



Real Estate Terminology and Definitions

Abandonment: The voluntary surrender or relinquishment of possession of real property with the intention of terminating one's possession or interest, but without the vesting of this interest in any other person, such as when a person moves and abandons leased property before the lease term has expired.

Abstract of Title: The condensed history of a title to a particular parcel of real estate, consisting of a summary of the original grant and all subsequent conveyances and encumbrances affecting the property and a certification by the abstractor that the history is complete and accurate.

Abstract of title with lawyer's opinion: An abstract of title that a lawyer has examined and has certified to be, in his or her opinion, an accurate statement of fact.

Acceleration clause: The clause in a mortgage or trust deed or note that can be enforced to make the entire amount of principal and interest due immediately if the mortgagor defaults on an installment payment or other covenant.

Accession: Acquiring title to additions or improvements to real property as a result of the annexation of fixtures or the accretion of alluvial deposits along the banks of streams.

Accretion: The increase or addition of land by the deposit of sand or soil washed up naturally from a river, lake or sea.

Accrued Items: On a closing statement, items of expenses that are incurred but not yet payable, such as interest on a mortgage loan or taxes on real property.

Acknowledgment: A formal declaration made before a duly-authorized officer, usually a notary public, by a person who has signed a document attesting that the instrument was executed by him and that it was his free and voluntary act.

Acre: A measure of land equal to 43,560 square feet, 4,840 square yards, 4,047 square meters, 160 square rods or 0.4047 hectare.

Actual Eviction: The result of legal action, originated by a lessor, whereby a defaulted tenant is physically ousted from the rented property pursuant to a court order. See also eviction.

Actual Notice: Express information or fact; that which is known; direct knowledge.

Adjustable-rate mortgage (ARM): A mortgage loan in which the interest rate may increase or decrease at specified intervals over the life of the loan.

Adjusted basis: See basis.

Adjusted sales price: For income tax purposes, the actual sales price reduced by allowable sales expenses.

Administrator/administratrix: A man/woman appointed by a court to settle the estate of a deceased person when there is no will; contrast with executor/executrix.

Ad valorem tax: A tax levied according to value; generally used to refer to real estate tax; also called the general tax.

Adverse possession: The actual, visible, hostile, notorious, exclusive and continuous possession of another's land under a claim of title. Possession for a statutory period may be a means of acquiring title.

Affidavit of title: A written statement, made under oath by a seller or grantor of real property and acknowledged by a notary public, in which the grantor (1) identifies himself or herself and indicates marital status, (2) certifies that since the examination of the title on the date of the contracts no defects have occurred in the title and (3) certifies that he or she is in possession of the property (if applicable); not used in Texas.

Agency by ratification: An agency relationship that is established after the fact.

Agency coupled with an interest: An agency relationship in which the agent has an estate or interest in the subject of the agency (the property).



Agent: One who acts or has the power to act for another. A fiduciary relationship is created under the law of agency when a property owner, as the principal, executes a listing agreement or management contract authorizing a licensed real estate broker to be his or her agent.

Air Lot: A designated airspace over a piece of land. An air lot, like surface property, may be transferred.

Air rights: The right to use the open space above a property, generally allowing the surface to be used for another purpose.

Alienation: The act of transferring property to another. Alienation may be voluntary, such as by gift or sale, or involuntary, as through eminent domain or adverse possession.

Alienation clause: The clause in a mortgage or deed of trust that states that the balance of the secured debt becomes immediately due and payable at the mortgagee's option if the property is sold by the mortgagor. In effect this clause prevents the mortgagor from assigning the debt without the mortgagee's approval; also called a due-on-sale clause.

Allodial System: A system of land ownership in which land is held free and clear of any rent or service due to the government; commonly contrasted to the feudal system. In the United States, land is held under the allodial system.

Alluvion: Soil that has been added to the land by accretion.

Amortization: Repayment of a loan in which a portion of the principal as well as the interest due is payable in monthly or other periodic installments over the term of the loan.

Amount realized on sale: The amount of gain, or profit, subject to income tax.

Antitrust laws: Laws designed to preserve the free enterprise of the open marketplace by making illegal, certain private conspiracies and combinations formed to minimize competition. Violations of antitrust laws in the real estate business generally involve price-fixing (brokers conspiring to set fixed compensation rates), or allocation of customers or markets (brokers agreeing to limit their areas of

trade or dealing to certain areas or properties) or agreement to boycott competitors.

Appointed Licensee: A licensee associated with and appointed by an intermediary broker to communicate with, carry out instructions of, and provide opinions and advice to the parties to whom the licensee is appointed.

Appraisal: An estimate of the quantity, quality or value of something. The process through which conclusions of property values are obtained: also refers to the report that sets forth the process of estimation and conclusion of value.

Appraisal Review Board: A group of people who hears appeals concerning assessed valuations for tax purposes and recommends or denies changes in values shown of record.

Appraised value: An estimate of the present worth of a property.

Appreciation: An increase in the worth or value of a property due to economic or related causes, which may prove to be either temporary or permanent; opposite of depreciation.

Appurtenances: Those rights, privileges and improvements that belong to and pass with the transfer of real property but are not necessarily a part of the property, such as rights-of-way, easements, water rights and property improvements.

Area: The size of a two-dimensional figure such as a triangle or rectangle.

ARELLO: The National Association of Real Estate License Law Officials.

Assemblage: The combining of two or more adjoining lots into one larger tract to increase their total value.

Assessed Value: The value set upon property for taxation purposes.

Assessment: The imposition of a tax, charge or levy, usually according to established rates.

Assessment roll: The public record of the assessed values of all lands and buildings within a specific area.



Assignment: The transfer in writing of interest in a bond, mortgage, lease or other instrument.

Assumption of Mortgage: Acquiring title to property on which there is an existing mortgage and agreeing to be personally liable for the terms and conditions of the mortgage, including payments; contrast with subject to mortgage.

Attachment: The act of taking a person's property into legal custody by writ or other judicial order to hold it available for application to that person's debt to a creditor.

Attorney's opinion of title: A writing based on the lawyer's reading of an abstract of title that specifies any title defects and names the legal titleholder as the lawyer interprets it; states whether a seller may convey a good title.

Automatic extension: A clause in a listing agreement that states that the agreement will continue automatically for a certain period of time after its expiration date; illegal in Texas.

Avulsion: The sudden tearing away of land, as by earthquake, flood volcanic action or the sudden change in the course of a stream.

Balloon payment: A final payment of a mortgage loan that is considerably larger than the required periodic payments because the loan amount was not fully amortized.

Bargain and Sale Deed: A deed that carries with it no warranties against liens or other encumbrances, but that does imply that the grantor has the right to convey title. The grantor may add warranties to the deed at his or her discretion.

Base line: One of a set of imaginary lines running east and west and crossing a principal meridian at a definite point, used by surveyors for reference in locating and describing land under the rectangular survey (or government survey) system of property description.

Basis: The financial interest that the Internal Revenue Service attributes to an owner of an investment property for the purpose of determining annual depreciation and gain or loss on the sale of the asset. If a property was acquired by purchase, the owner's basis is the cost of the property plus the value of any capital expenditures for improvements to the property, minus

any depreciation allowable or actually taken. This new basis is called the adjusted basis.

Benchmark: A permanent reference mark or point established for use by surveyors in measuring differences in elevation.

Beneficiary: (1) The person for whom a trust operates or on whose behalf the income from a trust estate is drawn. (2) A lender who lends money on real estate and takes back a note and trust deed from the borrower.

Bequest: The transfer of personal property to a legatee in accordance with a will.

Bilateral contract: see contract.

Bill of sale: A written instrument given to pass title to personal property.

Binder: An agreement that may accompany an earnest money deposit for the purchase of real property as evidence of the purchaser's good faith and intent to complete the transaction.

Blanket mortgage: A mortgage covering more than one parcel of real estate, providing for each parcel's partial release from the mortgage lien upon repayment of a definite portion of the debt.

Blockbusting: The illegal practice of inducing homeowners to sell their properties by making representations regarding the entry or prospective entry of minority persons into the neighborhood.

Blue-sky laws: Common name for state and federal laws that regulate the registration and sale of investment securities.

Bond issues: Interest-bearing certificates issued by a government as a means of financing real estate projects and community improvements.

Boot: Money or property given to make up any difference in value or equity between two properties in an exchange.

Branch office: A secondary place of business apart from the principal or main office from which real estate business is conducted. A branch office generally is run by a real estate licensee working on behalf of the broker who operates the principal office.



Breach of contract: Violation of any terms or conditions in a contract without legal excuses; for example, failure to make a payment when it is due.

Broker: One who buys and sells for another for a commission. See also real estate broker.

Brokerage: For a commission or fee, bringing together parties interested buying, selling, exchanging or leasing real property.

Broker-salesperson: A person who has passed the broker's licensing examination, but works on behalf of another licensed broker.

