

REAL ESTATE TERMINOLOGY

A Course Companion for Studying for The Real Estate Exam, for Real Estate Home Study Courses, for Real Estate Continuing Education Courses, for Real Estate Statutory Courses, and for Any Form of College Real Estate Course.

A

ABANDONMENT Failure to occupy and use property; may result in loss of rights.

ABATEMENT OF NUISANCE The act of ending or terminating a nuisance; a type of legal action brought to end a nuisance.

ABSENTEE OWNER A property holder who does not reside on the property and who usually relies on a property manager to supervise the investment.

ABSOLUTE OWNERSHIP SEE: *Fee Simple Estate*

ABSTRACT A brief summary.

ABSTRACTORS A person who, historically, searches out anything affecting the title to real property and summarizes the information in the findings.

ABSTRACT OF JUDGMENT A summary of money judgment. The summary is usually prepared so that it may be recorded, thereby creating a (judgment) lien on real estate owned by the judgment debtor.

ABSTRACT OF TITLE A summary of the instruments affecting title to a parcel of real property as shown by the public records.

ABSTRACTION A method of valuing land. The indicated value of the improvement is deducted from the sale price.

ABSTRACTION METHOD Method of appraising vacant land; allocation of the appraised total value or sale price of the property between land and building either on a ratio basis or by subtracting a figure representing building value or price from the total appraised value or price of the property. Also called Allocation Method.

ACCELERATE To make a note all due and payable at one time.

ACCREDITED MANAGEMENT ORGANIZATION (AMO) A professional designation awarded to qualified property management firms by the institute of Real

Estate Management.

ACCREDITED RESIDENT MANAGER (ARM) An individual who has completed IREM's educational program for resident managers of residential property.

ACCELERATED COST RECOVERY SYSTEM (ACRS) The system for figuring depreciation (cost recovery) for depreciable real property acquired and placed into service after January 1, 1981

ACCELERATED DEPRECIATION A method of cost write-off in which depreciation allowances are greater in the first few years of ownership than in subsequent years. This permits an earlier recovery of capital and a faster tax write-off of an asset.

ACCELERATION CLAUSE A clause in a deed of trust or mortgage giving the lender the right to call all sums owing him or her to be immediately due and payable upon the occurrence of a certain event. It is also a clause that permits a debtor to pay off a loan before the due date.

ACCEPTANCE 1. Agreeing to the terms of an offer to enter into a contract, thereby creating a binding contract. 2. Taking delivery of a deed. The act of agreeing or consenting to an offer.

ACCEPTANCE OF AN OFFER After acceptance of an offer, a broker may not return the buyer's deposit without authorization from the seller. An essential element of every contract, it is the consent to be bound by the offer. In deeds, it is the consent to accept a grant of real property.

ACCESSION The acquisition of title to additional property by its annexation to real estate already owned. An addition to property through the efforts of man or by natural forces.

ACCESS RIGHT The right of an owner to go into and out of his or her property.

ACCOMMODATION PARTY A person who, without receiving value, signs a promissory note to help another person borrow money or get credit.

ACCOMMODATOR An intermediary who holds funds in a delayed exchange.

ACCORD AND SATISFACTION An agreement to accept something different than (and usually less than) what the

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original contract called for. The discharge of an existing contract by accepting the performance under a substitute contract. Generally, consideration under the new contract is different from and of lesser value than under the original contract, and satisfaction is the performance of that contract; the combination discharges the original contract.

ACCRETION A gradual addition to land from natural causes; for example, from gradual action of ocean or river waters.

ACCRUE To increase or accumulate; interest on loans is said to accrue daily.

ACCRUED DEPRECIATION The difference between the cost of replacement of a new building, as of the date of the appraisal and the present appraised value. Depreciation that has accumulated over a period of time. (1) The difference between the cost of replacement new as of the date of the appraisal and the present appraised value. (2) The accumulated losses in value that has affected the improvements on real property.

ACCRUED ITEMS OF EXPENSE Those incurred expenses which are not yet payable. The seller's accrued expenses are credited to the purchaser in a closing statement

ACCUSATION A written statement of rules violated, used in a property right hearing.

ACKNOWLEDGMENT When a person who has signed a document formally declares to an authorized public official (usually a notary public) that he or she signed voluntarily. The official attests that the signature is voluntary and genuine. A formal declaration before a notary public or qualified officer that the person signing the document is doing so voluntarily and using his or her legal name and signature; called notarizing.

ACOUSTICAL TILE Blocks of fiber, mineral, or metal with small holes or a rough-textured surface to absorb sound, used as covering for interior walls and ceilings.

ACQUISITION The act or process by which a person procures property.

ACQUISITION COST Under FHA. A loan is based on acquisition cost, which is sale price or FHA value, whichever is lesser, plus nonrecurring closing costs the buyer is paying per FHA rules.

ACRE A measure of land equaling 160 square rods,

4840 square yards, 43,560 square feet, or a tract about 208.71 feet square.

ACT A statute

ACTUAL AUTHORITY Authority expressly given by the principal or given by the law and not denied by the principal.

ACTUAL EVICTION Forcible removal of a tenant from a property by an officer after a judgement decree of possession has been issued in favor of the owner.

ACTUAL FRAUD An act intended to deceive another, e.g., making a false statement, making a promise without intending to perform it, suppressing the truth.

ACTUAL NOTICE An individual may be conscious of the circumstances in which the owner received title to the property and is at the same time is aware that the owner has not recorded the deed nor is he in possession of the property. There is no constructive notice, only actual notice as to the owner of the property.

ADDENDUM An attachment to a purchase agreement or to escrow instructions. Used to modify or make changes.

ADJACENT Located next to or near an object or parcel of property.

ADJOINING Located so as to touch an object or share a common property line.

ADJUDICATION A judicial or court decision.

ADJUSTED COST BASIS The income tax cost basis of the property with certain additions, such as acquisition costs and the cost of improvements, and certain subtractions, such as depreciation in value.

ADJUSTMENT INTERVAL The time between permitted changes in the interest rate or monthly payments, typically six months to one year, depending on the indexed.

ADJUSTMENTS In appraising, a means by which characteristics of a residential property are regulated by dollar amount of percentage to conform to similar characteristics of another residential property.

ADJUSTABLE-RATE-MORTGAGE A mortgage or deed of trust with a variable interest rate (an interest rate that changes periodically. This mortgage tends to attract more people into the mortgage market.

ADJUDICATIVE METHODS The resolution of a dispute by mirroring the judicial process in that a third party decides the

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controversy much as a judge does in court.

ADJUSTED BASIS The adjusted basis is equal to the purchase price plus buying.

ADJUSTABLE RATE MORTGAGE (ARM) A mortgage loan which bears interest at a rate subject to change during the term of the loan, predetermined or otherwise.

ADJUSTABLE RATE NOTE A note whose interest rate is tied to a flexible index.

ADMINISTRATIVE AGENCY A government agency that administers a complex area of law, adopting an enforcing detailed regulations that have the force of law.

ADMINISTRATIVE LAW JUDGE A law judge that conducts hearings enforcing the detailed regulations that have the force of law, by a government agency. It is a complex area of law.

ADMINISTRATOR A person appointed by the probate court to manage and distribute the estate of a deceased person when no executor is named in the will or there is no will.

ADJUSTED COST BASIS For tax purposes it is the cost of the property plus improvements and minus depreciation, amortization, and depletion.

ADMINISTRATOR A person appointed by the probate court to administer the estate of a deceased person. His or her duties include making an inventory of the assets, managing the property, paying the debts and expenses, filing necessary reports and tax returns, and distributing the assets as ordered by the probate court.

AD VALOREM According to value

AD VALOREM LIEN Refers to General real estate tax.

AD VALOREM TAX A property tax based upon value.

ADVANCES Transfer of funds from a lender to a borrower in advance on a loan. Money advanced by a beneficiary under a trust deed to pay real estate taxes or other items to protect the lender's interest under the trust deed. Also refers to additional funds loaned under an open-end trust deed or mortgage.

ADVANCE FEE ACCOUNTS A verified copy of advance fee accounts must be sent to the owner of advance fee funds every quarter.

ADVANCE FEE AGREEMENTS. For DRE approval, an advance fee agreement must state the total amount of advances fees to be paid. An advance fee agreement may not include a guarantee the transaction will be completed.

ADVANCE COMMITMENT The institutional investor's prior agreement to provide long-term financing upon the completion of construction; also known as a take-out loan commitment.

ADVANCE FEES A fee paid in advance of any services rendered. Sometimes unlawfully charged in connection with that illegal practice of obtaining a fee in advance for the advertising of property or a business for sale, with no intent to obtain a buyer, by persons representing themselves as a real estate licensee, or representative of a licensed real estate firm.

ADVERSARY Opponent, a person or a group that opposes the other.

ADVERSE INTEREST A purpose in opposition to the interest of another party (as for example, with a buyer and a seller)

ADVERSE POSSESSION A method of acquiring property based on open and notorious possession, under a claim of right, color of title, continuous use for five years, and the payment of taxes. A method of acquiring property through continuous use of that property while paying taxes on it.

ADVERTISING (COSTS) Purchased space in a newspaper, magazine or other medium used to attract public attention to a commodity for sale or lease. They should be based on projected vacancies, turnover market conditions. Where you advertise depends on who are the customers that you want to reach.

AFFIANT One who makes an affidavit or gives evidence.

AFFIDAVIT A statement or declaration reduced to writing, sworn to or affirmed before some officer who has authority to administer an oath or affirmation, such as a notary public or a commanding officer in the service.

AFFIDAVIT OF TITLE A statement in writing, made under oath by seller or grantor, acknowledged before a Notary Public in which the affiant identifies himself or herself and affiant's marital status certifying that since the examination of title on the contract date there are no judgments, bankruptcies or divorces, no unrecorded deeds, contracts, unpaid repairs or improvements, or defects of title known to the affiant and that affiant is in possession of the property.

AFFIRM To confirm, swear, ratifying, verify.

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AFFIRMATION A solemn declaration by an individual who is adverse to take an oath.

AFTER-TAX CASH FLOW (See cash flow)

AGE-LIFE METHOD OF DEPRECIATION SEE: Straight-line Method of Depreciation.

AGENCY A special relationship of trust by which one person (agent) is authorized to conduct business, sign papers, or otherwise act on behalf of another person (principal).

AGENCY AGREEMENT An agent must use reasonable care and skill in carrying out the tasks dictated by the agency agreement.

AGENCY CONFIRMATION STATEMENT The Agency Disclosure Addendum will always be used by the selling broker whenever Agency Confirmation Statement is required. An Agency Confirmation Statement is required in a transaction involving the lease of one-top-four unit residential property for more than one year.

AGENCY COUPLED WITH AN INTEREST When the agent has a personal interest in the subject of the agency; as when one co-owner has been authorized by the others to sell the property.

AGENCY DISCLOSURE ADDENDUM This required when a broker is involved in negotiating the sale of one-to-four unit residential property. This defines and explains, in general terms, the words and phrases used to express the agency relationship of brokers to the parties of the residential sale transaction. Refusals to sign the Agency Disclosure Addendum could occur when: owners refuse to list with the broker FSBO seller's refusal to accept an offer and when buyers refuse to sign a deposit receipt offer presented for consideration.

AGENT One who represents another called a principal and has authority to act for the principal in dealing with third parties. The relationship is referred to as an agency. Someone authorized to act for another (called the principal) in business matters.

AGENT, GENERAL An agent authorized to handle all of the principal's affairs in one area or in a specified area.

AGENT, SPECIAL An agent authorized to do everything that can be lawfully delegated to a representative.

AGENT, UNIVERSAL An agent authorized to do everything that can be lawfully be delegated to a representative.

AGENTS OF PRODUCTION Four factors that are combined to produce income; labor, coordination, capital, and land.

AGREEMENT A mutual understanding or compact between parties. Although often used a synonymous with contract, technically it denotes mutual promises that fail as a contract for lack of consideration.

AGREED -UPON-COMPENSATION To receive this compensation you must be the procuring cause, must find a ready, willing and able buyer, and must be the one that initially brought the third party into the contract..

AGREEMENT FOR DEED (See contract for deed)

AGREEMENT OF SALE (1) A written contract between a buyer and seller setting out the terms of sale. (2) An installment sales contract covering real property, especially a long-term contract.

AGRICULTURE (FLORIDA) Defined in Chapter 475,F.S., to mean property zoned as such, consisting of more than 10 acres.

