PERSONAL PROPERTY (moveable)** - Any property that is not designated by law as real property (i.e., money, goods, evidences of debt, rights of action, furniture, automobiles).

**PITI** - A payment that combines *Principal, Interest, Taxes, and Insurance*.

**PLAT** - A plan, map or chart of a tract or town site dividing a parcel of land into lots.

**POLICY** - In title insurance, an insurance policy, it is the finished contract insuring a party against loss due to a defective title.

**POWER OF ATTORNEY (POA)** - A legal document that authorizes another person to act on one's behalf. A power of attorney can grant complete authority or can be limited to certain acts and/or certain periods of time.

**PREPAYMENT PENALTY** - Penalty to the mortgagor for payment of the mortgage debt before it becomes due.

**PROBATE** – A court whose jurisdiction not only determines who will inherit a decedent's property but is also responsible for the settlement and supervision of the estate's assets. It has come to be understood as the legal process whereby a dead person's estate is administered and distributed.

**PRORATE** - Usually at time of closing, it is the proportionate division of expenses based on days or time occupied or used by the seller and/or buyer, such as taxes, insurance, rent, or other items.

**PRE-APPROVAL** - The process of calculating how much money a potential homebuyer can borrow.

**PRIORITY INSPECTION** - A title term referring to the type of inspection made in connection with insuring a new construction loan. In making the inspection of the property, the Title Company must be assured that the work of improvement had not yet begun when the lender's deed of trust was recorded.

**PROCESSOR** - An employee of the title company, one who prepares real estate transaction documents in anticipation of closing. Working closely with brokers, agents and lenders, buyers and sellers to finalize details and see to the completion of all aspects necessary to ensure a successful closing day.

**PUBLIC DOMAIN** - Land owned by the government and belonging to the community at large.

**PUBLIC RECORDS** - The transcriptions in a recorder's office of instruments which have been recorded, including the indexes pertaining to them.

**PURCHASE AGREEMENT (PA)** - A written document in which the purchaser agrees to buy certain real estate and the seller agrees to sell under stated terms and conditions. (Also known as a Sales Agreement or Sales Contract.)

**PURCHASE MONEY MORTGAGE** - A mortgage given by the purchaser to the seller simultaneously with the purchase of real estate to secure the unpaid balance of the purchase price.

## Q

**QUIET TITLE** - To free the title to a piece of land from the claims of other persons by means of a court action called a "quiet title" action. The court decree obtained is a "quiet title" decree.

**QUIT CLAIM DEED (QCD)** - A deed operating as a release of vested interest, intended to convey any title, interest, or claim which the grantor may have in the property to another. Differing from a warranty deed in that it only conveys interest if there is any.

## R

**RESPA (Real Estate Settlement Procedures Act)** - A federal law governing real estate transactions. RESPA requires lenders to provide home mortgage borrowers in advance with information of known or estimated settlement costs. RESPA also limits the amount lenders can hold in escrow for real estate taxes and insurance. It requires the disclosure of known settlement costs to both buyers and sellers by the person conducting the settlement and outlaws certain referral fees.

**REAL ESTATE** - Land and all physical property on, below or attached to the land. Houses, sewers, trees and fences are all real estate.

**REAL PROPERTY (immovable)** - Land, and generally whatever is erected or affixed to the land, including all inherent natural attributes and any man-made improvements of a permanent nature placed thereon. Such as buildings, including light fixtures, plumbing and heating fixtures attached to the building; as well as fences, minerals, trees and so forth.

**RECONVEYANCE** - A deed from the mortgagee or trustee of a deed of trust which releases specific property from the lien of the mortgage or deed of trust.

**RECORDER** - A public official responsible for keeping record of all real estate transactions.

**RECORDING** - The act of entering a record of documents affecting or conveying interest in real estate in a county recorder's office. Until recorded, a deed or mortgage generally is not effective against subsequent purchasers or mortgages or other third parties.

**RE-ISSUE RATE** - A reduced rate of title insurance premium applicable in cases where the owner of the land has been previously insured in an owner's policy by the insurer within a certain time.

**REMAINDER** - An interest or estate in land in a person other than the grantor in which the right of possession and enjoyment of the land is postponed until the termination of some other interest or estate in that land.

**RESTRICTIONS (Restrictive Covenants)** - Provisions in a deed or other instrument whereby an owner of land prohibits or restricts certain use, occupation or improvement of the land.