Budget Mortgage: A mortgage in which the monthly house payment includes principal, interest, taxes and insurance (PITI).

Buffer zone: A zoning term meaning a strip of land separating one land use from another.

Building code: An ordinance that specifies minimum standards of construction for buildings to protect public safety and health.

Building line: A line fixed at a certain distance from the front and/or sides of a lot beyond which no structure can project. See setback.

Building permit: Permission issued by a city for the construction of a building to ensure compliance with building codes.

Bulk transfer: See uniform commercial code.

Bundle of legal rights: The concept of land ownership that means ownership of all legal rights to the land – for example, possession, control within the law and enjoyment – rather than ownership of the land itself.

Business cycle: Upward and downward fluctuations in business activity through the stages of expansion, recession, depression and revival.

Business interruption insurance: A form of coverage that provides income to a business in the event the premises becomes untenable.

Buy-down: A cash payment, usually measured in points, to a lender to reduce the interest rate a borrower must pay.

Buy-down mortgage: A mortgage on which a cash payment has been made to the lender to reduce the interest rate a borrower must pay; usually, "bought down" for the first three years of the loan.

Buyer agency: An agency relationship between the broker and the buyer, with fiduciary duties owed to the buyer.

Buyer representation agreement: A contract which establishes a broker-buyer agency relationship.

Buyer's broker: A licensee who has declared to represent only the buyer in a transaction, regardless of whether compensation is paid by the buyer or the listing broker through a commission split. Some brokers conduct their business by representing buyers only.

Capital gain: Income earned from the sale of an asset (formerly a tax-favored sale).

Capital Investment: The initial capital and the long-term expenditures made to establish and maintain a business or investment property.

Capitalization: A mathematical process for estimating the value of an income-producing property by dividing the annual net operating income by the capitalization rate.

Capitalization rate: The rate of return a property will produce on the owner's investment.

Cash flow: The net spendable income from an investment, determined by deducting all operating and fixed expenses from the gross income. If expenses exceed income, a negative cash flow is the result.

Casualty insurance: A type of policy that protects a property owner or other person from loss of injury sustained as a result of theft, vandalism or similar occurrences.

Caveat emptor: A Latin phrase meaning, "Let the buyer beware."

Certificate of sale: The document generally given to a purchaser at a tax foreclosure sale. A certificate of sale does not convey title; generally it is an instrument certifying that the holder received title to the property after the redemption period had passed and that the holder paid the property taxes for that interim period.



Certificate of title: A statement of opinion on the status of the title to a parcel of real property based on an examination of specified public records.

Chain of title: The succession of conveyances from some accepted starting point, whereby the present holder of real property derives his or her title.

Channeling: The illegal practice of directing people to, or away from, certain areas or neighborhoods because of minority status; steering.

Chattel: Personal property; personalty

Civil Rights Act of 1866: The first and primary law guaranteeing equal rights to all U.S. citizens; prohibits all discrimination based on race.

Client: The person who employs an agent to perform a service for a fee.

Closing agent: The person responsible for conducting the settlement of a real estate sale.

Closing Statement: A detailed cash accounting of a real estate transaction showing all cash received, all charges and credits made, and all cash paid out in the transaction.

Cloud on the title: Any document, claim, unreleased lien or encumbrance that may impair the title to real property or make the title doubtful; usually revealed by a title search and removed by either a quitclaim deed or suit to quiet title.

Clustering: The grouping of homesites within a subdivision on lots that are smaller than normal, with the remaining land used as common areas.

Code of Ethics: An agreement to which all Realtors must subscribe, and which holds the members to high standards of conduct.

Codicil: A supplement or an addition to a will, executed with the same formalities as a will, that normally does not revoke the entire will.

Coinurance clause: A provision in insurance policies covering real property that requires the policyholder to maintain fire insurance coverage generally equal to at least 80 percent of the property's actual replacement cost.

Collateral: Something of value deposited with a lender as a pledge to secure repayment of a loan.

Commingle: The illegal act of a real estate broker who mixes the money of other people with his or her own money. By law, brokers are required to maintain a separate trust account for other parties' funds held temporarily by the broker.

Commission: Payment to a broker for services rendered, such as in the sale or purchase of real property; usually a percentage of the selling of the property.

Common elements: Parts of a property that are necessary or convenient to the existence, maintenance and safety of a condominium, or are normally in common use by all of the condominium residents. Each condominium owner has an undivided ownership interest in the general and limited common elements.

Common law: The body of law based on custom, usage and court decisions.

Community property: A system of property ownership based on the theory that each spouse has an equal interest in the property acquired by the efforts of either spouse during marriage. This system stemmed from Germanic tribes and, through Spain, came to the Spanish colonies of North and South America. The system was unknown under English Common Law.

Community Reinvestment Act: The federal law that requires federally-regulated lenders to describe the geographical market area they serve. Deposits from that area are to be reinvested in that area, whenever practical.

Comparables: Properties listed in an appraisal report that are substantially equivalent to the subject property and are used to compare and establish a value of the subject property.

Comparative Market Analysis: (CMA) A range of market values of a property given to prospective buyers or sellers by a real estate licensee, not an actual appraisal.

Competent parties: People who are recognized by law as being able to contract with others, usually those of legal age and sound mind.

Competitive market analysis: A comparison of the prices of recently sold homes that are similar to the subject home in terms of location, style and



amenities. Based on this analysis, a broker or salesperson can help the seller determine a listing price.

Condemnation: A judicial or an administrative proceeding to exercise the power of eminent domain, through which a government agency takes private property for public use and compensates the owner.

Consideration: Something given in exchange for a promise; in real estate, something of value given in exchange for land.

Contract for deed: The owner retains title to the property while the purchaser takes possession of the premises and pays on the principal. When the final payment is made to the seller, the title will transfer to the buyer. This is also known as a land contract or installment land contract.

Conventional loan: A loan made with real estate as security and not involving government participation in the form of insuring (FHA) or guaranteeing (VA) the loan. The mortgagee can be an institutional lender or a private party. The loan is conventional in the sense that it conforms to accepted standards and that the lender looks solely to the credit of the borrower and the security of the property to ensure payment of the debt.

Cooperative sale: Occurs when a property is listed by one firm and later sold by another.

Co-ownership: A broad category of ownership by more than one person. Examples are tenants in common and joint tenants.

Corporation: An entity or organization created by operation of law, whose rights of doing business are essentially the same as those of an individual. The entity has continuous existence until it is dissolved according to legal procedures.

Corporeal right: A tangible interest in real estate.

Correction lines: Provisions in the rectangular survey (government survey) system made to compensate for the curvature of the earth's surface. Every fourth township line (at 24-mile intervals) is used as a correction line on which the intervals between the north and south range lines are re-measured and corrected to a full six miles.

Correspondent Lenders: Someone who processes, underwrites, closes and funds their files

in their name. Once the loan is closed, the loan is sold to another lender with which the correspondent lender has a business relationship.

Cost: The capital outlay for land, labor, materials and profits necessary to bring a property into existence.

Cost approach to value: An estimate of value based on current construction costs, less depreciation, plus land value. Contrast with the income approach to value and the sales comparison approach to value.

Cost recovery: An Internal Revenue Service term for depreciation. An accounting deduction for tax purposes by which a business can recover the cost of personal and some real property over a specified time period. This technique replaces depreciation for property placed in service after 1980. It is essentially the same as depreciation, except that costs are recovered without regard to the actual condition or useful life of the property.

Counseling: The business of providing people with expert advice on a subject based on the counselor's extensive, expert knowledge of the subject.

Counteroffer: A new offer made as a reply to an offer received. It has the effect of rejecting the original offer, which cannot be accepted thereafter, unless revived by the offeror's repeating it.

Covenant: A written agreement between two or more parties in which a pledge is made to perform specified acts with regard to property; usually, found in such real estate documents as deeds, mortgages, leases and contracts for deed.

Credit: On a closing statement, an amount entered in a person's favor – either an amount the party has paid or an amount for which the party must be reimbursed.

Curtesy: A life estate, usually a fractional interest, given by some states to the surviving husband in real estate owned by his deceased wife. Most states, including Texas, have abolished curtesy.

Customer: One who purchases or sells property without being represented by an agent.

Cycle: A recurring sequence of events that regularly follow one another, generally within a fixed interval of time.



Datum: A horizontal plane from which heights and depths are measured.

Debit: On a closing statement, an amount charged, that is, an amount that the debited party must pay.

Decedent: A person who has died.

Deceptive Trade Practices Act (DTPA): Part of the Federal Consumer Protection Act, originally passed in 1973 and made specifically applicable to real estate in 1975, prohibiting a lengthy number of false, misleading or deceptive acts or practices.

Dedication: The voluntary transfer of private property by its owner to the public for some public use such as for streets or schools.