AIR LOT A parcel of property above the surface of the earth, not containing any land; for example , a condominium unit on the third floor.

AIR RIGHTS The rights in real property to the reasonable use of the air space above the surface of the land.

ALIENATE Conveys title to real property.

ALIENATION The transferring of property to another. Conveyance or transfer of title to real estate from one person to another person.

ALIENATION CLAUSE In a deed of trust or mortgage, a provision that if the secured property is sold or transferred, the lender has the option of accelerating the loan and declaring the entire unpaid balance immediately due and payable. Also called a "due-on-sale" clause.

ALIENATION, INVOLUNTARY Transfer of an interest in property against the will of the owner, or without the action of the owner, occurring through the operation of law, natural process, or adverse possession.

ALIENATION, VOLUNTARY When an owner voluntarily transfers an interest to someone else.

ALL-INCLUSIVE DEED OF TRUST A financing device

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whereby a lender makes payments on the existing trust deeds of a borrower and takes from the borrower a junior trust deed with a face value in an amount equal to the amount outstanding on the old trust deeds and the additional amount of money borrowed.

ALLOCATION METHOD SEE: Abstraction Method.

ALLODIAL SYSTEM A theory of land ownership that individuals may own land free of the rights of an overlord.

ALLODIAL TENURE A real property ownership system where ownership may be complete except for those rights held by the government. Allodial is in contrast to feudal tenure.

ALLUVION (ALLUVIUM) Soil that has been deposited by accretion on the shore of a river or body of water and that increases the real property.

ALTA OWNERS POLICY (A.L.T.A.) An owner's extended coverage policy that provides buyers and owners the same protection the ALTA policy gives to lenders.

ALTA TITLE POLICY (American Land Title Association) A type of title insurance policy issued by title insurance companies which expands the risks normally insured against under the standard type policy to include unrecorded mechanic's liens; unrecorded physical easements; facts a physical survey would show; water and mineral rights; and rights of parties in possession, such as tenants and buyers under unrecorded instruments.

ALTER EGO A doctrine which holds that a corporation is really owned by shareholders as their own property, and therefore it should not be considered as a separate entity. Usually used to try to hold shareholders liable for corporate debts.

ALTERNATIVE DISPUTE RESOLUTION (ADR)
The resolution of disputes by negotiation, mediation, and arbitration.

ALTERNATIVE MORTGAGE INSTRUMENTS
Nonstandardized financing loans.

AMBULATORY Capable of being changed or revoked. In wills, it refers to the concept that a will may be revoked or modified at any time up to the testator's death.

AMELIORATING WASTE Improvements to property that, while not damaging the value of the property, technically qualify as waste. For example, an apartment building constructed on property designated only for single-family structures is considered ameliorating waste.

AMENITIES As used in the real estate business, the features that make a piece of real property, especially a home, enjoyable.

AMENDMENT A change made to correct an error or to alter or augment part of an agreement without changing its principle idea or essence.

AMERICAN INSTITUTE OF ARCHITECTS (AIA) A professional association of registered architects that publishes construction contract forms as one of its activities.

AMERICAN SOCIETY OF INDUSTRIAL SECURITY A professional association of industrial security personnel that provides training leading to the designation of Certified Protection Professional (CPP).

AMERICANS WITH DISABILITIES ACT This is the act that set forth the requirement that landlords must make facilities accessible to the handicapped to the extent readily achievable.

AMORTIZATION (1) The liquidation of a financial obligation on an installment basis, which includes both principal and interest. (2) Recovery of cost or value over a period of time. The method or plan for the payment of a debt, bond, deed of trust, etc., by installments or sinking fund.

AMORTIZE Pay off a debt in installments.

AMORTIZED LOAN (MORTGAGE) A loan to be repaid, interest and principal, by a series of regular payments that are equal or nearly equal, without any special balloon payment prior to maturity. Also called a Level Payment Loan

AMOUNT IN CONTROVERSY The amount of money at issue in a lawsuit; used as a limitation on the jurisdiction of some courts.

ANCHOR STORE The most important store in a shopping center, the store that has the largest draw of customers.

ANNEXATION Attaching personal property to land so that the law views it as part of the real property (a fixture). Annexation can be actual or constructive.

ANNEXATION, ACTUAL A physical attachment of personal property to land.

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ANNEXATION, CONSTRUCTIVE When personal property is associated with real property in such a way that the law treats it as a fixture, even though it is not physically attached to the real property.

ANNIVERSARY DATE Recurring every year; the date an insurance policy must be renewed to continue in effect.

ANNUAL DEBT SERVICE The amount of money required each year for the payment of all mortgage interest and principal.

ANNUAL PERCENTAGE RATE (APR) The cost of credit as determined in accordance with Regulation Z of the Board of Governors of the Federal Reserve System for implementing the Federal Truth in Lending Act.

ANNUITY A sum of money received or paid yearly or at other fixed periods.

ANNUITY CAPITALIZATION An income capitalization method providing for annuity recapture of invested capital; also referred to as yield capitalization. Discounts future income to an estimate of present value.

ANSWER The document the defendant must file with the court in response to the plaintiffs complaint.

ANTICIPATION, PRINCIPLE OF Affirms that value is created by the anticipated benefits to be derived in the future.

ANTICIPATORY BREACH Advance notice of intention to violate the terms of a contract.

ANTICIPATORY REPUDIATION When one party in a contract informs the other before the time set for performance that he or she does not intend to perform as agreed.

ANTI-DEFICIENCY RULES Laws that prevent a secured lender from suing the borrower for a deficiency judgement after foreclosure in certain circumstances.

ANTIDEFICIENCY LEGISLATION Legislation that prohibits a lender from obtaining a judgement for money against a defaulting borrower under a deed of trust when the value of property foreclosed upon is not adequate to satisfy the debt.

ANTI-DISCRIMINATION VIOLATIONS The following

can sue in this matter, state attorney general, U.S. attorney general, and a tester.

APARTMENT OWNERS Are considered business establishments subject to the Unruh Civil Rights Act.

APPEAL The review or rehearing by a higher court of a low (inferior) court's decision.

APPELLANT The party appealing a court decision. Either party may appeal; hence, the appellant could have been either the plaintiff or the defendant in the trial court.

APPELLEE In an appeal, the party who did not file the appeal. Also known as the respondent.

APPLICANT A person who applies for something; a candidate.

APPRAISAL An estimate and opinion of value. An opinion or estimate of the fair market value of a property.

APPRAISAL CERTIFICATION There are two types of certification, general and residential.

APPRAISAL PLANT Copies of current statistics and publications kept by appraisers in their library or record room.

APPRAISAL REPORT Communication of a formal appraisal.

APPRAISED VALUE Estimated worth of a property determined by someone qualified in valuation.

APPRAISER One qualified by education, training, and experience, who is hired to estimate the value of real and personal property on the basis of experience, judgment, facts, and use of formal appraisal processes.

APPRECIATION Increase in the value of property.

APPROPRIATIVE RIGHT SEE: *Prior Appropriation*

APPROPRIATION OF WATER The taking, impounding or diversion of water flowing on the public domain from its natural course and the application of the water to some beneficial use personal and exclusive to the appropriators.

APPURTENANCE That which belongs to something, but not immemorially; all those rights, privileges and improvements which belong to and pass with the transfer of property, but which are not necessarily a part of the actual property. Appurtenances to real property pass with the real property to which they are appurtenant, unless a contrary intention is

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manifested. Typical appurtenances are right-of way, easements, water rights, and any property improvements.

APPURTENANT Attached to or considered part of land, because of being considered necessary and incidental to the use of that land. Commonly applied to easements that are considered part of property.

APPURTENANT RIGHT A right that belongs to the owners of one property that gives them the right to use another property (which they do not own) in a specific way that benefits their property (e.g., an easement).

APPURTENANCE, INTANGIBLE An appurtenant right that does not involve ownership of physical objects; for example, an easement (as opposed to mineral rights).

APR See: ANNUAL PERCENTAGE RATE

ARBITRATION A neutral third party who listens to each party's position and makes a final binding decision.

ARBITRATOR A neutral third party who receives evidence and resolves the dispute.

ARCHITECTURAL STYLE Generally the appearance and character of a building's design and construction.

AREA MANAGEMENT BROKER (AMB) A property manager who works directly for the Federal Housing Administration managing subsidized housing under contract.

ARM An adjustable rate mortgage.

ARMS LENGTH TRANSACTION A transaction, such as the sale of property, in which all parties involved are acting in their own self-interest and are under no undue influence or pressure from the other parties.

ARREARS That which is behind; used when describing payment of past due interest and loan payments.

ARTICLES OF INCORPORATION An instrument setting forth the basic rules and purposes under which a private corporation is formed.

ARTIFICIAL PERSON A person created by law, as distinguished from a natural person, a human being; usually refers to a corporation.

ARMS LENGTH TRANSACTION May be used

when the price paid for a comparable property is being used.

AS IS CLAUSE A provision in a deposit receipt stating that the buyer accepts the property in its present condition.

ASSEMBLAGE The process of combining two or more contiguous parcels into one larger parcel which makes the one parcel more valuable than the separate properties.

ASSESSED VALUE Value placed on property as a basis for taxation. A value used by the tax assessor before July 1978. It represented 25 percent of the assessor's fair market value. After deducting any exemptions from assessed value, one applied the tax rate to the net figure to determine annual property taxes.

ASSESSMENT The valuation of property for the purpose of levying a tax, or the amount of tax levied.

ASSESSMENT BOND An obligation to pay for costs of local improvements such as sidewalks, sewers, or street lighting.

ASSESSMENT OF REAL PROPERTY In a real estate transaction a sale of real property would create a new assessment of real property.

ASSESSMENT ROLL A list of all taxable property showing the assessed value of each parcel; establishes the tax base.

ASSETS Anything of real value owned by an individual or business.

ASSESSOR The official who has the responsibility of determining the assessed values.

ASSET MANAGEMENT The assembly, management and disposition of a portfolio of investment properties.

ASSIGN To transfer a right or an interest in property to another.

ASSIGNEE One to whom property is assigned or transferred.

ASSIGNMENT A transfer to another of any property or right. The transfer of one's entire interest in property. Generally, the term is limited to intangible personal property (that is, stocks, bonds, promissory notes) and to leasehold estates.

ASSIGNMENT OF RENTS An assignment of future rents from property as security for a debt.

ASSIGNMENT FOR RENTS CLAUSE A clause in a deed of

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trust or mortgage, providing that in the event of default, all rents and income from the secured property will be paid to the lender to help reduce the outstanding loan balance.

ASSIGNMENT OF A DEED OF TRUST An instrument that transfers the beneficial interest under a deed of trust from one lender to another.

ASSIGNMENT OF RENT CLAUSE A clause in a trust deed that gives the beneficiary the right under limited circumstances to collect rents of the property if the borrower defaults.

ASSIGNOR One who assigns a right or an interest to another.

ASSIGNEES Those to whom property or interests therein shall have been transferred

ASSOCIATE Person working for a broker.

ASSOCIATION An organization of persons having a common interest.

ASSOCIATION AGREEMENT Set of private conditions, covenants, and restrictions applying to all properties in a planned unit development, condominium, or other community project.

ASSUMPTION Acceptance of personal liability for another's debt or obligation. In the case of the sale of real estate, the buyer personally accepts and promises to pay off the existing deed of trust.

ASSUMPTION FEE A lender's charge for changing over and processing new records for a new owner who is taking over an existing loan.

ASSUMPTION OF AGREEMENT A contract by which a person agrees to pay a debt or obligation owed by someone else.

ASSUMPTION OF MORTGAGE OR DEED OF TRUST

The taking of title to property by a grantee in which he or she assumes liability for payment of existing note secured by a mortgage or deed of trust against the property.

ATTACHED HOUSE Shares one or more walls and often involves a party wall agreement.

ATTACHMENT Seizure of property by court order before judgment, usually done to have it available in the event a judgment is obtained in a pending law suit. The actual or constructive seizure of property by court order during a lawsuit. The usual purpose is to hold the assets as security for the satisfaction of a judgment.

ATTACHMENT LIEN A lien on property arising because of an attachment of that property.

ATTACHMENTS, MAN MADE SEE: *Fixture*

ATTACHMENTS, NATURAL Things growing on a piece of land, such as trees, shrubs or crops.

ATTEST (1) To affirm to be true or genuine. (2) An official act establishing authenticity.