**REVERSION** - Provision in conveyance by which, upon the happening of an event or contingency, title to the land will return to the grantor or his successor in interest in the land.

**RIGHT OF INGRESS OR EGRESS** - The right to enter or leave over another's land.

**RIGHT OF SURVIVORSHIP** - In joint tenancy, the right of survivors to acquire the interest of a deceased joint tenant.

**RIGHT-OF-WAY** - A privilege operating as an easement on property, whereby the owner gives, by grant or by agreement, another the right to pass over his land.

**RIPARIAN** - Pertaining to the banks of a watercourse. The owners of land adjacent to a watercourse are called a riparian owner and the rights of the riparian owner related to that watercourse are called riparian rights.

## S

**SALE AND LEASEBACK** - A financial device which an owner of land may employ to raise money and still have the use of the land by selling the land to his financier and immediately leasing it back for the period he wishes to use it.

**SEARCH** - In the title industry, a careful exploration and examination of public records in an effort to find all recorded instruments relating to a particular chain of title.

**SECOND MORTGAGE** - A mortgage that has a lien position subordinate to the first mortgage. Upon the sale of a property, it is paid off only when the first mortgage is paid.

**SECTION OR SECTION OF LAND** - A parcel of land comprising one square mile or 640 acres.

**SECURITY** - Real or personal property that your creditor can claim in case you default on your obligation.

**SET BACK LINES** - Those lines which delineate the required distances for the location of structures in relation to the perimeter of the property.

**SETTLEMENT or SETTLEMENT COSTS** - Also known as closing costs, these costs are for services that must be performed before your loan can be initiated. Examples can include title fees, recording fees, appraisal fee, credit report fee, pest inspection, attorney's fees, taxes, and surveying fees.

**SETTLEMENT STATEMENT (Also called the HUD-1, or HUD)** - A closing document required by the Real Estate Settlement Procedures Act which shows all charges and fees and required disbursements of monies associated with a real estate transaction.

**SOLE OWNERSHIP** - Ownership of property by a single person or entity.

**SPECIAL WARRANTY DEED** - A deed containing a covenant whereby the seller agrees to protect the buyer against being dispossessed because of any adverse claims to the land by the seller, or anyone claiming through him.

**SUBDIVISION** - A tract of land divided by the owner, known as the subdivider, into blocks, building lots, and streets according to a recorded subdivision plat, which must comply with state regulations and the local subdivision ordinance.

**SUBORDINATION AGREEMENT** - An agreement by which one encumbrance (for example, a mortgage) is made subject to another encumbrance (for example, a mortgage) is made subject to another encumbrance (perhaps a lease). To "subordinate" is to "make subject to," or to make of lower priority.

**SUBSURFACE RIGHT** - The right to ownership of everything beneath the physical surface of the property.

**SURFACE RIGHTS** - Rights to enter upon and use the surface of a parcel of land, usually in connection with an oil and gas lease or other mineral lease. They may be "implied" by the language of the lease (no explicit reservation or exception of the surface rights) or "explicitly" set forth.

**SURVEY** - A document that illustrates the property boundaries and measurements, specifies the location of buildings on the property, and indicates any easements or encroachments. An ALTA survey additionally delineates the exact location of all improvements, encroachments, easements and other matters affecting the title to the property in question. A title insurance company may require a survey whenever the company is requested to issue an ALTA Extended Coverage Policy.

**T**

**TAX DEED** - The deed given to a purchaser at a public sale of land for nonpayment of taxes. It conveys to the purchaser only such title as the defaulting taxpayer had and does not convey good title to that extent unless statutory procedures for the sale were strictly followed.

**TAX SALE** - Property on which current county taxes have not been paid is "sold to the state." No actual sale takes place - the title is transferred to the state and the owner may redeem it by paying taxes, penalties and costs. If it has not been redeemed within five years, the property (referred to as "tax sold property") is actually deeded to the state. (Similar "sales" to cities take place for unpaid city taxes.)

**TENANCY** - When title to a property is held by two or more people, tenancy is the term used to determine and describe the rights and relationships of the property owners in respect to that property. Created in the wording of the Deed, the tenancies that exist in Michigan are tenants in common, joint tenants, joint tenants with full rights of survivorship, and tenants by the entirety.