Deed: A written instrument that, when executed and delivered, conveys title to or an interest in real estate.

Deed in trust: A form of deed by which real estate is conveyed to a trustee, usually to establish a land trust.

Deed of reconveyance: The instrument used to re-convey title to a trustor under a trust deed after the debt has been satisfied.

Deed of trust: An instrument used to create a mortgage lien by which the mortgagor (trustor) conveys his or her title to a trustee, who holds it as security for the benefit of the lender (beneficiary); also called a trust deed.

Deed restrictions: Clauses in a deed limiting the future uses of the property.

Default: The nonperformance of a duty, whether arising under a contract or otherwise; failure to meet an obligation when due.

Defeasance clause: A provision in leases and mortgages that cancels a specified right upon the occurrence of a certain condition, such as cancellation of a mortgage upon repayment of the mortgage loan.

Defeasible fee estate: An estate in which the holder has a fee simple title that may be divested upon the occurrence or non-occurrence of a specified event. The two categories of defeasible fee estates are fee simple determinable and fee simple subject to a condition subsequent.

Deficiency judgment: A personal judgment levied against the mortgagor when a foreclosure sale does not produce sufficient funds to pay the mortgage debt in full.

Delinquent taxes: Unpaid taxes that are past due.

Delivery and acceptance: The actual transfer of the deed, or an act of a seller showing intent to make a deed effective, without which, there is no transfer of title to the property.

Demand: The amount of goods people are willing and able to buy at a given price, often coupled with supply.

Density zoning: Zoning ordinances that restrict the maximum average number of houses per acre that may be built within a particular area, generally a subdivision.

Department of Housing and Urban Development (HUD): Federal Agency that administers the Fair Housing Act of 1968.

Depreciated Cost: The value of a property after deducting an allowance for depreciation.

Depreciation: (1) In appraisal, a loss of value in property due to any cause, including physical deterioration, functional obsolescence and external obsolescence. (2) In real estate investment, an expense deduction for tax purposes taken over the period of ownership of income property. See also cost recovery.

Descent: Acquisition of property through inheritance laws when there is no will.

Determinable fee estate: A fee simple estate in which the property automatically reverts to the grantor upon the occurrence of a specified event or condition.

Developer: One who converts raw land into a platted subdivision, installs utilities, builds streets and so forth, and who may construct buildings on lots and sell them.

Devise: A gift of real property by will. The donor is the deviser and the recipient is the devisee.

Discount points: An added loan fee charged by a lender to make the yield on a lower-than-market-



value loan competitive with higher-interest-rate loans.

Discount rate: (1) The interest rate charged member banks that borrow from the Federal Reserve System. (2) The rate used to convert future income into present value.

Doctrine of relation back: Irrevocable deposit of the executed deed, purchase money and instructions into escrow, pending performance of escrow conditions.

Dominant Tenement: A property that includes in its ownership the appurtenant right to use an easement over another person's property for a specific purpose.

Dower: The legal right or interest recognized in some states, that a wife acquires in the property her husband held or acquired during their marriage. During the husband's lifetime the right is only a possibility of an interest; upon his death it can become an interest in land. Dower is not recognized in Texas.

Duress: Unlawful constraint or action exercised on a person, whereby the person is forced to perform an act against his or her will. A contract entered into under duress is considered voidable.

Earnest money deposit: An amount of money, deposited by a prospective buyer as evidence of good faith under the terms of a contract, that is to be forfeited if the buyer defaults, but applied on the purchase price if the sale is closed.

Easement: A right to use the land of another for a specific purpose, such as for a right-of-way or utilities; an incorporeal interest in land.

Easement appurtenant: An easement that passes with the land upon conveyance.

Easement by implication: An easement that arises when the parties' actions imply that they intend to create an easement.

Easement by necessity: An easement allowed by law as necessary for the full enjoyment of a parcel of real estate; for example, a right of ingress (entry) and egress (exit) over a grantor's land.

Easement in gross: An easement that is not created for the benefit of any land owned by the

owner of the easement, but that attaches personally to the easement owner. For example, a utility easement.

Economic life: The period of time during which a structure may reasonably be expected to perform the function for which it was designed or intended. For IRS purposes, the time a property is allowed to be depreciated.

Economic obsolescence: See external obsolescence.

Emblements: Growing crops, such as grapes and corn, that are produced annually through labor and industry: deemed to be personal property.

Eminent domain: The right of a government or municipal quasi-public body to acquire property for public use through a court action called condemnation, in which the court decides that the use is a public use and determines the price or compensation to be paid to the owner.

Employment contract: A document evidencing formal employment between employer and employee or between principal and agent. In the real estate business, this generally takes the form of a listing agreement or management agreement.

Enabling acts: State legislation that confers certain powers, such as municipal zoning ordinances.

Encroachment: A building or some portion of it – a wall or fence, for instance – that extends beyond the land of the owner and illegally intrudes on some land of an adjoining owner or a street or alley.

Encumbrance: Any lien (such as a mortgage, tax or judgment lien or an easement or a restriction on the use of the land) that may diminish the value of a property: a cloud against clear, free title to property. A limit on a property owner's rights in land.

Endorsement: An additional document attached to an original insurance policy that amends the original; a rider. Or, writing one's name, with or without additional words, on a negotiable instrument.

Equal Credit Opportunity Act: A federal law to ensure that funds are available to qualified loan applicants without discrimination on the basis of race, color, religion, sex, national origin, age, marital status or receipt of public assistance.



Equal opportunity in housing: A federal code that ensures that all U.S. citizens have access to housing without discrimination.

Equalization: The raising or lowering of assessed value for tax purposes in a particular country or taxing district to make them equal to assessments in other counties or districts.

Equalization factor: A factor (number) by which the assessed value of a property is multiplied to arrive at a value for the property that is in line with statewide tax assessments. The ad valorem tax would be based on this adjusted value. Texas taxes are based on 100 percent value.

Equitable lien: A lien arising out of common law. See statutory lien.

Equitable right of redemption: The right to redeem a property before a foreclosure sale by paying the full debt plus interest and accrued charges.

Equitable title: The interest held by a vendee under a contract for deed or an installment contract: the equitable right to obtain absolute ownership to property when legal title is held in another's name.

Equity: The interest or value that an owner has in his or her property over and above any mortgage indebtedness.

Erosion: The gradual wearing away of land by water, wind and general weather conditions; the diminishing of property caused by the elements.

Escheat: The reversion of property to the state or county, as provided by state law, in the event the property is abandoned or the owner dies without leaving a will and has no heirs to whom the property may pass.

Escrow: The closing of a transaction through a third party called an escrow agent, who receives certain funds and documents to be delivered upon the performance of certain conditions outlined in the escrow agreement.

Escrow agreement: A contract used when a transaction is closed through escrow that sets forth the duties of the escrow agent, as well as the requirements and obligations of the parties to the transaction.

Estate at will: See, tenancy at will.

Estate for years: A leased interest in property for a certain, exact period of time and for a specified consideration.

Estate from period to period: See periodic estate.

Estate in land: The degree, quantity, nature and extent of interest that a person has in real property.

Estate taxes: Federal taxes on a decedent's real and personal property.

Estimate of value: An appraisal; the appraised value.

Estoppel certificate: A document in which a borrower certifies the amount he or she owes on a mortgage loan and rate of interest.

Eviction: A legal process to oust a person from possession of real estate. See forcible entry and detainer.

Evidence of title: Proof of ownership of property, commonly a title insurance policy or an abstract of title with lawyer's opinion.

Exception: As used in the conveyance of real estate, the exclusion of some part of the property conveyed, with the title of that excepted part remaining with the grantor; contrast with reservation.

Exchange: A transaction in which all or part of the consideration is the transfer of like kind property (such as investment real estate for investment real estate).

Exclusive agency: A listing contract under which the owner appoints a real estate broker as his or her exclusive agent for a designated period of time to sell the property, on the owner's stated terms, for a commission. The owner reserves the right to sell, without paying anyone a commission if he or she sells to a prospect who has not been introduced or claimed by the broker.

Exclusive right to sell: A listing contract under which the owner appoints a real estate broker as his or her exclusive agent for a designated period of time to sell the property on the owner's stated terms and agrees to pay the broker a commission when the property is sold, whether by the broker, the owner or another broker.



Executed contract: A contract in which all parties have fulfilled their promises, and thus performed the contract.

Execution: The signing and delivery of an instrument. Also, a legal order directing an official to enforce a judgment against the property of a debtor.

Executor/executrix: The man/woman appointed in a will to carry out the request of the will; contrast with administrator/administratrix.

Executory contract: A contract under which something remains to be done by one or more of the parties.

Expenses: Short-term costs, such as minor repairs, regular maintenance and renting costs, that are deducted from an investment property's income.

Express agency: An agency created by specific agreement, whether written or oral, of principal and agent.