ATTESTATION The act of witnessing the execution of an instrument (such as a deed or a will).

ATTORNEY-IN-FACT An agent authorized to perform certain acts for another under a power of attorney. (See Power of Attorney.)

AUTOMATIC EXTENSION CLAUSE a lease covenant providing that a lease will be renewed indefinitely until one of the parties gives notice of the intent to terminate at the end of the lease term.

AUTHORITY, ACTUAL Authority actually given to an agent by the principal, either expressly or by implication.

AUTHORITY, APPARENT SEE: *Agency, Apparent.*

AUTHORITY, IMPLIED An agent's authority to do everything reasonably necessary to carry out the principal's expressed orders.

AUTOMATED UNDERWRITING A service that enables lenders to obtain a credit risk classification using applications software in the loan underwriting process.

AVULSION The sudden tearing away or removal of land by the action of water flowing over or through it.

AWARD The decision of the arbitrator.

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BACKFILL The replacement of excavated earth in a hole or against the side of a structure.

BAILMENT Personal property is transferred in trust for an accomplishment of a specific purpose. A possessory interest in personal property.

BALANCE SHEET A financial statement showing a person's assets, liabilities, and net worth.

BALLOON PAYMENT When the final payment on a note is greater than the preceding normal installments, the final installment is termed a balloon payment. An installment promissory note providing for the last payment to be much larger than any previous payment. By statute, any payment more than twice the smallest payment is a balloon payment, although in practice generally the term refers only to the last payment.

BAND OF INVESTMENT Method of estimating interest and capitalization rates based on a weighted average of the mortgage interest rate (or other cost of borrowed funds) and the rate of return on equity required.

BANKER S MONTH 30 days

BANKER S YEAR 360 days

BARGAIN AND SALE DEED Any deed that recites a consideration and purports to convey real estate; a bargain and sale deed with a covenant against the grantor's act is one in which the grantor warrants that grantor has done nothing to harm or cloud title.

BASE COSTS Average or typical costs of similar buildings, usually obtained from published cost manuals; used in the comparative square foot method of estimating cost of construction.

BASE INDUSTRIES Businesses that attract outside money into the area, primary.

BASE LINE In the government survey system, a main east-west line from which township lines are established. Each principal meridian has one base line associated with it.

BASE RENT SEE: *Minimum Rent*.

BASE VALUE SEE: *Value, Base*

BASE AND MERIDIAN Imaginary lines used by surveyors from which they find, measure, and describe the location of lands.

BASEBOARD A board that goes around the room against the wall and next to the floor.

BASE MOLDING Molding used at the top of the baseboard.

BASIS (1) *Cost Basis* The dollar amount assigned to property at the time of acquisition under provisions of the Internal Revenue Code for the purpose of determining gain, loss and depreciation in calculating the income tax to be paid upon the sale or exchange of property. (2) *Adjusted Cost Basis* The cost basis after the application of certain conditions for improvements, etc., and deductions for depreciation.

BASE SHOW Molding used at junction of baseboard and floor, sometimes called a carpet strip.

BASIC MONEY SUPPLY This consists of cash, coins, and checking accounts.

BATNA Best Alternative To a Negotiated Agreement.

BATTEN Narrow strips of wood or metal used to cover joints on the interior or exterior of a building; they are also used for decorative effect.

BEAM A horizontal structural member supporting a load.

BEARING WALL OR PARTITION A wall or partition that supports any vertical load, in addition to its own weight.

BEFORE-TAX CASH FLOW (Btcf; Cash Throw off; Gross Spendable Income) The resulting amount when annual debt service is subtracted from net operating income.

BENCH MARKS A location indicated on a permanent marker by surveyors.

BENEFICIARY (1) One entitled to benefit from a trust. (2) The lender on the security of a note and deed of trust. The creditor (lender) under a deed of trust.

BENEFICIARY STATEMENT (See Offset Statement.)

BEQUEATH To leave by will.

BEQUEST Personal property that is given by the terms of a will. A gift of personal property by will.

BETTERMENT An improvement on real property that increases the value and is considered a capital asset.

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BILATERAL CONTRACT A contract in which the consideration given by each party is a promise: that is, a promise for a promise.

BILATERAL ESCROW INSTRUCTIONS A single set of escrow instructions signed by both the buyer and the seller; often signed at the opening of escrow, not at the end.

BILATERAL EXECUTORY CONTRACT A contract between the seller of a home and a real estate broker, whereby the seller agrees to pay the broker a commission if he procures a buyer ready, willing and able to buy and the broker agrees to use due diligence.

BILATERAL EXECUTORY When a broker contracts to perform certain services for a principal and in exchange the principal agrees to pay the broker a specific fee, their agreement would be bilateral executory.

BILL A proposed law, formally submitted to a legislature for consideration.

BILL OF SALE A written instrument given by the seller to the buyer to pass title to personal property.

BINDER A written statement that binds the parties to an agreement until formal contracts can be drawn; an agreement to cover a down payment as evidence of good faith.

BINDING ARBITRATION The decision of the arbitrator is final and not reviewable by the courts.

BIWEEKLY PAYMENTS Real estate loan payments made every two weeks. A monthly payment is divided by two and paid 26 times per year.

BIENNIUM (biennial) A period of two years.

BILATERAL CONTRACT An agreement wherein both parties are legally obligated to each other to perform.

BINDER A memorandum given subject to the writing of a formal contract for sale, usually acknowledging receipt of a portion of the down payment for purchase of real property.

BRACKETING When using the sales comparison approach, selection of market data so that the subject is contained within a range of data.

BLACKTOP Asphalt paving used in streets and driveways.

BLANKET DEED OF TRUST A deed of trust binding more than one parcel of property as security. It is frequently encountered in subdivisions, where every lot in the subdivision is bound by the same deed of trust. As the lots are sold, they are released from the deed of trust by a partial release provision.

BLANKET MORTGAGE (LOAN) One mortgage or deed of trust that covers more than one piece of real property.

BLEND-RATE MORTGAGE The average trust deed or mortgage covering more than one parcel of land.

BLIGHTED AREA An area in which real property is declining in value because of destructive economic forces.

BLIGHT CORRECTION Rehabilitation of residential properties that have deteriorated significantly.

BLIND ADVERTISEMENT Advertisement that does not contain the name of the broker.

BLOCK In reference to platted property, a group of lots surrounded by streets or unimproved land.

BLOCK BUSTING The practice on the part of unscrupulous or real estate agents of inducing panic selling of homes at below market value, especially by exploiting the prejudices of property owners in neighborhoods in which the racial make-up is changing or appears to be on the verge of change.

BOARD FOOT A unit of measurement for lumber: one foot wide, one foot long, one inch thick (144 cubic inches).

BOMA CHART OF ACCOUNTS The standardized system of income and expenses accounting for office properties developed by the Building Owners and Managers Association International.

BONA FIDE In good faith; genuine

BONA FIDE PURCHASER (BFP) A purchaser who pays fair value for property in good faith, and without notice of adverse claims.

BOND An obligation under seal. Real estate bonds are issued on the security of a mortgage or deed of trust. A certificate representing a contract for the payment of money, often used to repay certain loans or held as security to ensure the performance of a stated act. The type of investment made by people looking for fixed returns and a little risk.

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BOND COVERAGE Insurance protection individuals or firms against default in the performance of their duties.

BOOK VALUE An accounting term which is the difference between cost and the total amount of depreciation that has been taken.

BOOK OF ABSTRACTS A key set of books maintained by a title company.

BOOT In an exchange, any property that isn't treated as a like-kind for income tax purposes; for example, if a building is traded for a vacant lot and a yacht, the yacht is boot.

BORROWER (Debtor) The mortgagor; one who gives a mortgage as security for a debt.

BORROWER'S STATEMENT TO LENDER Document prepared by the lender and signed by the borrower authorizing the lender to perform certain acts (complete a loan; etc.) Usually included in the loan package.

BOUNDARY The perimeter or border of a piece of land; dividing line between one piece of property and another.

BOUNDS Boundaries

BRANCH OFFICE A business location other than the real estate broker's principal place of business.

BRACING Frame lumber nailed at an angle in order to provide stability to the structure.

BREACH The breaking of or failure of duty, either by omission or commission. The violation of or failure to perform an obligation.

BREACH OF CONTRACT. A violation of the terms of a legal agreement; default. Breach of contract allows the non-breaching party to rescind the contract, sue for damages, or sue for performance of the contract.

BREACH MATERIAL A breach of contract important enough so that it excuses the nonbreaching party from performing his or her contractual obligations.

BREAK-EVEN POINT Occupancy level at which gross income for a property equals the total fixed and variable

operating costs.

BREEZE WAY A covered porch or passage, open on two ends, that connects the house and garage, or two parts of the house.

BRIDGE LOAN A loan that bridges the gap between two other loans, usually for a short time.

BRIDGING Wood or metal pieces used to brace floor joists.

BROKER An agent who earns income by arranging sales and other contracts. A real estate broker is an individual licensed by the state of California to arrange the sale or transfer of interests in real property for compensation.

BROKER, ASSOCIATE One who is licensed as a real estate broker but works for another broker.

BROKERAGE A broker's business

BROKER'S COMMISSION Agreement between the client and the broker. This charged to the seller and not the buyer.

BROKER FEE Mere payment of the buyer's broker fee by the seller does not make the cooperating buyer's broker a dual agent.

BROKER'S LICENSE When a person is granted a broker's license it is valid for four years, unless suspended or revoked.

BROKER'S LOAN STATEMENT A statement signed and received by the borrower at the time of a loan transaction, indicating the costs, deductions, including commissions, of a loan negotiated by a real estate licensee.

BROKER'S PRINCIPAL. In a real estate transaction the broker's principal can be a: seller, buyer, or landlord.

BROKER-SALESPERSON RELATIONSHIP AGREEMENT A written agreement required by regulations of the Real Estate Commissioner setting forth the material aspects of the relationship between a real estate broker and each salesperson and broker performing licensed activities in the name of the supervising broker.

BROWNFIELDS Area where soil is contaminated.

B.T.U. British thermal unit. The quantity of heat required to raise the temperature of one pound of water one degree Fahrenheit.

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BUFFER ZONE A strip of land separating one type of land use from another.

BUILDING CODE A set of rules establishing minimum standards for construction methods and materials,

BUILDING EXPENSES A good source to find out a buildings expenses is the utility company.

BUILDING LINE Often called a setback line, a building line is a line running a certain distance from the street, in front of which an owner cannot build. These lines are set by law.

BUILDING OWNERS AND MANAGERS ASSOCIATION INTERNATIONAL (BOMA) An international organization of office building owners and managers, which fosters professionalism through its educational programs, forums and publications.

BUILDING OWNERS AND MANAGERS INSTITUTE INTERNATIONAL (BOMI) An independent educational organization supported by BOMA. Its courses lead to the designations Real Property Administrator (RPA), Systems Maintenance Technician (SMT), Systems Maintenance Administrator (SMA), and Facilities management Administrator (FMA).

BUILDING PAPER A heavy waterproofed paper used as sheathing in exterior walls, or in roof construction as insulation and protection against moisture.

BUILDING RELATED ILLNESS A clinically diagnosed condition that is caused by toxic substances or pathogens, that persists when an occupant leaves the building. Symptoms include hypersensitivity, pneumonitis, asthma and certain allergic reactions.

BUILDING RESIDUAL TECHNIQUE Technique of income capitalization; the net income to the building (after deducting the income required for the land) is capitalized into an estimated value for the building.

BUILDING STANDARD The specific set of amenities and alterations a landlord is willing to make free of charge for an incoming commercial tenant.

BULK PURCHASING A method of cutting operating costs for a property in which supplies are purchased in large quantities and stored for later use. Also called volume buying.

BULK SALE The sale by a business of a major

portion of its stock-in-trade to someone other than customers.

BUILT-INS Cabinets and other features built in as a part of the house.

BUMP CLAUSE A provision in a deposit receipt that allows the seller to keep the property on the market until a condition in the contract is fulfilled.

BUNDLE OF RIGHTS The rights that accompany the ownership of real estate. Each stick is a right

BURDEN OF PROOF SEE: Proof, Burden of.

BUNDLE OF RIGHTS An ownership concept that describes real property by the legal rights associated with owning the property. It specifies right such as the rights to sell, lease, use, occupy, mortgage, and trade the property, among others. These rights are typically purchased by the buyer in a sales transaction unless specifically noted or limited in the sale.