**TENANT** - Any person in possession of real property with the owner's permission.

**TENANTS IN COMMON** - Tenancy in Common is the holding of property by two or more persons, either equal shares or unequal shares. Upon death, the deceased owner's interest becomes part of their estate and does not automatically pass to the surviving joint owners.

**TESTAMENT** - Another term for a will. Commonly referred to as "last will and testament."

**TESTATE** - Leaving a legally valid will at death.

**TESTATOR** - One who makes out a last will and testament. The feminine form is Testatrix.

**TITLE** - A legal document that provides evidence of property ownership. A legal right to own, possess, use, control, enjoy and dispose of real estate or an inheritable right or interest therein.

**TITLE COMPANY** - A company that specializes in title searches and insuring title to property. Title companies are a neutral third party in a transaction who does not work for any specific person in the transaction, in accordance with state law. It is a business firm that examines real property titles, reports its findings as to the legal status of these titles, and issues insurance policies to indemnify the owner and lender against financial loss resulting from unknown title defects or prior claims against the property.

**TITLE DEFECT** - Any title problem which "clouds" the property's title. A title defect can be a lien, a person or entity who may have had interest in the property and never surrendered it, or any number of other situations making title less than perfect.

**TITLE INSURANCE** - Protection for lenders and homeowners against financial loss resulting from legal defects in or other claims against the property's title, essentially guaranteeing you and your lender's financial interest in the property. The cost of the policy is determined by the value of the property, and is a one-time fee due at the time of closing.

**TITLE SEARCH** - A review of all recorded documents affecting a specific parcel of land to determine the present condition of title. In a title search, an experienced title officer or an 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.

**TORRENS SYSTEM** - A governmental title registration system wherein title to land is evidenced by a certificate of title issued by a public official known as the registrar of title.

**TOWNSHIP** - A six mile square tract delineated by a government rectangular survey containing 36 sections or 36 square miles. It is a major unit of the legal subdivision system.

**TRANSFER OF OWNERSHIP** - Any legal method by which the ownership of property changes hands.

**TRANSFER TAX** - A tax assessed by a city, county or state on the transfer of property that may be based on equity or value.

**TRUST** - A transaction in which the owner of real property or personal property (the trustor or settlor) gives ownership to a trustee, to hold and to manage it for the benefit of a third party, called the "beneficiary."

**TRUSTEE** - A person to whom the title of property has been conveyed for the immediate or eventual benefit of another, or the legal title holder and controller of funds in a trust account established under a trust agreement for the benefit of another.

## U

**UNDERWRITER** - An insurance company that insures title. An underwriting company may have independent agencies who issue insurance policies in their behalf or may be the primary issuing agent themselves.

## V

**VARIABLE INTEREST RATE** - An interest rate that fluctuates with the current cost of money; subject to adjustment if the prevailing rate moves up or down.

**VA MORTGAGE** - A residential mortgage made to an eligible military veteran. The loan is guaranteed by the Department of Veterans Affairs to protect the lender against loss in the event of default.

**VENDEE** - A purchaser of real property by a Contract for Deed.

**VENDOR** - A seller of real property by a Contract for Deed.

**VETERANS ADMINISTRATION** - (VA) An independent agency of the federal government. The VA home loan guaranty program is designed to encourage lenders to offer long-term, low down payment mortgages to eligible veterans by guaranteeing the lender against loss.

## W

**WARRANTY DEED** - Offering the greatest protection of any property deed, a warranty deed legally assures that the title conveyed is good, free of legal claims and possession will be undisturbed.

**WILL** - A legal document created by an individual that names an executor (the person who will manage the estate) and beneficiaries (persons who will receive the estate at the time of death).

**WRAPAROUND MORTGAGE** - A mortgage that secures a debt, which includes the balance due on an existing senior mortgage and an additional amount, advanced by the wraparound mortgagee. The wraparound mortgagee thereafter makes the amortizing payments on the senior mortgage. (Example: A landowner has a mortgage securing a debt with an outstanding balance of \$2,000,000. A lender now advances the same mortgagor a new \$1,000,000 and undertakes to make the remaining payments due on the \$2,000,000 debt. He takes a \$3,000,000 wraparound mortgage on the land to secure this new \$3,000,000 wraparound note.)

## Z

**ZONING** - The division of a city or a county by legislative regulations into areas (zones), specifying the uses allowable for the real property in these areas. For example, an area may be zoned for single family residential, condominiums, commercial or retail, or a mix of two or more uses.