Express authority: The authority derived from express agency.

Express contract: An oral or a written contract in which the parties state the contract's terms and express their intentions in words.

External obsolescence: Reduction in a property's value caused by factors outside the subject property, such as social or environmental forces; also called economic (or locational) obsolescence.

Fair Housing Act of 1968: A sweeping update of the federal laws to prevent discrimination in housing because of race, color, religion or national origin, in the selling or renting of homes or apartments and in other specified transactions; amended in 1974 to include sex and in 1988 to include handicap and familial status in the categories covered by the act.

Farmer's Home Administration: A federal agency under the U.S. Department of Agriculture that channels credit to farmers and rural residents and communities.

Federal judgment lien: Lien obtained by the United States or an agency, department, commission, board, or other U.S. entity that affects all real and personal property of the judgment debtor.

Federal Reserve System: A central banking system designed to manage the nation's economy; "The Fed."

Fee simple estate: The maximum possible estate or right of ownership of real property continuing forever. Sometimes called a fee or fee simple absolute.

Fee simple subject to a condition subsequent: An estate conveyed "provided that" or "if" it is used for a specific purpose. If it is no longer used for that purpose, it reverts to the original grantor or his heirs by their exercise of the right of reentry.

Feudal system: A system of ownership usually associated with pre-colonial England in which the king or other sovereign was the source of all rights. The right of possession of real property was granted by the sovereign to an individual as a life estate only. Upon the death of the individual, title passed back to the sovereign, not to the decedent's heirs.

FHA loan: A loan insured by the Federal Housing Administration and made by an approved lender in accordance with FHA regulations.

FHLMC: The Federal Home Loan Mortgage Corporation; "Freddie Mac."

Fiduciary relationship: A relationship of trust and confidence, as between trustee and beneficiary, attorney and client, or principal and agent.

Financing statement: See Uniform Commercial Code.

Fire and extended coverage insurance: A type of policy to protect against fire, hail, windstorm and such damage.

First mortgage: A mortgage that creates a superior lien on the property mortgaged relative to other charges or encumbrances against same.

Fiscal policy: The government's policy in regard to taxation and spending programs. The balance between these two areas determines the amount of money the government will withdraw from or feed into the economy, which can counter economic peaks and slumps.

Fixity: Permanence; in real estate, the fact that land is permanent, and cannot be moved.



Fixture: An item of personal property that has been converted to real property by being permanently installed or attached to the real property.

Flexible-payment loan: A payment plan in which a mortgagor makes lower monthly payments for the first few years of a loan and larger payments for the remainder of the term.

FNMA: The Federal National Mortgage Association; “Fannie Mae.”

Forcible entry and detainer: A court suit initiated by a landlord to evict a tenant from leased premises, after the tenant has breached the terms of the lease or has held possession of the property after the lease’s expiration.

Foreclosure: A legal procedure whereby property used as security for a debt is sold to satisfy the debt in the event of default in payment of the mortgage note or default of other terms in the mortgage document. The foreclosure procedure brings the rights of all parties to a conclusion and passes the title in the mortgaged property to either the holder of the mortgage or a third party who may purchase the realty at the foreclosure sale, free of all encumbrances affecting the property subsequent to the mortgage.

Franchise tax: A state tax on corporations that permits them to do business in Texas.

Fraud: A misstatement of a material fact made with intent to deceive, or made with reckless disregard of the truth, and that actually does deceive.

Freehold estate: An estate in land in which ownership is for an indeterminate length of time, in contrast to a leasehold estate.

Fully amortized loan: A loan in which the principal and interest are payable in monthly or other installments to reduce the loan balance to zero at the end of the loan term.

Functional obsolescence: A loss of value to an improvement to real estate, arising from functional problems, often caused by age or poor design.

Future interest: A person’s present right to an interest in real property that will not result in possession or enjoyment until some time in the future, such as a reversion or right of reentry.

Gap: A defect in the chain of title of a particular parcel of real estate; a missing document or conveyance that raises doubt as to the present ownership of the land.

General agent: One authorized by his or her principal to represent the principal in a broad range of matters, such as a property manager.

General contractor: A construction specialist who enters into a formal construction contract with a landowner or master lessee to construct a real estate building or project. The general contractor often contracts with several subcontractors specializing in various aspects of the building process to perform individual jobs. A general agent can bind his or her principal. He or she can sign legally binding agreements in the name of the principal.

General lien: The right of a creditor to have all of a debtor’s property – both real and personal – sold to satisfy a debt.

General partnership: See partnership.

General tax: See ad valorem tax.

General warranty deed: See warranty deed.

GNMA: The Government National Mortgage Association; “Ginnie Mae.”

Government survey system: See rectangular survey system.

Graduated-payment method: A payment plan that allows a mortgagor to make lower monthly payments for the first few years of the loan; usually, based on an artificially low payment schedule, resulting in negative amortization or deferred interest.

Grantee: A person who receives a conveyance of real property from the grantor.

Granting clause: Words in a deed of conveyance that state the grantor’s intention to convey the property at the present time. This clause generally is worded as “convey and warrant,” “grant,” “bargain and sell,” or the like.

Grantor: The person transferring title to or an interest in real property to a grantee.



Gross income multiplier: The ratio used to convert annual income into market value in appraising industrial and commercial properties.

Gross lease: A lease of property under which a landlord pays all property charges regularly incurred through ownership, such as repairs, taxes, insurance and operating expenses. Most residential leases are gross leases.

Gross rent multiplier: A figure used as a multiplier of the gross monthly rental income of a property to produce an estimate of the property's value.

Ground lease: A lease of land only on which the tenant usually owns a building or is required to build his or her own building as specified in the lease. Such leases are usually long-term net leases; the tenant's rights and obligations continue until the lease expires or is terminated through default.

Habendum clause: That part of a deed beginning with words "to have and to hold," following the granting clause and defining the extent of ownership the grantor is conveying.

Hereditaments: Every kind of inheritable property, including real, personal, corporeal and incorporeal property.

Heir: One who might inherit or succeed to an interest in land under the state law of descent when the owner dies without leaving a valid will.

Heterogeneity: See nonhomogeneity

Highest and best use: The possible use of land that would produce the greatest returns, and thereby develop the highest land value. The optimum use of a site as used in appraisal.

Holdover tenancy: A tenancy whereby a lessee retains possession of leased property after his or her lease has expired and the landlord, by continuing to accept rent, agrees to the tenant's continued occupancy as defined by state law.

Holographic will: A will that is written, dated and signed in the testator's handwriting but is not witnessed.

Home Mortgage Disclosure Act: A federal law that prevents "redlining" or denial of funds to cer-

tain areas; requires public notices to be posted by housing lenders.

Homeowners' insurance policy: A standardized package insurance policy that covers a residential real estate owner against financial loss from fire, theft, public liability and other common risks.

Homestead: Land that is owned and occupied as the family home. In Texas, a portion of the area or value of this land is protected or exempt from forced sale by creditors for judgment for debts other than taxes, purchase money or improvements.

Hypothecation: The pledge of specific real or personal property as security for an obligation without surrendering possession of it.

Implied agency: An agency created by acts or words of the principal and agent; an agency inferred by circumstances.

Implied contract: A contract under which the agreement of the parties is demonstrated by their acts and conduct.

Improvement: (1) An improvement on land is any structure, usually privately owned, erected on a site to enhance the value of the property: for example, buildings, fences and driveways. (2) An improvement to land is usually a publicly-owned structure, such as a curb, sidewalk, street or sewer.

Income approach: The process of estimating the value of an income-producing property by capitalization of the annual net income expected to be produced by the property during its remaining useful life.

Incorporeal rights: A nonpossessory right in real estate, for example, an easement or right-of-way.

Independent contractor: Someone retained to perform a certain act, but who is subject to the control and direction of another only as to the end result and not as to the way in which he or she performs the act. Unlike an employee, an independent contractor pays for all his or her expenses and social security and income taxes and receives no employee benefits. Most real estate salespeople are independent contractors.

Infant: A person who has not reached the legal age of majority; a minor.



Infill: The development of previously undeveloped tracts in an urban environment. Can also include the redevelopment of under-utilized tracts of land in an urban environment.

Inflation: An increase in the volume of money and credit relative to available goods resulting in a substantial and continuing rise in the general price level.

Informed consent exception: A provision in many state real estate license laws that permits a broker to represent both buyer and seller to a transaction if he or she has their prior mutual consent to do so.

Inheritance taxes: State-imposed taxes on a decedent's real and personal property.

In-house sale: Occurs when a single brokerage firm sells one of its own listings; the broker is on both the listing and the selling side of the transaction.

Installment contract: See contract for deed.

Installment sale: A transaction in which the sales price is paid in two or more installments over two or more years. If the sale meets certain requirements, a taxpayer can postpone reporting income to future years by paying tax each year only on the proceeds received that year.