BUSINESS BROKER Real estate licensees who engage in the sale, purchase or lease of a business.

BUSINESS BROKERAGE The sale, purchase, or lease of businesses that provide goods and services.

BUSINESS COMPULSION SEE: Duress

BUSINESS CYCLE A wavelike movement of increasing and decreasing economic prosperity consisting of four phases; expansion, recession, contraction and revival.

BUSINESS OPPORTUNITY BROKERAGE The real estate activity dealing in the sale, purchase or lease of a business.

BUSINESS PARK A development or subdivision allocated to office-warehouse or similar use. Also known as an office park. An outgrowth of industrial parks.

BUSINESS AND PROFESSIONS CODE One of the 25 California codes containing the laws passed by the state legislature. It contains the statutes regulating the conduct of real estate brokers and establishes the Department of Real Estate.

BUSINESS OPPORTUNITY A term used to describe a business including its stock-in-trade, fixtures, and goodwill.

BUSINESS TRUST (See *Syndicate*)

BUYDOWN (See *Subsidy Buydown*)

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BUYER If the buyer in a real estate transaction, (such as lease contract) needs assistance in deciding how to take option, he should consult his attorney.

BUYER BROKERAGE AGREEMENT An employment contract with a purchase.

BUYERS MARKET The supply of available properties exceeds the demand.

BYLAWS Rules for the conduct of the internal affairs of corporations and other organizations.

C

CALL PROVISION SEE: *Acceleration Clause*

CAL-VET FINANCING The State of California holds the titles under Cal-Vet financing.

CANCEL ESCROW To terminate escrow by mutual written instructions.

CAL-VET LOAN PROGRAM (CALIFORNIA VETERANS LOAN)

A program administered by the State Department of Veterans Affairs for the direct financing of farms and homes for veterans who qualify.

CANCELED A license ceases to exist, effective as of the date approved by the Commission, and does not involve disciplinary action.

CANCELLATION Termination of a contract without undoing acts that have already been performed under contract. COMPARE; Rescission.

CANCELLATION OPTION A lease clause granting the tenant the option to cancel at the end of a predetermined term.

CAP A ceiling on interest rate increases.

CAPACITY Legal ability to perform some act, such as enter into a contract or execute a deed or will.

CAPITAL An agent of production; construction and equipment costs; investment money.

CAPITAL ASSETS Assets of a permanent nature

used in the production of income. Examples would include land, buildings, and equipment.

CAPITAL-DEFICIT AREA A region where the total amount of savings is not sufficient to finance economic development already underway in that area.

CAPITAL GAIN The gain recognized for federal and state income tax purposes when a taxpayer disposes of a capital asset.

CAPITAL EXPENDITURE Money expended on repairs and improvements and repair or prolong its life; not deductible. COMPARE: Deduction, Repair

CAPITALIZATION In appraising, a method of determining value of property by considering net income and a reasonable percentage of return on the investment.

CAPITALIZED INCOME APPROACH SEE: Income Approach.

CAPITALIZED INCOME METHOD OF DEPRECIATION Method for estimating depreciation by comparing the subject's capitalized value to its replacement cost new.

CAPITALIZATION RATE The percentage rate or rate of interest considered a reasonable return on the investment. It is used in the capitalization method of determining value based upon net return.

CAP RATE See *LIFE OF LOAN CAP*

C.A.R. Abbreviation for the California Association of Realtors.

CARET California Association of Real Estate Teachers; a division of the California Association of Realtors.

CARPET STRIP See *Base Shoe*

CARRYBACK LOAN SEE: *Loan, Carryback*

CARRYOVER CLAUSE SEE: *Extender Clause*

CASE LAW Rules of law developed in court decisions, as opposed to constitutional law, statutory law, or administrative regulations. Also called decisional law.

CASH-ON-CASH Investment return based on actual cash invested; cash flow as a percentage or ratio to equity.

CASH RETURN TO EQUITY Equity dividend; cash flow.

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CASE OR CONTROVERSY REQUIREMENT A provision in the U.S. Constitution That limits judicial power to deciding actual, active conflict (as opposed to hypothetical questions).
Declaratory relief is an exception to this rule.

CASEMENT WINDOW Windows set in frames of wood or metal that swing outward.

CASH FLOW (After tax cash flow) The new amount of cash a property produces when all cash income and other cash generated are added together and all cash expenses and other cash payments are deducted.

CASH FLOW STATEMENT A yearly financial report showing the bottom-line return after taxes.

CAUCUS Occurs when the mediator meets with each party separately.

CAUSE OF ACTION A legal right; facts giving rise to an enforceable claim.

CAVEAT EMPTOR A Latin phrase meaning "let the buyer beware"; the legal maxim stating that the buyer must examine the goods or property and buy at his or her own risk.

CCIM Certified Commercial Investment Member

C.C. & R s Abbreviation for covenants, conditions, and restrictions. Often used synonymously with general plan restrictions on a subdivision.

CEASE AND DESIST ORDER An action by a government agency to require a person business to stop an illegal or unfair practice.

CENTRAL TOWN A town that performs a variety of services for the surrounding area.

CENSURE An official act of disapproval.

CERTIFICATE OF CLEARANCE The State Board of Equalization issues that the seller has paid sales tax.

CERTIFICATE OF ELIGIBILITY Issued by the Department of Veterans Affairs - evidence of individual s eligibility to obtain a VA loan

CERTIFICATE OF OCCUPANCY A statement issued

by a local government verifying that a newly constructed building is in compliance with all codes and maybe occupied.

CERTIFICATE OF SALE The document given to the purchaser of a mortgage foreclosure sale, instead of the deed; replaced with a sheriffs deed only after the redemption period expires.

CERTIFICATE OF REASONABLE VALUE (CRV) The Veterans Admnistrations's written appraisal of the value of a property.

CERTIFICATE OF TAXES DUE A written statement of guaranty of the condition of the taxes on a certain property made by the County Treasurer of the county wherein the property is located. Any loss resulting to any person from an error in a tax certificate shall be paid by the county which such treasurer represents.

CERTIFICATE OF TITLE A written opinion by an attorney that ownership of the particular parcel of land is as stated in the certificate.

CERTIFICATE OF TITLE OPNION (Opinion of Title) A document signed by a title examiner (attorney or title company agent) stating the judgement that, based on an examination of the public records, the seller has good title to the property being conveyed to the buyer (not to be confused with title insurance)

CERTIFIED APARTMENT MANAGER (CAM); CERTIFIED APARTMENT PROPERTY SUPERVISOR (CAPS); CERTIFIED APARTMENT MAINTENANCE TECHNICIAN (CAMT). Designations awarded by the National Apartment Association (NAA) for appropriate courses of study.

CERTIFIED APPRAISER (See State Certified appraiser)

CERTIFIED ASSOCIATION MANAGER (CAM) A designation awarded by the Community Association Institute for courses of study in the professional management community associations.

CERTIFIED PLANT ENGINEER (CPE) A designation awarded for qualification in plant engineering facilities management by the American Institute of Plant Engineers (AIPE)

CERTIFIED PROPERTY MANAGER (CPM) A property manager who has fulfilled the Institute of Real Estate Management s requirements for this professional designation.

CERTIFIED SHOPPING CENTER MANAGER (CSM);

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CERTIFIED MARKETING DIRECTOR (CMD).

Designations granted to qualified shopping center managers and marketing directors who have satisfied the requirements and educational programs of the International Council of Shopping Centers.

CERTIORARI WRIT OF The Supreme Court order indicating that the court has decided to exercise its discretion and accept a case offered on appeal. The court reviews only those select cases that it deems worthy of review.

CHAIN A unit of measurement used by surveyors. A chain consists of a hundred links equal to 66 feet.

CHAIN OF TITLE A series of conveyances, encumbrances, and other instruments affecting the title from the time original patent was granted, or as far back as records are available. A history of the recorded ownership of real estate and claims against title to real estate.

CHATTEL The old name for personal property.

CHATTEL MORTGAGE A personal-property mortgage. (See Security Agreement.)

CHATTEL REAL In real estate, an estate less than a freehold estate, such as a lease.

CHATELS (1) Personal property. (2) This term is sometimes used in a law to describe any interest in real or personal property other than a freehold.

CHECK A square measuring 24 miles on each side and representing the largest unit of measure in the government survey system.

CHOICE-OF AGENCY After a broker has confirmed his choice-of-agency, the choice cannot be corrected or modified at any time.

CHOSE IN ACTION A personal right to something not presently in owners, but recoverable by a legal action for possession.

CHOSE IN POSSESSION Something in possession rather than the right of possession.

CIRCUIT BREAKER An electrical device that automatically interrupts an electrical circuit when an overload occurs. Circuit breakers can be reset and today are used instead of fuses.

CITATIONS Statements of alleged violations and the penalties imposed.

CITY GROWTH PATTERNS The following people have done work on this subject, Von Thunen, Burgess, Babcock and Hoyt.

CIVIL CODE One of the 25 California codes containing the statutes passed by the state legislature. The most important code relating to contracts and real estate, the Civil Code defines the nature and requirements for contracts and real estate transactions, among its many other provisions.

CIVIL LAW A system of jurisprudence, sometimes called Roman law, wherein all the laws are set forth in advance to regulate conduct (as opposed to common law, where the principles of law develop on a case-by-case basis). In California the term also refers to the law relating to and between individuals, as opposed to criminal law.

CIVIL RIGHTS Fundamental rights guaranteed to all persons by the law. The term is primarily used in reference to constitutional and statutory protections against discrimination based on race, religion, sex, or national origin.

CIVIL RIGHTS ACT OF 1866 A federal law that guarantees that citizens of all races have the same rights as white citizens to inherit, purchase, lease, sell, hold and convey real and personal property.

CIVIL RIGHTS ACT OF 1968 Violations of this act should be reported to HUD.

CLAPBOARD Boards that are used for siding and that are usually thicker at one edge.

CLAUSE A distinct provision in a written document.

CLIENT A person represented by a broker or an attorney.

CLOSE OF ESCROW (COE) The date when documents are recorded and title passes from seller to buyer; on this date buyer becomes legal owner and title insurance becomes effective.

CLOSING (1) Process by which all the parties to a real estate transaction conclude the details to a sale or mortgage. The process includes the signing and transfer of documents and distribution of funds. (2) Condition in description of real property by courses and distances at the boundary lines where the lines meet to include all the tract of land.

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CLOSING COSTS The miscellaneous expenses buyers and sellers normally incur in the transfer of ownership of real property over and above the cost of the property.

CLOSING STATEMENT An accounting of funds made to the buyer and seller separately. Required by law to be made at the completion of every real estate transaction.

CLOUD ON TITLE A claim or document that affects title to real estate. The actual cloud may ultimately prove invalid, but its existence mars the title.

CLTA POLICY The title insurance policy issued to homeowners and noninstitutional lenders. The initials stand for the California Land Title Association, an organization that regulates and standardizes the provisions within title policies.

CODE OF CIVIL PROCEDURE One of the 25 California codes that contain the statutes passed by the state legislature. It contains most of the procedural requirements for enforcing rights granted by other codes, including the procedures for evictions, foreclosures, and lawsuits.

CODE OF ETHICS A set of rules and principles expressing a standard of accepted conduct for a professional group and governing the relationship of members to each other and to the organization.

CODICIL An amendment to a will.

CODIFICATION Collection and organization of piecemeal laws into a comprehensive code.

COINSURANCE CLAUSE A common provision in property insurance policies that limits the liability of the insurance company to that proportion of the loss that amount of insurance bears to a percentage of the value of the property.

COLLAR BEAM A beam that connects the pairs of opposite roof rafters above the attic floor.

COLLATERAL Property subject to a security interest; property used as security for a debt. (See Security Agreement.) Another word for security. This held until the money has been paid back.

COLLATERALLY Refers to liens secured by other liens.

COLLATERALIZATION The hypothecating of property, usually personal, as security for a loan.

COLLATERAL SECURITY The transfer of property of other valuables to ensure the performance of a principal agreement; an obligation attached to a contract to guarantee its performance.

COLLECTIBLE INCOME Gross income from property minus the vacancy and other types of rent loss. Also called gross adjusted income.

COLLUSION A secret agreement between two or more persons wishing to defraud another for a wrongful purpose or to obtain an object forbidden by law.

COLOR OF TITLE That which appears to be a good title but, in fact, is not; for example, a forged deed. A document that appears to convey title, but in fact is ineffective, conveying no title at all. It is one of the requirements for adverse possession and easement by prescription.

COMBED PLYWOOD A grooved building material used primarily for interior finish.

COMMERCIAL ACRE A term applied to the remainder of an acre of land after the area devoted to streets, sidewalks, curbs, and so on has been deducted from the acre.

COMMERCIAL BANK A financial institution chartered by the state or federal government to receive, lend and safeguard money and other items of value. They tend to loan money for construction loans, home improvement loans, and consumer loans.

COMMERCIAL LOAN A personal loan from a commercial bank, usually unsecured and short term, for other than mortgage purposes.

COMMERCIAL PAPER Negotiable instruments used in business.

COMMERCIAL PROPERTY A classification of real estate that includes income producing properties. When appraising a commercial property, the appraiser is most concerned with the sale price of comparable properties. Commercial property usually must be zoned for business purposes.

COMMERCIAL TENANT Reasons for rejecting a commercial tenant may be any one of the following; insufficient profit margin to maintain long-term rent, incompatible mix with existing tenants, and a large amount of physical alteration would be required to accommodate the tenant.

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COMMINGLING The mixing of different funds so that they can no longer be distinguished. In domestic law it refers to the combination of separate property and community property, so that the separate property and community funds can no longer be distinguished; in such cases all property is considered community property. For brokers it refers to the mixing of clients' money with the broker's separate bank accounts.

COMMISSION An agent's compensation for performing the duties of his or her agency agreement. In the real estate business, it is usually a percentage of the selling price or a percentage of the lease or rents, for example. Demanding a commission or a discount based on your status as a licensee after the terms of an agreement have been struck are unethical.

COMMISSION SPLIT The previously agreed upon division of money between a broker and a sales-associate when the broker has been paid a commission from a sale made by the associate.

COMMISSIONER S FINAL REPORT Maybe used in its entirety by a subdivider in his advertisement of his subdivision.

COMMITMENT A pledge or a promise; a firm agreement.

COMMITMENT OF TITLE Similar to a preliminary title report; guarantees that the title company will issue title insurance.

COMMON AREA An entire common interest subdivision except the separate interests therein.

COMMON ELEMENTS The parts of multiple-ownership property not included in the units; those parts in which each individual owner holds an undivided interest.

COMMON GRANTOR A person who owned two or more adjacent properties and then sold them to different buyers.

COMMON INTEREST SUBDIVISION Subdivided lands which include a separate interest in real property combined with an interest in common with other owners. The interest in common may be through a membership in an association. Examples are condominiums and stock cooperatives.

COMMON LAW The body of law that grew from customs and practices developed and used in England.

A body of unwritten law that developed in England from the general customs and usage. It was adopted in the United States and exercised by court decisions following the ancient English principles and the recodified law of a state.

COMMON LAW REMEDY Money awarded to a plaintiff in a civil lawsuit; damages. COMPARE: Equitable Remedy

COMMON STOCK That class of corporate stock to which there is ordinarily attached no preference with respect to the receipt of dividends or the distribution of assets on corporate dissolution.

COMMUNITY ASSOCIATIONS INSTITUTE (CAI) A professional organization offering educational programs for persons involved in homeowners, condominium, and cooperative associations

COMMUNITY CENTER A shopping center of about 100,000 to 250,000 square feet (20 to 70 retail spaces) supported by more than 5,000 families.

COMMUNITY LAND-USE Political factors should be incorporated into the management plan because of this.

COMMUNITY PROPERTY All property acquired by a husband and wife living together, except separate property. (See Separate Property.) Property owned in common by a husband and wife as a kind of marital partnership.

COMMUNITY REINVESTMENT ACT Federal law requiring financial institutions to lend in communities served, including low and moderate-income areas, consistent with considerations of safety and soundness.

CO-MORTGAGOR a person who signs a note or trust deed in addition to the borrower to give extra security to the loan. The co-mortgagor is jointly liable for the repayment of the loan.

COMBINATION LOAN A combined construction loan and permanent take-out loan after construction is completed.

COMPACTION Packing or consolidation of soil. When soil is added to a lot to fill in low places or to raise the level of the lot, it is often too loose to sustain the weight of buildings. Therefore, it is necessary to compact the added soil so that it will carry the weight of the building without danger of settling or cracking.

COMPARABLE PROPERTY SALES Sales which have similar characteristics as the subject property and are used for analysis in the appraisal process. Commonly called Comparables, they are recent selling prices of properties

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similarly situated in a similar market.

COMPARATIVE INCOME AND EXPENSE ANALYSIS

A financial study of the projected income from a property in as-is condition versus financial returns from that property if suggested capital improvements were implemented. Property managers use the analysis to demonstrate to owners the return on proposed capital expenditures.

COMPARATIVE MARKET ANALYSIS (CMA) One of three methods in the appraisal process. A means of comparing similar type properties, which have recently sold, to the subject property.

COMPARATIVE SQUARE FOOT METHOD Method of estimating construction costs using typical square foot costs for the type of construction being estimated.

COMPARISON APPROACH A real estate comparison method which compares a given property with a similar or comparable surrounding properties; also called market comparison.

COMPENSATION Anything of value or a valuable consideration, directly or indirectly paid, promised or expected to be paid or received.

COMPENSATING FACTORS Positive factors that are considered by lenders to approve loans to otherwise marginal borrowers.

COMPETENT Legally qualified or capable.

COMPETITION, PRINCIPLE OF Holds that profits tend to breed competition and excess profits tend to breed ruinous completion.

COMPETITIVE BIDS Work estimates submitted to the property manager by service contractors, suppliers, trades people or construction contractors.

COMPLAINANT A person who makes an allegation or a charge against another (the respondent).

COMPLAINT A document a plaintiff files with the court to start a lawsuit. A formal allegation or charge.

COMPOUND INTEREST Interest paid on the original principal and also on the accrued and unpaid interest that has accumulated as the debt matures.

COMPREHENSIVE PLAN (Master Plan) A statement of policies for the future physical development of an area (e.g., city, county, region).

COMPREHENSIVE ENVIRONMENTAL RESPONSE COMPENSATION AND LIABILITY ACT (CERCLA) A 1980 federal law created to impose liability on people or organizations responsible for environmental damage and to facilitate the financing of asbestos cleanup projects and property damage claims.

COMPUTERIZED LOAN ORIGINATIONS (CLOs) Accessing lender loan programs via computer.

CONCEALMENT The act of keeping from site or keeping secret.

CONCESSION A negotiable point in a lease, decided in the prospective tenant's favor.

CONCIERGE SERVICES A trend in the property management field that provides personal, secretarial, catering or other services to the occupants of office or residential buildings.

CONCLUSION The final estimate of value, realized from the facts, data, experience and judgment, set out in an appraisal. Appraiser's certified conclusion.

CONCLUSIVE PRESUMPTION A legal assumption that cannot be rebutted, and is therefore accepted as true and binding on the courts.

CONCURRENT ESCROW A real estate transaction procedure in which the closing of one escrow is dependent upon the closing of another one; also called a double escrow; commonly used in exchanges and in instances where the buyer depends on funds he expects to get from the sale of another property.

CONCURRENTLY Occurring simultaneously, at the same time; real estate exchanges often must be recorded concurrently.

CONCURRENT OWNERSHIP Any form of ownership in which two or more people share title to piece of property, holding undivided interests. Also called cotenancy.

CONDEMNATION (1) The act of taking private property for public use by a political subdivision. (2) A declaration by proper governmental authorities that a structure is unfit for use. The taking of private property for public use through the exercise of the power of eminent domain.

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CONDITION A provision in a contract stating that the contract will not go into effect or that it will terminate upon the occurrence of some specified future event. (1) A restriction added to a conveyance that, upon the occurrence or nonoccurrence of a some act or event, causes the estate to be defeated. (2) A contractual provision that upon the occurrence or nonoccurrence of a stated act or event, an obligation is created, destroyed, or defeated.

CONDITIONS, COVENANTS, AND RESTRICTIONS

Recorded deed restrictions that run with the land, usually initiated by the original subdivider.

CONDITION PRECEDENT A condition that must occur before an estate is created or enlarged, or before some other right or obligation occurs.

CONDITION SUBSEQUENT A condition that, upon its failure or nonperformance, causes the defeat or extinguishment of an estate, right, or obligation.

CONDITIONAL COMMITMENT A loan commitment for a definite amount under certain terms and conditions. It is subject to an unknown purchaser's satisfactory credit rating.

CONDITIONAL ESTATE Usually called, in California, Fee Simple defeasible. An estate that is granted subject to a condition subsequent. The estate is terminable on happening of the condition.

CONDITIONAL FEE SEE: Fee Conditional

CONDITIONAL SALE CONTRACT A contract for the sale of property whereby the seller retains legal title until the conditions of the contract have been fulfilled. The buyer has an equitable interest in the property. (See Security Agreement.) A contract for the sale of property by which possession is delivered to the buyer, but title remains with the seller until full payment or the satisfaction of other stated conditions.

CONDITIONAL USE PERMIT An exception to or relief from the application of a zoning ordinance, because of special authorization granted by the zoning authorities. The issuance rests on public policy benefits and prior authorization in the zoning ordinance.

CONDOMINIUM A system of individual ownership of units in a multifamily structure, combined with joint ownership of common areas of the structure and the

land. The ownership of an individual unit in a multi-unit structure, combined with joint ownership of common walkways, land, and other portions of the property. Each condominium is owned separately in a fee simple estate. They generally offer more amenities than other types of residential rentals or ownership. Owners can obtain secondary financing and cash out his or her equity, can sell at a higher price than paid, getting benefit from increased value or can obtain financing.

CONDOMINIUM ASSOCIATION The organization that manages the operation of a condominium, imposing assessments and arranging for the maintenance of the common areas. The association members are the unit owners., and they usually elect a board of directors.

CONDOMINIUM DECLARATION The document which establishes a condominium and describes the property rights of the unit owners.

CONDUIT Usually a metal pipe in which electrical wiring is installed.

CONFESSION OF JUDGMENT Any entry of judgment upon the debtor's voluntary admission or confession.

CONFIRMATION OF SALE A court approval of the sale of property by an executor, administrator, guardian, or conservator.

CONFLICTING DEMANDS When different parties each make claims that are inconsistent with one another.

CONFORMING LOAN A loan that does not exceed Fannie Mae/Freddie Mac limits. This limit changes annually.

CONSERVATION Minor repair, renovation and restoration of residential buildings that have substantial economic use remaining. Also called blight prevention.

CONSIDERATION Anything of value, or that is legally sufficient, given to induce someone to enter into a contract. The inducement for entering into a contract; usually money, services, or a promise, although it may consist of a legal benefit to the promisor or any legal detriment to the promisee.

CONSIDERATION, ADEQUATE Consideration that is comparable in value to the consideration of the other party to the contract is giving. A contract is enforceable even if the consideration is inadequate, but a court can not order specific performance in that case.

CONSTANT A factor representing twelve times the monthly payment expressed as a percentage of the original loan amount. A short-cut to providing annual debt service.

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CONSTITUTION A fundamental document that establishes a government's structure and sets limits on power.

CONSTITUTIONAL 1. Pertaining to or based on a constitution. 2. Not in violation of the U.S. constitution or a state constitution.

CONSTRUCTION The interpretation of an ambiguous term or provision in a statute or agreement.

CONSTRUCTION CLASSIFICATION Type of construction; a system that rates the basic frame, walls, and roof of a structure as to their relative fire resistance (e.g., Class A, B, C, or D construction, Class A being the most fireproof).

CONSTRUCTION LOAN A temporary loan to a home buyer by the lender to pay the building contractor, either in installments or in one lump sum at the end of construction.

CONSTRUCTIVE A fiction imputed by law.

CONSTRUCTIVE EVICTION A breach of the landlord's warranty of quiet enjoyment. Any acts by the landlord that substantially interfere with the tenant's use and enjoyment of the premises.

CONSTRUCTIVE NOTICE Notice given by the public records; that which is considered equivalent to actual notice even though there is not actual notice. (1) Notice given by a recorded document. (2) Notice imputed by a law because a person could have discovered certain facts upon reasonable investigation, and a "reasonable man" in the same situation would have conducted such an investigation.

CONSTRUCTIVE RECEIPT Control of the cash proceeds in a delayed exchange without the actual physical possession by the exchanger or his or her agent.

CONSUMMATE To complete.