Insurable title: A title that a title company will insure.

Interest: (1) A charge made by a lender for the use of money. (2) The type and extent of ownership in property.

Interim financing: A short-term loan usually made during the construction phase of a building project (in this case, often referred to as a construction loan).

Intermediary broker: A broker who is employed to negotiate a transaction between both parties and for that purpose may be an agent of both parties to the transaction, acting fairly so as not to favor one party over the other.

Internal Revenue Service tax lien: A general lien imposed by the IRS for the nonpayment of income taxes.

Interstate Land Sales Full Disclosure Act: A federal law requiring a property report to be furnished to prospective buyers of certain types of real estate.

Intestate: The condition of a property owner who dies without leaving a valid will. Title to the property will pass to his or her heirs as provided in the state law of descent.

Intimidation: As defined in the fair housing laws, the illegal act of coercing, threatening or interfering with a person in exercising or enjoying any right granted or protected by federal, state or local fair housing laws.

Intrinsic value: An appraisal term meaning the result of a person's individual choices and preferences.

Investment: Money directed toward the purchase, improvement and development of an asset in expectation of income or profits.

Involuntary alienation: see alienation

Involuntary lien: A lien that arises by the action of another such as a judgment lien.

Joint tenancy: Ownership of real estate between two or more parties who have been named in one conveyance as joint tenants. Upon the death of one joint tenant, his or her interest passes to the surviving joint tenant or tenants by the right of survivorship. Not automatically created in Texas.

Joint venture: The joining of two or more people to conduct a specific business enterprise. A joint venture is similar to a partnership in that it must be created by agreement between the parties who share in the losses and profits of the venture. Yet it is unlike a partnership in that the venture is for one specific project only, rather than for a continuing business relationship.

Judgment: The formal decision of a court on the respective rights and claims of the parties to an action or suit. After a judgment has been entered and recorded with the county recorder, it usually becomes a general lien on the property of the defendant.

Junior lien: An obligation, such as a second mortgage, that is subordinate in right or lien priority to an existing lien on the same realty.



Laches: An equitable doctrine used by courts to bar a legal claim or prevent the assertion of a right because of undue delay or failure to assert the claim or right.

Land: The earth's surface, extending downward to the center and upward to infinity.

Land contract: See contract for deed.

Last will and testament: See will.

Latent defect: A hidden structural defect presumably resulting from faulty construction, known to the seller, but not to the purchaser, and not readily discoverable by inspection.

Law of agency: See agent.

League: In Texas, a tract of land that was granted to a settler by the Mexican Government; a league consists of 6.919 square miles.

Lease: A written or oral contract between a landlord (the lessor) and a tenant (the lessee) that transfers the right to exclusive possession and use of the landlord's real property to the lessee for a specified period of time and for a stated consideration (rent). By state law, leases for longer than one year must be in writing to be enforceable.

Leasehold estate: A tenant's right to occupy real estate during the term of a lease; generally considered to be a personal property interest.

Lease option: A type of lease which allows the tenant to buy the property at a preset price and terms for a given period of time; a lease with an option to buy.

Legacy: A disposition of money or personal property by will.

Legal description: A description of a specific parcel of real estate complete enough for an independent surveyor to locate and identify it.

Legality of object: An essential component of a valid contract: a contract must be for a legal purpose and in compliance with public policy.

Lessee: See lease.

Less favorable treatment: Any time a person is treated differently on the basis of race, sex, religion, color, national origin, handicap or familial status, either by act or inaction; in the selling or leasing of real property, it is a violation of the fair housing laws. Also known as unequal treatment or different treatment.

Lessor: See lease.

Leverage: The use of borrowed money to finance the bulk of an investment and to magnify the rate of return.

Levy: (1) To assess or to levy a tax is to assess a property and set the rate of taxation. (2) To seize or collect; to levy an execution is to officially seize an owner's property to satisfy an obligation.

Liability coverage: The type of insurance that protects against the risks that could render the property owner responsible for certain damages to the property or persons of others.

License: (1) A privilege or right granted to a person by a state to operate as a real estate broker or salesperson. (2) The revocable permission for a temporary use of land – a personal right that cannot be sold.

Lien: A right given by law to certain creditors to have debts paid out of property of a defaulting debtor, usually by means of a court sale.

Lien theory: Some states' interpretation of a mortgage as being purely a lien on real property. The mortgagee thus has no right of possession, but must foreclose the lien and sell the property if the mortgagor defaults. Texas is a lien theory state.

Life estate: An interest in real or personal property that is limited in duration to the lifetime of its owner or some other designated person.

Life tenant: A person in possession of a life estate.

Like-kind property: See exchange.

Limited liability company: A business organization in which a member or manager is not generally held liable for debts, obligations or liabilities of the company.

Limited partnership: See partnership.



Liquidity: The ability to sell an asset and convert it into cash at a price close to its true value in a short period of time.

Lis pendens: A recorded legal document giving constructive notice that an action affecting a particular property has been filed in either a state or a federal court.

Listing agreement: A contract between a landowner (as principal) and a licensed real estate broker (as agent) by which the broker is employed to sell real estate on the owner's terms within a given time, for which service the landowner agrees to pay a commission.

Listing broker: The broker in a multiple-listing situation from whose office a listing agreement is initiated, as opposed to the selling broker, from whose office negotiations leading up to a sale are initiated. The listing broker and the selling broker may be the same person if disclosed to all parties. See also multiple listing.

Littoral rights: (1) A landowner's claim to use water in large navigable lakes and oceans that are adjacent to his or her property. (2) The ownership rights to land bordering these bodies of water up to the high-water mark.

Loan discount: See discount points.

Locational obsolescence: See external obsolescence.

Lot-and-block description: A description of real property that identifies a parcel of land by reference to lot and block numbers within a subdivision, as specified on a plot of subdivision duly recorded in the county recorder's office.

Management agreement: A contract between the owner of income property and a management firm or an individual property manager that outlines the scope of the manager authority to manage the property.

Market: A place where goods can be bought and sold and a price established.

Marketable title: Good or clear title, reasonably free from the risk of litigation over possible defects.

Market price: The actual selling price of a property.

Market value: The highest price a ready, willing and able buyer would pay and the lowest price a ready, willing and able seller would accept, neither being under any pressure to act.

Master plan: A comprehensive plan to guide the long-term physical development of a particular area.

Mechanic's lien: A statutory lien created in favor of contractors, laborers, materialmen and others (including architects, engineers or surveyors) who have performed work or furnished materials in the erection or repair of a building.

Metes-and-bounds description: A legal description of a parcel of land that begins at a well-marked point and follows the boundaries, using direction and distances around the tract back to the place of beginning.

Mill: One-tenth of one cent. Some states use a mill rate to compute real estate taxes; for example, a rate of 52 mills would be \$0.052 tax for each \$1 of assessed valuation of a property.

Minority: As defined in the Civil Rights Act of 1968 as part of the Fair Housing Law "minority means any group, or any member of a group, that can be identified either: (1) by race, color, religion, sex, or national origin: or (2) by any other characteristic on the basis of which discrimination is prohibited by a federal, state or local fair housing law." (As of 1988, minority categories include handicap and familial status.)

Misrepresentation: A false statement, or concealment, of material fact with the intention of inducing action by another.

Monetary damages: money awarded by a court to an injured party

Monetary policy: Governmental regulation of the amount of money in circulation through such institutions as the Federal Reserve Board.

Money Judgment: A court judgment ordering payment of money rather than specific performance of a certain action.

Month-to-month tenancy: A periodic tenancy under which the tenant rents for one month at a time. In the absence of a rental agreement (oral or written), a tenancy is generally considered to be month to month.



Monument: A fixed natural or artificial object used to establish real estate boundaries for metes-and-bounds description.

Mortgage: A conditional transfer or pledge of real estate as security for the payment of a debt. Also, the document creating a mortgage lien.

Mortgage-backed securities: Investment instruments that are secured by pools of mortgages and are used to channel funds from securities markets to housing markets; FNMA, FHLMC and GNMA have mortgage-backed securities programs.

Mortgage banker: A person or firm that originates, sells and then services mortgage loans; contrast with mortgage broker.

Mortgage broker: A person who, for a fee, brings borrowers and lenders together but does not service the loans that have been arranged; contrast with mortgage banker.

Mortgage (purchase-money) lien: A lien or charge on the property of a mortgagor that secures the underlying debt obligations.

Mortgagee: A lender in a mortgage loan transaction.

Mortgagor: A borrower who conveys his or her property as security for a loan.

Multiple listing: An exclusive listing (generally an exclusive right to sell) with the additional authority and obligation on the part of the listing broker to distribute the listing to other brokers in the multiple-listing organization. Not a separate type of listing.

Municipal utility district: A defined geographic area created by a developer which levies taxes to pay for water and sewer utilities to its inhabitants (usually outside a municipality).