CONSUMER CREDIT PROTECTION ACT A federal law that includes the Truth-in-Lending Law.

CONSUMER GOODS Goods sold or purchased primarily for personal, family, or household purposes.

CONTIGUOUS Adjoining or touching upon, such as properties touching each other.

CONTEMPLATING AUCTIONING HOMES A homebuilder should consider the ability to quickly liquidate developments after the initial sales momentum has worn off.

CONTINGENT Conditional, uncertain, conditioned upon the occurrence or nonoccurrence of some uncertain future event.

CONTINGENCY A condition that must be met or an event that must happen before a purchase contract becomes binding between the parties.

CONTINGENCY CLAUSE SEE: Condition

CONTINUATION STATEMENT A statement filed to extend the time limit on a financing statement that had been filed earlier.

CONTRACT. An agreement to do or not to do a certain thing. It must have four essential elements: capable parties, mutual consent, a lawful object, and consideration. A contract of real estate must also be in writing and signed by the party or parties to be charged with performance.

CONTRACT, BILATERAL A contract in which each party promises to do something. COMPARE: Contract, Unilateral.

CONTRACT, EXECUTED A contract in which both parties have completely performed their contractual obligations.

CONTRACT, EXECUTORY A contract in which one or both parties have not yet completed performance of their obligations.

CONTRACT, EXPRESS A contract that has been put into words, either spoken or written.

CONTRACT, INSTALLMENT LAND SEE: Contract, Land

CONTRACT, LAND A contract for the sale of property in which the buyer pays in property immediately, but not taking title until the purchase price has been paid in full. Also called an installment land contract, installment sales contract, land sales contract, real estate contract, and other names.

CONTRACT, ORAL A spoken agreement, as opposed to a written one.

CONTRACT OF SALE (See Conditional Sale Contract.)

CONTRACT RATE Average rate charged on ARM loans or fixed-rate loans by savings institutions nationally.

CONTRACT RENT Amount of rent being paid under contractual commitments binding owners and tenants.

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CONTRACT SERVICES Maintenance tasks performed by outside laborers on a regular basis for a specified fee.

CONTRACT, UNENFORCEABLE an agreement that a court would refuse to enforce; for example, it may be unenforceable because it isn't in writing, or because the statute of limitations has run out.

CONTRACT, UNILATERAL When one party promises to do something if the other party performs a certain act, but the other party does not promise to perform it; the contract is formed only if the other party does perform the requested act.

COMPARE: *Contract, Bilateral.*

CONTRACT, VALID A binding, legally enforceable contract.

CONTRACT, VOID An agreement that isn't an enforceable contract because it lacks a required element or is defective in some other respect.

CONTRACTION A phase of the business cycle characterized by decreasing production.

CONTRACT, VOIDABLE A contract that one of the parties can disaffirm without liability, because of lack of capacity or a negative factor such as fraud or duress.

CONVENTIONAL MORTGAGE LOAN A loan that is made that is not federally insured or guaranteed.

CONVERSION The wrongful appropriation of another's goods to one's own use; to change from one character of use to another. (1) In tort, an unauthorized claim of ownership over another's personal property. (2) In property, the change of character of property from real to personal, or vice versa.

COOPERATIVE The main difference in this type of ownership and a condominium is that a cooperative has a blanket mortgage over the whole building.

CONVERTIBLE-RATE LOAN (Mortgage) A loan that starts out as an adjustable-rate loan, then, at the option of the borrower during a designated period, is switched to a fixed-rate loan.

CONVEYANCE (1) The transfer of the title of real property from one to another. (2) An instrument that transfers an interest in real property from one person to another. The transfer of title to real estate from one person to another.

COOPERATIVE A building owned by a corporation, where the residents are shareholders in the corporation; each shareholder receives a proprietary lease on an individual unit and the right to use the common areas.

COORDINATOR An agent of production; management.

CO-OWNERSHIP (Concurrent or multiple ownership) Title to real property held by two or more persons at the same time.

CORRESPONDENT An abbreviated term meaning mortgage loan correspondent. A mortgage banker who services loans as an agent for the owner of the mortgage. Also applies when a mortgage company originates a loan.

CORNER LOT Lot with frontage on two intersecting streets.

CORNER INFLUENCE The increase in value of a property because it is located on a corner lot.

CORPORATE COOPERATIVE Cooperative in which legal ownership of a building is being held by a corporation created for that purpose.

CORPORATION An association organized under strict rules, in which individuals purchase ownership shares; regarded by law as an artificial person, separate from individual shareholders.

CORPORATION NOT FOR PROFIT An artificial or fictitious person formed to conduct specified types of business activities.

CORPORATION, DOMESTIC A corporation doing business in the state where it was created.

CORPORATION, FOREIGN A corporation doing business in one state, but created in another state.

CORPORATION SOLE An artificial or fictitious person formed by an ecclesiastical body.

CORRECTIVE MAINTENANCE Actual repairs necessary to keep a property in good condition and operating smoothly.

CORRECTION LINES Adjustment lines used in the government survey system to compensate for the curvature of the earth. They occur at 24-mile intervals (every fourth township line), where the distance between range lines is corrected to 6 miles.

CORRELATION SEE: *Reconciliation*

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COST The expenditure of monies necessary for the creation of improvements on a property.

COST APPROACH TO VALUE (Cost-depreciation Approach) A method in which the value of the property is derived by estimating the replacement cost of the improvements, then deducting the estimated depreciation, then adding the market value of the land. This is most efficient when used estimating the cost of a new building. The information used in this approach is called Cost Data

COST OF FUNDS The cost to the lender, expressed as a percentage, to obtain funds for lending. Includes interest paid to depositors, cost of borrowing, advertising, giveaways and other sales costs, administrative and overhead costs, reserves, etc.

CO-TENANT Anyone who shares ownership of a piece of property with another; may be a joint tenant, a tenant in common, a tenant in partnership, or a spouse owning community property.

CO-TENANCY Any form of joint ownership.

COUNTER OFFER Rejection of an offer to buy or sell, with a simultaneous substitute offer.

COUNTY RECORDS A system for recording documents in permanent books at the county court house; maintained by each county and provided for by law; open to public examination

COUNTY TAX RATE. The county tax rate is set annually by the County Treasurer.

COURSE A direction, stated in terms of a compass bearing, in metes and bounds description of property.

COURT-ANNEXED A court mandated arbitration.

COOPERATIVE APARTMENT A form of ownership in which each individual apartment owner shares in a cooperative venture that entitles the owner to use, rent, or sell a specific apartment unit.

CORPORATION A group or a body of persons recognized by law as an individual person with rights and liabilities distinct from those of the persons comprising it. Since the corporation is created by law, it may continue for any length of time that the law prescribes. An artificial entity given authority to conduct business and possess many of the rights of natural persons. One of the key characteristics is that of perpetual existence.

COST SEE: *Replacement Cost, Reproduction Cost.*

COST APPROACH One of the three classic approaches to value. It involves estimating the replacement cost new of the improvements, deducting the estimated accrued depreciation, and then adding the market value of the land. This is called the Summation Method.

COST BASIS See *Adjusted Cost Basis.*

COST MULTIPLIER Factor used in adjusting published construction cost figures to estimate current and local costs.

COST-PLUS A method of paying construction contractors in which the contractor furnishes a preliminary estimate for the proposed job and is paid the actual cost of the work plus a percentage of profit.

COST-TO-CURE METHOD OF DEPRECIATION Method of estimating accrued depreciation (loss in value) based on the cost to cure or repair observed building defects.

COUNTER FLASHING Flashing used on chimneys at roof-line to cover shingle flashing and prevent moisture entry.

COUNTER-OFFER The rejection of an offer by the submission of another offer, different in terms from the original offer. Any purported acceptance of an offer that introduces new terms is a rejection of that offer, and amounts to a counter-offer.

COURT-ANNEXED ARBITRATION This may be ordered by the superior court when the sum at stake is less than \$50,000 dollars.

COURT PAPERS These papers cannot be served by the property owner or manager.

COURTYARD HOME SEE *Zero-Lot-Line Home.*

COVENANT An agreement or a promise to do or not to do a particular act. Covenant A contractual agreement whereby one of the parties promises to perform or to refrain from doing certain acts.

COVENANT OF QUITE ENJOYMENT A promise that buyer or tenant's possession will not be disturbed by the previous owner, the lessor, or anyone else claiming an interest in the property.

CPI (CERTIFIED PROPERTY INDEX) This index is commonly used for rent increases in office buildings

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CPM Certified Property Manager; a member of the Institute of Real Estate Property management of the National Association of Realtors.

CRAWL HOLE Exterior or interior opening permitting access underneath a building, as building codes may require

CREATIVE FINANCING Any financing out of the ordinary, such as seller carrybacks and wrap-arounds.

CREDIT A payment receivable as opposed to a debit, which is a payment due.

CREDIT APPLICATION A statement provided by the borrower for a prospective lender in order to establish or exhibit financial stability.

CREDIT BID When a lien holder purchasing the security property at a foreclosure sale is allowed to apply the amount the borrower owes him or her to the purchase, rather than having to pay the full amount of the bid in cash.

CREDIT REPORT Credit history of a person or business issued by a company in the credit reporting business, used to help determine creditworthiness.

CREDITOR One who is owed a debt.

CREDITOR, SECURED A creditor with a lien on specific property, which enables him or her to foreclose or collect the debt from the sale proceeds if it is not otherwise paid.

CRIMINAL LAW The body of law concerned with crimes, an individual's action against society.

CUL-DE-SAC A dead end street.

CUL-DE-SAC LOT Lot located at or near the end of a dead-end street.

CURABLE DEPRECIATION Items of physical deterioration or functional obsolescence that if repaired would add at least as much of the market value of the property as the cost of repairs.

CURE To remedy a default, by paying money that is overdue or fulfilling other obligations.

CURB APPEAL The impression gained, good or poor, of a property when it is first seen, usually from the street

while driving, hence curb appeal.

CURBSTONE APPRAISAL A slang phrase, implying an informal valuation of a property based on observation and experience.

CURTAIL SCHEDULE A list of the due dates and amounts by which the principal sum of an obligation will be reduced by partial payments.

CUSTOMER A prospective property buyer.

CYCLICAL FLUCTUATION See *business cycle*

D

DAMAGES The indemnity recoverable by a person who has sustained an injury to either his or her person, property, or rights through the act or default of another. Compensation ordered by the courts for the loss of or injury to one's person or property.

DAMAGES, ACTUAL Compensatory damages.

DAMAGES, COMPENSATORY Damages intended to compensate the plaintiff for harm caused by the defendant's act or failure to act, including personal injuries (physical and mental), property damage and financial loss.

DAMAGES, CONSEQUENTIAL Damages compensating for losses that were not the direct result of the defendant's wrongful act, but which were foreseeable consequence of it.

DAMAGES, EXEMPLARY Punitive damages

DAMAGES, LIQUIDATED A sum that the parties to a contract agree in advance (at the time of entering into the contract) will serve as compensation in the event of a breach.

DAMAGES, PUNITIVE An award added to compensatory damages, to punish the defendant for malicious or outrageous conduct and discourage others from similar acts.

DATA PLANT An appraiser's file of information on real estate.

DATUM An artificial horizontal plane of elevation, established in reference to sea level, used by surveyors as a reference point in determining elevation.

DEALER A person who holds property primarily for sale

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to his or her customers in the ordinary course of his or her business.

DEALER PROPERTY Property held for sale to customers rather than as a long-term investment; a developer's inventory of subdivision lots, for example.

DEATH OCCURRING ON THE PROPERTY A broker listing a property for sale must disclose a death accruing on the property within three years before the sale.

DEBENTURE Bonds issued without security, an obligation not secured by a specific lien on property.

DEBIT A bookkeeping entry on the left side of an account, recording the creation of or addition to an asset or expense, or reduction or elimination of a liability or item of equity or revenue.

DEBT COVERAGE RATIO (DCR) Net operating income divided by annual debt service. Used by lenders when analyzing income property loans.

DEBT-TO-INCOME RATIO Borrowers' monthly payment obligations as a percentage of their income.

DEBTOR (1) A party who "owns" the property that is subject to a security interest. (2) A person who owes a debt.

DEBT SERVICE The sum of money needed each payment period to amortize the loan or loans.

DECEDENT A person who has died.

DECIDUOUS Trees which shed their leaves at seasonal intervals.

DECISIONAL LAW SEE: Case Law

DECK Usually an open porch on the roof or another part of the structure.

DECLARATION The legal document that the developer of a condominium must file and record in order to create a condominium under state law.

DECLARATION OF ABANDONMENT A document recorded by an owner that voluntarily releases a property from homestead protection.

DECLARATION OF RESTRICTIONS SEE: CC&Rs

DECLARATION OF HOMESTEAD A single-family dwelling; a house situated on a two-acre parcel; a fourplex.

DECLARATION OF TRUST A formal instrument filed by a business trust with the Department of State as a prerequisite for creating the trust.

DECLARATORY JUDGEMENT A course of action declaring rights claimed under a contract or statute intended to prevent loss or guide performance by the party or parties affected.

DECLARATORY RELIEF A court's decision on the rights of the parties in a question of law, without ordering anything to be done.

DECLINE PHASE Third phase in the cycle of a neighborhood, generally marked by delayed repairs and deterioration of buildings.

DECLINING BALANCE DEPRECIATION A method of accelerated depreciation allowed by the IRS in certain circumstances. Double Declining Balance Depreciation is its most common form and is computed by using the rate used for straight line depreciation.

DECREE OF FORECLOSURE Decree by a court ordering the sale of mortgaged property and the payment of debt owing to the lender out of the proceeds.

DEDICATION An appropriation of land by its owner for some public use and accepted for such use by authorized public officials on behalf of the public. A gift of privately owned land to the public or for public use. It may be voluntary or involuntary.

DEDICATION, IMPLIED Involuntary dedication, resulting from an owner's acquiescence to public use of his or her property for at least 5 years. Also called common law dedication.

DEDICATION, STATUTORY A dedication required by law; for example, dedication of property for streets and sidewalks as a prerequisite to subdivision approval.

DEDUCTION An amount a taxpayer is allowed to subtract from his or her income before calculating the tax on the income.

DEDUCTION, COST RECOVERY An income tax reduction that allows the taxpayer to recover the cost of depreciable property used for the production of income or used in trade or business. Formerly called a depreciation deduction.

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DEDUCTION, REPAIR An income tax deduction allowed for expenditure made to keep property in ordinary, efficient operating condition, not allowed for a principal residence or personal use property.

DEED A written instrument that when properly executed and delivered conveys title.

DEED CORRECTION A deed used to correct minor mistakes in an earlier deed, such as misspelled names or errors in the legal description.

DEED, GENERAL WARRANTY A deed in which the grantor warrants the title against defects that might have arisen before or during his or her period of ownership. COMPARE: Deed, Special Warranty.

DEED, GIFT A deed that is not supported by a valuable consideration; often lists love and affection as the consideration.

DEED, GRANT Any deed that uses the word grant in its words of conveyance; carries two implied warranties and conveys after-acquired title. The most commonly used deed in California. COMPARE: Deed, Quitclaim.

DEED, QUITCLAIM A deed that conveys any interest in a piece of real property the grantor has at the time deed is executed. Often used to clear up a cloud on the title. It contains no warranties of any kind, and does not convey after-acquired title. COMPARE Deed. Grant.

DEED IN LIEU OF A FORECLOSURE To prevent a foreclosure from happening an owner may give the mortgagor the deed to the property to stop the foreclosure proceedings.

DEED OF RECONVEYANCE A legal instrument that conveys title from a trustee back to the borrower under a mortgage once the mortgage has been paid out,

DEED OF TRUST A security instrument transferring title to property to a third person (trustee) as security for a debt or other obligation.

DEED OF TRUST, BLANKET 1. A trust deed that covers more than one parcel of real estate. 2. A trust deed that covers an entire building or development, rather than an individual building or lot.

DEED OF TRUST, FICTITIOUS A blank trust deed form filed for record to save recording costs on real

deeds of trust.

DEED OF TRUST, JUNIOR A second (or third, etc.) Deed of trust, with lower lien priority than the first trust deed.

DEED OF TRUST, SENIOR A deed of trust with higher priority than another deed of trust on a property.

DEED RESTRICTION A restrictive covenant in a deed.

DEEMER PERIOD Refers to the way this state regulates rate filings by title companies, in other words, how approval is obtained for rate filings by the regulatory authorities.

DEFAULT (1) Failure to fulfill a duty or promise or to discharge an obligation. (2) Omission or failure to perform any act. Failure to perform a legal duty or to discharge a promise.

DEFAULT JUDGMENT A judgment obtained because the defendant failed to appear and defend his case.

DEFESIBLE FEE Sometimes called a base fee or qualified fee; a fee simple absolute interest in land that is capable of being defeated or terminated upon the happening of a specified event.

DEFESANCE CLAUSE The clause in a mortgage or deed of trust that gives the borrower the right to redeem his or her property upon the payment of his or her property upon the payment of his or her obligations to the lender.

DEFESIBLE Capable of being defeated. A defeasible estate is one that has a condition attached to the title, which if broken causes the termination of that estate.

DEFECT (See *Cloud on Title*)

DEFENDANT The party being sued in a lawsuit; the party against whom an action is filed.

DEFERMENT A right to defer payment of an obligation (such as paying taxes) until a later date.

DEFERRED INTEREST See *Negative amortization*

DEFERRED MAINTENANCE Maintenance and accumulated repairs that have been postponed to later dates

DEFERRED PAYMENT OPTIONS The privilege of deferring income payments to take advantage of statutes affording tax benefits.

DEFICIENCY JUDGMENT(Decree) A judgment given for

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the unpaid balance of a debt remaining after the surety is sold. A court decree holding a debtor personally liable for the shortage or insufficiency realized on the sale of secured property. The debtor owes the difference between the sale price of the property and the amount of the secured debt.

DEFINE THE PROBLEM The first step in the appraisal process.

DELAYED SELLING Most inventories of real estate are held back because the owners expect the interest rates to drop.

DELEGATION OF POWERS The conferring upon by an agent upon another of all or certain of the powers that have been conferred upon the agent by the principal.

DELINQUENCY Failure to make timely payments on a loan.

DELIVERY (OF A DEED) The unconditional, irrevocable intent of a grantor immediately to divest (give up) an interest in real estate by a deed or other instrument.

DEMAND The desire to possess, plus the ability to buy; an essential element of value.

DEMAND DEPOSIT Checking accounts or transaction deposit withdrawable upon demand, as opposed to time deposit.

DEMINIMUS VALUE Transactions with a value less than a certain minimum amount.

DEMISE A transfer of an estate to another person for a specified period of years, for life, or at will.

DENIAL A refusal or rejection.

DENSITY The number of homes or lots per acre.

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT (HUD) A government agency authorized to construct and provide financial assistance to housing development for low income tenants.

DEPARTMENT OF VETERANS AFFAIRS (DVA) A government agency that guarantees approved lenders against foreclosure loss on loans made to eligible veterans.

DEPOSIT (MONEY) Money given to another as

security to ensure the performance of a contract. The money is usually intended to be applied toward the purchase price of property, or forfeited on failure to complete the contract. The claim of the tenant to this money comes before any creditors of the landlord. The landlord must furnish a written statement showing the amount received and the amount disbursed to the tenant. All unused deposit money must be returned to the tenant with proper accounting within two weeks after vacating premises.

DEPOSITION The formal, out of court testimony of a witness in a lawsuit, taken before the trial; used as part of the discovery process, to determine the facts of the case, or if or if the witness will not be able to attend the trial. A transcript of a deposition can be introduced as evidence in a trial.

DEPOSIT RECEIPT The document used for a prospective real estate buyers offer to a seller, which also serves as the buyer's receipt for deposit. If the seller accepts the receipt it becomes their contract; also called an earnest money agreement or purchase and sale agreement.

DEPRECIATE To decline in value.

DEPRECIATED COST METHOD Method for adjusting comparable sales; adjustments are calculated from an analysis of the depreciated replacement cost for each differentiating feature.

DEPRECIATION A loss in value from any cause. This loss in value to real property may be caused by age or physical deterioration, or by functional or economic obsolescence.

DEPRECIABLE PROPERTY Property that's eligible for depreciation (cost recovery) deduction because it will wear out and have to be replaced.

DEPTH Distance from the frontage of a lot to the rear lot line.

DEPTH TABLES Depth tables are used by appraisers when determining value of business property that varies in depth.

DESCENT The passage of title to real property upon the death of the owner to his or her legal descendants.

DESCRIPTION A reference to certain maps, plats, and other instruments that are recorded with the county and serve to make a positive property identification.

DESK COST The total of rent, telephone, utilities, advertising and other expenses divided by the number of desks found in a real estate office.

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DESIGN TYPE Classification of buildings based on the use for which a structure is designed.

DEREGULATION An easing and relaxing of rules and regulations for lenders.

DESIGNATED SALES ASSOCIATES (FL) Two real estate licensees designated to represent the buyer and the seller as single agents in a nonresidential transaction. The buyer and seller must have assets of more than \$1 million or more and sign disclosures stating their assets meet the required threshold.

DESIST AND REFRAIN ORDER An order that the Real Estate Commissioner is empowered by law and refrain from committing an act in violation of the Real Estate Law.

DETERIORATION The process of gradual worsening or depreciation.

DETERMINABLE FEE An estate which may end on the happening of an event that may or may not occur.

DETRIMENTAL RELIANCE SEE: Estoppel, Promissory

DEVELOPMENT PHASE First phase in the life cycle of a neighborhood, consisting of the initial construction of improvements on vacant land.

DEVELOPMENT STAGE The first stage in a development cycle.

DEVELOPMENT METHOD (LAND DEVELOPMENT METHOD) Method of vacant land valuation; development costs are subtracted from estimated gross sales, and finally, developer's profits are accounted for. The results are an estimate of raw land value.

DEVELOPMENT OF REGIONAL IMPACT (DRI) A large project affecting more than one county.

DEVELOPER WHO PLANS WELL To be one of these a developer must anticipate risks and profits, survey the market and measure present needs.

DEVISE A gift of real property by deed.

DEVISEE One who receives real property under a will.

DEVISOR One who disposes of real property by will.

DICTU A written observation, remark, or opinion by a judge to illustrate or suggest an argument or rule of law not incidental to the case at hand, and which, therefore, although persuasive, is not binding on the judge.

DIMINISHED UTILITY SEE: Accrued Depreciation.

DIRECT CAPITALIZATION METHOD Income capitalization technique; value is estimated by dividing net operating income by the overall capitalization rate.

DIRECT COSTS All of the costs that are directly involved with the physical construction of the structure, including labor, materials and equipment, design and engineering, and subcontractors fees.

DIRECT MANAGEMENT COURSE Expenses that can be attributed directly to the operation of a management firm or department.

DIRECT MARKET COMPARISON APPROACH SEE: Sales Comparison Approach.

DIRECT MARKET METHOD Method of adjusting comparable sales; two or more comparable properties with one differing feature are used to estimate the amount of the adjustment for that feature. (Also called the matched pair method.)

DIRECTIONAL GROWTH The direction in which the residential sections of a city seem destined or determined to grow.

DISABLED PERSONS A hotel or lodging house need not be designed to accommodate disabled persons if it contains fewer than 25 rooms.

DISABLED TENANT A landlord may not charge an additional security deposit for a disabled tenant's guide dog. A landlord may modify residential rental property to accommodate the needs of disabled tenants.

DISABILITY Any physical or mental impairment that substantially limits one or more of an individual's major life activities, including caring for oneself, performing manual tasks, walking, seeing, hearing, speaking and working.

DISAFFIRM To ask a court to terminate a voidable contract.

DISBURSEMENT The release of monies held in an escrow account; usually on the day that escrow closes.

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DISCLOSURE REQUIREMENT If a real estate licensee or seller willfully or negligently fails to comply with the disclosure requirements he or she will be liable for any actual damages suffered by a buyer.

DISCLOSURE STATEMENT A statement that the Truth-in-Lending Law requires a creditor to give a debtor showing the finance charge, annual percentage rate, and other required information.

DISCOUNT To sell a promissory note before maturity at a price less than the outstanding principal balance of the note at the time of sale. It may also be the amount deducted in advance by the lender from the face of the note.

DISCOUNT DEPARTMENT STORES A specialized type of shopping center or a large single store with emphasis on lower prices as a merchandising technique. The closed door discount house is open only to qualifying members; the open discount house is open to the general public.

DISCOUNT POINTS A fee charged by the lender when making an FHA or VA loan to offset the lower interest rate the lender will receive compared with conventional loan interest rates. One point is equal to 1 percent.