Negative cash flow: See cash flow.

Negotiable Instrument: A written instrument, such as a note, that may be transferred by endorsement or delivery. The holder, or payee, may sign the instrument over to another person or, in certain cases, merely deliver it to him or her. The transferee then has the original payee's right to payment.

Net lease: A lease requiring the tenant to pay not only rent, but also all costs incurred in main-

taining the property, including taxes, insurance, utilities and repairs.

Net listing: A listing based on the net price the seller will receive if the property is sold. Under a net listing the broker is free to offer the property for sale at the highest price he or she can get in order to increase the commission. This type of listing is outlawed in many states; it is not recommended in Texas.

Net price: The amount the seller receives after deducting sales expenses.

Nonconforming use: A use of property that is permitted to continue after a zoning ordinance prohibiting it has been established for the area.

Nonhomogeneity: A lack of uniformity; dissimilarity. Because no two parcels of land are exactly alike, real estate is said to be nonhomogeneous; heterogeneity.

Note: An instrument of credit attesting to a debt and promising to pay.

Novation: Substituting a new obligation for an old one or substituting new parties to an existing obligation, as when the parties to an agreement accept a new debtor in place of an old one.

Nuncupative will: An oral will declared by the testator in his or her final illness, made before witnesses and afterward reduced to writing.

Objective value: The actual value measured in dollars as to the cost of an aspect of construction or location.

Offer and acceptance: Two essential components of a valid contract: a "meeting of the minds."

Open-end mortgage: A mortgage loan that is expandable by increments up to a maximum dollar amount, the full loan being secured by the same original mortgage.

Open listing: A listing contract under which the broker's commission is contingent on the broker producing a ready, willing and able buyer before the property is sold by the seller or another broker.

Open market: An economic model that allows the price of a commodity to respond freely to the forces of supply and demand.



Option: The right to purchase property within a definite time at a specified price. There is no obligation to purchase, but the seller is obligated to sell if the option holder exercises the right to purchase.

Origination fee: The finance fee charged by a lender, in addition to interest, for services in connection with granting a loan; usually a percentage of the face amount of the loan.

Ostensible agency: A form of implied agency relationship created by the actions of the parties involved rather than by written agreement or document.

Package mortgage: A method of financing in which the loan that finances the purchase of a home also finances the purchase of certain items of personal property such as specified appliances.

Panic peddling: The illegal practice of inducing panic selling in a neighborhood by making representations of the entry, or prospective entry, of members of a minority group; blockbusting.

Parcel: A specific portion of a large tract of real estate; a lot.

Participation Financing: A mortgage in which the lender participates in the income of the mortgaged venture beyond a fixed return or receives a yield on the loan in addition to the straight interest rate.

Partition: The division of covenants' interests in real property when the parties do not agree to terminate the co-ownership voluntarily; takes place through court procedures.

Partnership: An association of two or more individuals who carry on a continuing business for profit as co-owners. In a general partnership, each general partner shares in the administration, profits and losses of the operation. A limited partnership is a business arrangement whereby the operation is administered by one or more general partners and funded, by and large, by limited or silent partners, who are by law responsible for losses only to the extent of their investment. A limited liability partnership limits on individual partner's liability arising from negligence on the part of another partner.

Party wall: A wall that is located on or at a boundary line between two adjoining parcels of

land and is used or is intended to be used by the owners of both properties.

Patent: A grant or franchise of land from the U.S. Government.

Percent: By the hundred.

Percentage lease: A lease commonly used for commercial property, whose rental is based on the tenant's gross sales at the premises; it generally stipulates a base monthly rental plus a percentage of any gross sales above a certain amount.

Periodic estate: An interest in leased property that continues from period to period – week to week, month to month or year to year.

Periodic property: Items, called chattels, that do not fit into the definition of real property; movable objects; personalty.

Personalty: Items of personal property, chattel.

Physical deterioration: A reduction in a property's value resulting from a decline in physical condition: can be caused by action of the elements or by ordinary wear and tear.

PITI: Principal, interest, taxes and insurance.

Planned unit development: A planned combination of diverse land uses, such as housing, recreation and shopping, in one contained development or subdivision.

Plat: A map of a town, section or subdivision indicating the location and boundaries of individual properties.

Plottage value: The increase in value or utility resulting from the consolidation (assemblage) of two or more adjacent lots into one larger lot.

Point: A unit of measurement used for various loan charges; one point equals 1 percent of the amount of the loan. See also discount points.

Point (place) of beginning: In a metes-and-bounds legal description, the starting point of the survey situated in one corner of the parcel; all metes-and-bounds descriptions must follow the boundaries of the parcel back to the point of beginning.



Police power: The government's right to impose laws, statutes and ordinances, including zoning ordinances and building codes, to protect the public health, safety and welfare.

Power of attorney: A written instrument authorizing a person, the attorney-in-fact, to act as agent on behalf of another person to the extent indicated in the instrument.

Power-of-sale clause: A provision in a deed of trust authorizing the trustee to sell a property in the event of the borrower's default.

Precedent: In law, the requirements established by prior court decisions.

Prepayment penalty: A charge imposed on a borrower who pays off the loan principal early. This penalty compensates the lender for loss of interest and other charges.

Price: The amount of money paid for an item.

Price-fixing: See antitrust laws.

Primary mortgage market: See secondary mortgage market.

Prime rate: The interest or discount rate charged by a commercial bank to its largest and strongest customers.

Principal: (1) A sum lent or employed as a fund or investment, as distinguished from its income or profits. (2) The amount of the note due and payable. (3) A main party to a transaction – the person for whom the agent works.

Principal meridian: One of 35 north and south survey lines established and defined as part of the rectangular survey (government survey) system.

Principle of conformity: An appraisal principle holding that maximum value is realized when a reasonable degree homogeneity (sameness) exists in a neighborhood.

Prior appropriation: A theory of water law based on the idea that "first in time is first in right." The first landowner to claim water rights has the exclusive right to take all the water for specific beneficial uses. Subsequent owners of nearby properties cannot claim water rights.

Priority: The order of position based on time. The priority of liens generally is determined by the chronological order in which the lien documents are recorded. Property tax liens, however, have priority even over all previously recorded liens.

Private mortgage insurance (PMI): Default insurance on conventional loans, normally insuring the top 20 percent to 25 percent of the loan and not the whole loan.

Probate: A legal process by which a court determines who will inherit a descendant's property and what the estate's assets are; literally means, "to prove."

Procuring cause: The effort that brings about the desired result. Under an open listing, the broker who is the procuring cause of the sale receives the commission. The broker is providing a ready, willing and able buyer at a price and terms acceptable to the seller.

Promissory note: An unconditional written promise of one person to pay a certain sum of money to another at a future, specified time.

Promulgated contracts: The Texas Real Estate Commission has prepared and authorized various standard contracts that must be used by all licensees when acting as agents in real estate transactions with limited specific exceptions.

Property Manager: Someone who manages real estate for another person for compensation. Duties include collecting rents, maintaining the property and keeping up all accounting.

Prorations: Expenses, either prepaid or paid in arrears, that are divided or distributed between the buyer and seller at the closing (such as taxes, insurance, interest and rents).

Puffing: Exaggerated or superlative comments or opinions not made as representations of fact, and thus not grounds for misrepresentation.

Pur autre vie: For the life of another. A life estate pur autre vie is a life estate that is measured by the life of a person other than the grantee.

Purchase-money mortgage: A note secured by a mortgage or trust deed given by a buyer, as mortgagor, to a seller, as mortgagee, as part of the purchase price of the real estate.



Pyramiding: A process of acquiring additional properties through refinancing properties already owned and then reinvesting the loan proceeds in additional property.

Quiet title suit: See suit to quiet title.

Quitclaim deed: A conveyance by which the grantor transfers whatever interest he or she has in the real estate, without warranties or obligations.

Range: A strip of land six miles wide, extending north and south, and numbered east and west according to this distance from the principal meridian in the rectangular (government) survey system of land description.

Ready, willing and able buyer: One who is prepared to buy property on the seller's terms and is ready to take positive steps to consummate the transaction.

Real estate Land: A portion of the earth's surface extending downward to the center of the earth and upward infinitely into space, including all things permanently attached thereto, whether by nature or by a person; any and every interest in land.

Real estate broker: Any person or corporation who sells (or offers to sell), buys (or offers to buy) or negotiates the purchase, sale or exchange of real estate or who leases (or offers to lease) or rents (or offers to rent) any real estate or the improvements thereon for others and for a compensation or valuable consideration. A real estate broker may not conduct business without a real estate broker's license.

Real estate investment conduit (REMIC): A tax device that allows cash flows from an underlying block of mortgages to be passed through to security holders without being subject to income taxes at the level of trustee or agent.

Real estate investment syndicate: See syndicate.

Real estate investment trust (REIT): Trust ownership of real estate by a group of at least 100 individuals who purchase certificates of ownership in the trust, which in turn invests the money in real property and distributes the profits back to the investors, free of corporate income tax.

Real estate license law: State laws enacted to protect the public from fraud, dishonesty and incompetence of licensees in the purchase and sale of real estate.

Real estate recovery fund: A fund established by Texas Law to reimburse persons damaged by the actions of a broker or salesperson.

Real property: The earth's surface extending downward to the center of the earth and upward into space, including all things permanently attached to it by nature or by people, as well as the interest, benefits and rights inherent in real estate ownership.

Realtist: A person who is a member of the National Association of Real Estate Boards.

REALTOR®: A registered trademark term reserved for the sole use of active members of local Realtor® associations affiliated with the National Association of Realtors®.

Reconciliation: The final step in the appraisal process, in which the appraiser weighs the estimates of value received from the sales comparison, cost and income approaches to arrive at a final estimate of market value of the subject property.

Recorded plat: A subdivision map filed in the county recorder's office that shows the location and boundaries (lot and block number) of individual parcels of land; contrast with rectangular survey method and with metes and bounds.

Recording: The act of entering documents affecting or conveying interests in real estate in the recorder's office established in each county. Until it is recorded, a deed or mortgage is generally not effective against subsequent purchasers or mortgages.

Recovery fund: A fund established from real estate license revenues to cover claims of aggrieved parties who have suffered monetary damage through the illegal actions of a real estate or property inspection licensee.

Rectangular survey system: A system established in 1785 by the Federal Government providing for surveying and describing land by reference to principal meridians and base lines. Also called the government survey system.

Redemption: Buying back real estate sold in a tax sale. The defaulted owner is said to have the right of redemption. Also applies to certain rights of defaulted owners after a foreclosure sale.



Redemption period: A period established by state law during which a property owner has the rights to redeem his or her real estate from a foreclosure or tax sale by paying the sales price, interest and costs. Texas law does not permit redemption after a deed of trust foreclosure.

Redlining: The illegal practice of a lending institution denying loans or restricting their numbers for certain areas of a community.

Regulation Z: Law requiring credit institutions to inform borrowers of the true cost of obtaining credit: commonly called the Truth-in-Lending Act.

Release deed: A document that transfers all rights given a trustee under a trust deed loan back to the grantor after the loan has been fully repaid; also known as a deed of reconveyance.

Reliction: Recession of water resulting in dry land.

Remainder interest: The future interest in an estate that takes effect after the termination of another estate, such as a life estate; what is left at the termination of a life estate.

Rent: A fixed, periodic payment made by a tenant of a property to the owner for possession and use, usually by prior agreement of the parties.

Rent schedule: A statement of proposed rental rates, determined by the owner or the property manager or both, based on a building's estimated expenses, market supply and demand and the owner's long range goals for the property.

Renters' insurance: The type of insurance that covers the personal property and household goods of renters or condominium owners, but does not cover the structure.

Replacement cost: The construction cost at current prices of a property that is not necessarily an exact duplicate of the subject, but serves the same purpose or function as the original.

Reproduction cost: The construction cost at current prices of an exact duplicate of the subject property.

Reservation: Something retained by the seller; for example, minerals or life estate.

RESPA: The Real Estate Settlement Procedures Act.

Restriction: A limitation on the use of real property, generally originated by the owner or subdivider in a deed. See also deed restriction.

Reversion: The remnant of an estate that the grantor holds after he or she has granted a life estate to another person – the estate will return, or revert, to the grantor; also called a reverter.

Reversionary interest: See reversion.

Reversionary right: An owner's right to regain possession of leased property upon termination of the lease agreement.

Revocation: Termination of licensure privileges for cause.

Rider: See endorsement.

Right of First Refusal: A clause in a lease in which the tenant has the right to match or better any offer the landlord may receive on the property if the property should ever become available for purchase, before the property can be sold to someone else.

Right of survivorship: See joint tenancy.

Riparian rights: An owner's rights in land that borders on or includes a stream, river or lake. These rights include access to and use of the water for domestic purposes.

Risk management: Evaluation and selection of appropriate property and other insurance.

Rules and regulations: As used in this text, those actions taken by the Texas Real Estate Commission that have the net effect of law on licensees. These rules interpret the license act.

Sale and leaseback: A transaction in which an owner sells his or her improved property and, as part of the same transaction, signs a long-term lease to remain in possession of the premises.

Sales comparison approach: The process of estimating the value of a property by examining and comparing actual sales of comparable properties.



Sales contract: A contract containing the complete terms of the agreement between buyer and seller for the sale of a particular parcel of real estate.

Salesperson: A person who performs real estate activities while employed by or associated with a licensed real estate broker.

Secondary market: A market for the purchase and sale of existing mortgages, designed to provide greater liquidity for mortgages; also called the secondary money market. Mortgages are first originated in the primary mortgage market.

Section: A portion of a township under the rectangular survey (government survey) system. A township is divided into 36 sections, numbered 1 to 36. A section is a square with mile-long sides and an area of one square mile, or 640 acres.

Security agreement: See Uniform Commercial Code.

Security deposit: A payment by a tenant held by the landlord during the lease term and kept (wholly or partially) on default or destruction of the premises by the tenant.

Seller's broker: A real estate broker also called the listing broker, who is employed by and represents only the seller in a real estate transaction. Not to be confused with the selling broker.

Selling broker: The broker working with or representing a buyer in the purchase of a listed property.

Separate property: Under community property law, property owned solely by either spouse before the marriage, or acquired by gift or inheritance during the marriage, or purchased with separate funds during the marriage or separated by written agreement during the marriage.

Servient tenement: Land on which an easement exists in favor of an adjacent property (called a dominant tenement); also called servient estate.

Setback: The amount of space local zoning regulations require between a lot line and a building line.

Severable: Capable of being divided or split. When subsurface interests are sold by the surface owner to another, the subsurface estate has been severed from the surface estate.

Severalty: Ownership of real property by one person or one legal entity only; also called sole ownership.

Severance: Changing an item of real estate to personal property by detaching it from the land; for example, cutting down a tree.

Shared-appreciation mortgage: A mortgage loan in which the lender, in exchange for a loan with a favorable interest rate, participates in the profits (if any) the mortgagor receives when the property is eventually sold.

Situs: The personal preferences of people for one area over another, not necessarily based on objective facts and knowledge.

Sole ownership: See severalty.

Special agency: authorization by a principal to perform a single act or transaction; a real estate broker is usually a special agent for a seller, authorized to find a buyer for a particular property.

Special assessment: A tax or levy customarily imposed against only those specific parcels of real estate that will benefit from a proposed public improvement like a street or sewer.

Special warranty deed: A deed in which the grantor warrants, or guarantees the title only against defects arising during the period of his or her tenure and ownership of the property, and not against defects existing before that time, generally using the language, "by, through or under the grantor but not otherwise."

Specific lien: A lien affecting or attaching only to a certain, specific parcel of land or piece of property.

Specific performance: A legal action brought in a court of equity, in special cases, to compel a party to carry out the terms of a contract. The basis for an equity court's jurisdiction in breach of a real estate contract is the fact that land is unique, and therefore, mere legal damages would not adequately compensate the buyer for the seller's breach.

Spot zoning: A change in a local zoning ordinance to permit a particular use that is inconsistent with the area's zoning classification. Spot zoning is not favored in the law.



Statutory law: The body of laws and regulations enacted by federal and state legislative bodies.

Statute of Frauds: That part of state law that requires certain instruments, such as deeds, real estate sales contracts and certain leases, to be in writing to be legally enforceable.

Statute of limitations: That law pertaining to the period of time within which certain actions must be brought to court.

Statutory lien: A lien imposed on property by statute – a tax lien, for example – in contrast to an equitable lien, which arises out of common law.

Statutory right of redemption: The right of a defaulted property owner to recover the property after its sale by paying the appropriate fees and charges; available in Texas for tax foreclosures and certain vendor's liens; not available for a deed of trust foreclosure.

Statutory year: A year composed of 12 months, each with 30 days, for a total of 360 days in a statutory year. Also known as a banker's year; contrast with a calendar year, which has 365 days, or 366 in a leap year.

Steering: The illegal practice of directing buyers into or away from certain areas because of their race, color, etc.; channeling.

Straight-line method: A method of calculating depreciation for tax purposes, computed by dividing the adjusted basis of a property by the estimated number of years of remaining useful life.

Straight (term) loan: A loan in which only interest is paid during the term of the loan, with the entire principal amount due with the final interest payment.

Subagency: A relationship in which one firm sells a property listed by another firm to a customer-buyer that is not represented.

Subagent: A licensee who represents a principal through cooperation with and consent of a broker representing the principal and who is not sponsored by or associated with the principal's broker.

Subcontractor: See general contractor.

Subdivider: One who buys undeveloped land, divides it into smaller, usable lots and sells the lots to potential users (often developers).

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 local ordinances and regulations.

Subjective value: The perceived value of an item based on the relative benefits expected to be derived from its use.

“Subject to Clause”: A provision in a deed specifying exceptions and reservations affecting the title.

Subject to mortgage: The buyer of an already mortgaged property makes the payments, but does not take personal responsibility for the loan. Should the mortgage be foreclosed and the property sold for a lesser amount than is owed, the grantee-buyer is not personally liable for the deficiency, but the grantor-seller is; contrast with assumption of mortgage.

Sublease: The leasing of premises by a lessee to a third party for part of the lessee's remaining term. See also assignment.

Subordination: Relegation to a lesser position, usually in respect to a right or security.

Subordination agreement: A written agreement between holders of liens on a property that changes the priority of mortgage, judgment and other liens under certain circumstances.

Subpoena: A legal process ordering a witness to appear and give testimony or to present documents under penalty of law. TREC has subpoena powers.

Subrogation: The substitution of one creditor for another, with the substituted person succeeding to the legal rights and claims of the original claimant. Subrogation is used by title insurers to acquire from the injured party, rights to sue in order to recover any claims they have paid.

Substitution: An appraisal principle that states that the maximum value of a property tends to be set by the cost of purchasing an equally desirable and valuable substitute property, assuming that no costly delay is encountered in making the substitution.

Terminology
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Subsurface rights: Ownership rights in a parcel of real estate to the minerals, gas, oil and so forth that lie beneath the surface of the property.

Suit for possession: See forcible entry and detainer.

Suit to quiet title: A court action intended to establish or settle the title to a particular property, especially when a cloud on the title exists.

Supply: The amount of goods available in the market to be sold at a given price. The term often is coupled with demand.

Surety bail bond: A pledge of real estate, instead of cash as security for bail.

Surety bond: An agreement by an insurance or bonding company to be responsible for certain possible defaults, debts or obligations contracted for by an insured party; in essence, a policy insuring one's personal and/or financial integrity. In the real estate business, a surety bond is generally used to ensure that a particular project will be completed at a certain date, or that a contract will be performed as stated.

Surface rights: Ownership rights in a parcel of real estate that are limited to the surface of the property, and do not include the air above it (air rights) or minerals below the surface (subsurface rights).

Survey: The process by which boundaries are measured and land areas are determined; the on-site measurement of lot lines, dimensions and position of a house on a lot, including the determination of any existing encroachments or easements.

Syndicate: A combination of people or firms formed to accomplish a business venture or mutual interest by pooling resources. In a real estate investment syndicate, the parties own and/or develop property with the main profit generally arising from the sale of the property.

Tacking: Adding or combining successive periods of continuous occupation of real property by adverse possessors. This strategy enables someone who has not been in possession for the entire statutory period, to establish a claim of adverse possession.

Taxation: The process by which a government or municipal quasi-public body raises funds to fund its operation.

Tax basis: The amount upon which future gain is measured. Also the amount of remaining depreciation.

Tax credit: An amount by which tax owed is reduced directly.

Tax deed: An instrument, similar to a certificate of sale, given to a purchaser at a tax sale. See also certificate of sale.

Tax foreclosure: A court-ordered sale of real property to raise money to cover delinquent taxes.

Tax levy: see levy.

Tax lien: A charge against property created by operation of law. Tax liens and assessments take priority over all other liens.

Tax rate: The rate at which real property is taxed in a tax district or county. For example, in a certain county, real property may be taxed at a rate of .056 cents per \$1 of assessed valuation.

Tax sale: See tax foreclosure.

Tax shelter: A (legal) means by which an investor may reduce or defer payment of part of his or her federal income tax.

Tenancy at sufferance: The tenancy of a lessee who lawfully comes into possession of a landlord's real estate, but who continues to occupy the premises improperly after his or her lease rights have expired. The lessee is not paying rent.

Tenancy at will: An estate that gives the lessee the right to possession until the estate is terminated by either party; the term of this estate is indefinite.

Tenancy in common: A form of co-ownership by which each owner holds an undivided interest in real property as if he or she were sole owner. Each individual owner has the right to partition. Unlike joint tenants, tenants in common have no right of survivorship.

Tenant: One who holds or possesses lands or tenements by any kind of rights or title.

Testate: Having made and left a valid will.

Testator: A person who makes a last will and testament.



Texas Commission on Human Rights: The organization authorized to receive, investigate and seek to conciliate complaints of violations of the Texas Fair Housing Act.

Texas Deceptive Trade Practices – Consumer Protection Act (DTPA): Makes it illegal to use false, misleading or deceptive acts or practices in the advertising, offering for sale, selling or leasing of any real or personal property. The act provides for civil penalties and, in some cases, for mandatory triple damages and attorney fees for the aggrieved party.

Texas Department of Housing and Community Affairs: A Texas governmental agency that has financing programs to help low-income and moderate-income families acquire housing.

Texas Fair Housing Act: A “substantially equivalent” fair housing law that allows complaints to be heard by the Texas Commission on Human Rights or in state courts.

Texas Real Estate Commission: A group of people appointed by the governor to set policy in implementing the license act.

Texas Real Estate License Act: The statute that controls the licensing of persons permitted to practice real estate brokerage in Texas.

Texas Veterans Home Improvement Program: This program assists Texas veterans in the repair and improvement of their principal residence by providing low-interest home improvement loans.

Texas Veterans Housing Assistance Program (VHAP): Established by a constitutional amendment in 1984, the VHAP assists Texas veterans in the purchase of a principal residence.

Texas Veterans Land Program: Established to assist Texas veterans to buy land with a small down payment and with long-term mortgages with low interest rates.

Time is of the essence: A phrase in a contract that requires the strict performance of a certain act within a stated time frame.

Time-sharing: A form of ownership where permission is given to use certain property for certain intervals of time. Variations can create an additional interest in title.

Title: (1) The right to or ownership of land. (2) The evidence of ownership of land.

Title insurance: A policy insuring the owner or mortgagee against loss by reason of defects in the title to a parcel of real estate, other than encumbrances, defects and matters specifically excluded by the policy.

Title theory: Some states’ interpretation of a mortgage to mean that the lender is the owner of mortgaged land. Upon full payment of the mortgage debt, the borrower becomes the landowner. This is not recognized in Texas.

Township line: Lines running at six-mile intervals parallel to the base lines in the rectangular survey (government survey) system.

Township square: The principal unit of the rectangular survey (government survey) system. A township is a square with six-mile sides and an area of 36 square miles.

Trade fixture: Article installed by a tenant under the terms of a lease and removable by the tenant before the lease expires. These remain personal property and are not true fixtures.

TREC: Texas Real Estate Commission.

Trust: An arrangement whereby title to property is conveyed by a trustor (or grantor) to a person named as trustee who manages it for another person named as the beneficiary.

Unilateral contract: A contract in which the only the offeror is under obligation to perform.

Variance: Permission to violate zoning rules.

Volume: The size of a three-dimensional figure such as a cube.

Voluntary Alienation: See Alienation.

Voluntary lien: A lien that arises because of actions permitted by a person such as when signing a deed of trust or mortgage.

Warehousing agency: An agency that purchases a number of mortgage loans and assembles them into one or more packages of loans for resale to investors: FNMA, FHLMC, and GNMA are warehousing agencies.

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Warranty deed: A deed in which the grantor fully warrants good clear title to the premises. Used in most real estate deed transfers, a warranty deed offers the greatest protection of any deed.

Waste: An improper use or an abuse of property by a possessor who holds less than fee ownership, such as a tenant, life tenant, mortgagor or vendee. Such waste generally impairs the value of the land or interest of the person holding the title or the reversionary rights.

Will: A written document, properly witnessed, providing for the transfer of title to property owned by the deceased, called the testator.

Worker's compensation acts: State legislation requiring a fund to provide income to a worker who is hurt on the job.

Wraparound mortgage: A method of financing in which a new mortgage is placed in a secondary, or subordinate, position to an existing mortgage on the property. The new mortgage includes both the unpaid principal balance of the first mortgage and whatever additional sums are advanced by the lender. If the lender is the seller, such sum is not "advanced", but rather carried back as a part of the mortgage.

Writ of execution: Court order that authorizes and directs the designated officer of the court (usually the sheriff) to carry into effect the judgment or decree of the court.

Year-to-year tenancy: A periodic tenancy in which rent is collected yearly.

Zero lot line: A term generally used to describe the positioning of a structure on a lot so that one side rests directly on the lot's boundary line (no setback). Where allowed by zoning, a zero lot line is used for "garden homes."

Zoning Appeal Boards: Groups established to hear complaints about the effects of zoning ordinances on specific parcels of property.

Zoning ordinance: An exercise of police power by a municipality to regulate and control the character and use of property.