DISCOUNT RATE The interest rate that is charged on money borrowed by banks from the Federal Reserve System.

DISCOUNT TABLES Tables used by lenders and investors to show how much a given value is, called the discounted value, based upon various interest rates and terms of maturity.

DISCRETIONARY POWERS OF AGENCY Those powers conferred upon an agent by the principal which empower the agent in certain circumstances to make decisions based on the agent's own judgment.

DISCRIMINATION Failure to advertise real estate for sale in non-English publications does not constitute unlawful discrimination if the property offered is in an area with a significant non-English speaking population.

DISCOUNTED CASH FLOW (DCF) Technique of income capitalization; estimated future investment returns are discounted to a present value.

DISCRIMINATORY BUSINESS PRACTICES A broker engaging in discriminatory business practices is subject to DRE discipline.

DISCRIMINATORY PREFERENCE Use of the words Restricted, Exclusive and Private, in real estate advertising should be avoided as they indicate discriminatory preferences.

DISINTERMEDIATION The sudden withdrawal of substantial sums of money savers have deposited with savings and loan associations, commercial banks, and mutual savings banks. This term can also be considered to include life insurance policy purchasers borrowing against the value of their policies. The essence of this phenomenon is financial intermediaries losing within a short period of time billions of dollars as owners of funds held by those institutional lenders exercise their prerogative of taking them out of the hands of these financial institutions.

DISPOSABLE INCOME The after-tax income a household receives to spend on personal consumption.

DISPOSSESS To deprive one of the use of real estate.

DISPOSSESS PROCEEDINGS A suit brought by a landlord to evict a tenant for defaulting in the terms of the lease. Also known as unlawful detainer actions.

DISSOLUTION OF MARRIAGE A divorce.

District A neighborhood that contains only one kind of land use.

DISTRICT COURT The main trial court in the federal court system and the lowest federal court. It has jurisdiction in civil cases where the plaintiffs and defendants are from different states (diversity of citizenship) and the amount in controversy is over \$10,000, and in cases involving a federal question.

DIVESTMENT The elimination or removal of a right or title, usually applied to the cancellation of an estate in land.

DIVIDED AGENCY When a broker or an agent acts on behalf of both parties he is considered a divided agent See *dual agent*

DOCTRINE OF CORRELATIVE USERS An owner may use only a reasonable amount of the total underground water supply for his or her beneficial use.

DOCUMENTARY TRANSFER TAX A state enabling act allows a county to adopt a documentary transfer tax to apply to

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all transfers of real property located in the county. Notice of payment is entered on the face of the deed or on a separate paper filed with the deed.

DOCUMENTARY (DOC) STAMPS Tax applicable to property transfers and affixed to the grant deed; varies from county to county, city to city; sometimes called a transfer tax

DOCUMENTARY STAMP TAX ON DEEDS, STATE
Tax required on all deeds or other documents used as conveyances. The charge is based on the total purchase price.

DOCUMENTARY STAMP TAX ON NOTES, STATE
Tax required on all promissory notes. The cost is based on the face value of the note.

DEVELOPMENT PHASE First phase in the life cycle of a neighborhood, consisting of the initial construction of improvements on vacant land.

DOCUMENTS Legal instruments such as mortgages, contracts, deeds, options, wills, bills of sale, etc.

DOMICILE A person's permanent residence.

DOMINANT TENEMENT The tenement obtaining the benefit of an easement appurtenant. That parcel of land that benefits from an easement across another parcel of property (servient tenement).

DONEE The person to whom a gift is made.

DONOR The person who makes a gift.

DORMER A projection built out over the slope of a roof, used to house windows on the upper floor to provide additional light and ventilation.

DOUBLE DECLINING BALANCE DEPRECIATION
(See *DECLINING BALANCE DEPRECIATION*)

DOUBLE ESCROW An escrow that will close only upon the condition that a prior escrow is consummated. The second escrow is contingent upon and tied to the first escrow. While double escrow is not illegal, unless there is full and fair disclosure of the second escrow, there may be a possibility of fraud or other actionable conduct by the parties.

DOUBLE-HUNG A window consisting of two sashes that move up and down in a pair of channels and are held open by tension springs.

DOWER The right that a wife has in her husband's estate at his death. Dower has been abolished in California.

DOWN PAYMENT The difference between the sale price of the property and the loan amount.

DRE Ethics Regulations Do not compel a broker to cooperate with other brokers by sharing property information.

DRAW Usually applies to construction loans when disbursement of a portion of the mortgage is made in advance, as improvements to the property are made.

DUAL AGENCY Representing both principals in a transaction. (Not a legal agency relationship in the state of Florida)

DUAL AGENT Even if the buyer's broker does not intend to be a dual agent by of his conduct, the seller's deposit receipt agreement to employ him makes the seller his principal and client in addition to the buyer. Before a broker acting as a dual agent on the sale of one-to-four unit residential property may relay confidential pricing information to the party, the broker must have written authority to release it.

DUE-ON-ENCUMBRANCE CLAUSE A clause in a deed of trust or mortgage that provides that upon the execution of additional deeds of trust or other encumbrances against a secured parcel of property, the lender may declare the entire unpaid balance of principal and interest due and owing.

DUE-ON-SALE CLAUSE An acceleration clause that grants the lender the right to demand full payment of the mortgage or deed of trust upon sale of the property. A clause in a deed of trust or mortgage that provides that if the secured property is sold or transferred, the lender may declare the entire unpaid balance immediately due and payable. Its use has been severely limited by recent court decisions. Also called an alienation clause.

DUN & BRADSTREET A credit-reporting agency that publishes credit ratings for many corporations and businesses.

DUE PROCESS OF LAW A constitutional guarantee that the government will not interfere with a person's private property rights without following procedural safeguards prescribed by law.

DURESS Unlawful constraint by force or fear.

DURESS, ECONOMIC Threatening to take some action that will be financially harmful to a person, to force him or her to sign a document; for example, threatening to breach a

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contract. Also called business compulsion.

DUTIES OF AN AGENT A special relationship of trust by which one person (agent) is authorized to conduct business, sign papers or otherwise act.

DVA Department of Veteran Affairs, established on March 15, 1989 to succeed the Veterans Administration.

E

EARNEST MONEY DEPOSIT A deposit of money paid by a buyer for real property as evidence of good faith.

EARNEST MONEY AGREEMENT SEE: Deposit Receipt

EASEMENT A right, privilege, or interest that one party has to use the land of another. Example: A right of way. A legal right to use another's land for one's benefit or the benefit of one's property (right-of-way).

EASEMENT APPURTENANT An easement created for the benefit of a particular parcel of property. There is both a dominant and a servient estate. The easement is annexed to and part of the dominant property.

EASEMENT, IMPLIED SEE: Easement by Implication.

EASEMENT, NEGATIVE An easement that prevents the servient tenant from using his or her own land in certain way (instead of allowing the dominant tenant to use it). Essentially the same thing as a restrictive covenant.

EASEMENT, POSITIVE An easement that allows the dominant tenant to use the servient tenement in a particular way.

EASEMENT BY PRESCRIPTION This brought about by open and notorious use over a long period of time.

EASEMENT, PRESCRIPTIVE An easement acquired by prescription.

EASEMENT BY EXPRESS GRANT An easement granted to another in a deed or other document.

EASEMENT BY EXPRESS RESERVATION An easement created in a deed when a landowner is dividing

the property, transferring the servient tenement but retaining the dominant tenement.

EASEMENT BY IMPLICATION An easement created by law (not by express grant) when a parcel of land is divided, if there is a long-standing, apparent use that is reasonably necessary for the enjoyment of implied easement. COMPARE: Easement by Necessity.

EASEMENT BY NECESSITY A special type of implied easement; when the dominant tenement would be completely useless without an easement, an easement exists even if it isn't a long-standing, apparent use.

EASEMENT IN GROSS An easement that benefits a particular individual, not a parcel of property. Involves only a servient estate. A public utility easement is an example.

EASY MONEY Loose money policy of the federal reserve board.

EAVES The lower projecting edge of a roof over the wall.

ECONOMIC BASE STUDIES An analysis of employment in the primary industries of the region.

ECONOMIC LIFE The remaining useful life of an improvement or structure; that period during which an improvement will yield a return on the investment.

ECONOMIC OBSOLESCENCE The loss in value to property due to external causes such as zoning or a deteriorating neighborhood. It is also referred to as social obsolescence.

ECONOMIC OVERSUPPLY A market condition in which available rental space is priced beyond the financial capabilities of potential tenants.

ECONOMIC RENT The reasonable rental expectancy if the property were available for renting at the time of its valuation.

ECONOMIC TREND Pattern of related changes in some aspect of the economy.

EER Means Energy Efficient Ratio

EFFECT A SALE A provision in a listing contract requiring the broker to obtain a signed contract from a ready; willing and able buyer on the terms specified.

EFFECTIVE AGE OF IMPROVEMENT The number of years of age that is indicated by the condition of the structure, distinct from chronological age.

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EFFECTIVE DATE OF VALUE (APPRAISAL) The specific day the conclusion of value applies.

EFFECTIVE GROSS RENT Gross rent, minus an allowance for vacancy and credit losses.

EFFECTIVE INTEREST RATE The percentage of interest that is actually being paid by the borrower for the use of the money, distinct from chronological age.

EFFECTIVE GROSS INCOME The amount of net income that remains after the deduction from gross income of bad debt vacancy factor and credit losses.

EGRESS Exit; the act or avenue or leaving property.

EIGHTEEN YEARS The legal age for getting a real estate license

E.I.R. Abbreviation for Environmental Impact Report.

ELECTIVE SHARE An estate defined as consisting of 30 percent of the decedent's personal property and Florida real property, except homestead exempt property claims.

ELEMENTS OF COMPARISON Four categories of information about sales: terms of sale, time of sale, location elements, and physical elements.

ELEMENTS OF VALUE Four prerequisites that must be present for an object to have value: utility, scarcity, demand, and transferability.

ELECTRONIC DATA PROCESSING The use of a computer to compile and process information.

ELLWOOD TECHNIQUE A mortgage/equity method of capitalization.

ELEVATION SHEET Drawings of the front and side views of the finished homes.

EMBEZZLED FUNDS Are reportable as income for tax purposes.

EMBLEMENTS Things that grow on the land require annual planting and cultivation.

EMINENT DOMAIN The right of the government and certain others, such as public utilities, to acquire property for public or quasi-public use by condemnation, upon

payment of just compensation to the owner. The constitutional or inherent right of a government to take private property for public good upon the payment of just compensation.

EMPLOYEE Someone who works under the direction and control of another. COMPARE: Independent Contractor.

EMPLOYMENT AGREEMENT An agreement between broker and salesman must be kept by both broker and salesman for three years from date of termination.

EMPLOYER The individual who hires the services of another.

EMPTY NESTER Older parents whose housing needs change after their children have moved away.

ENCROACHMENT The projection of a structure onto the land of an adjoining owner. A structure or natural object that unlawfully extends into another's property.

ENCUMBRANCE (CLAUSE) Any claim, interest, or right in property possessed by another that may diminish the true owner's rights or value in the estate. Examples include mortgages, easements, or restrictions of any kind. A claim, lien, or charge on property.

ENDORSEMENT See Indorsement.

ENJOIN To prohibit an act, or command performance of an act, by court order; to issue an injunction.

EQA The California Environmental Quality Act.

ENVIRONMENTAL IMPACT REPORT A report that must be prepared whenever any agency or individual considers a project that may have a significant impact on the environment, as directed by the California Environmental Quality Act.

ENVIRONMENTAL PROTECTION AGENCY (EPA) A federal organization created by The National Environmental Policy Act. The EPA's purpose is to centralize governments environmental responsibilities.

EQUAL CREDIT OPPORTUNITY Federal law prohibiting discrimination in the extension of credit.

EQUAL PROTECTION The Fourteenth Amendment to the U.S. Constitution and similar provisions in the California Constitution require each citizen to receive equal protection of the laws. There are no minimum standards of protection; all equally situated individuals must simply be treated equally. (The due process clause of the Constitution imposes certain minimum standards of protection.)

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EQUILIBRIUM When supply equals demand.

EQUITABLE REMEDY A judgment granted to a plaintiff that is something other than an award of money (damages); an injunction, quiet title, rescission, and specific performance are examples. COMPARE: common Law Remedy.

EQUITABLE TITLE SEE: Title, Equitable.

EQUITY (1) The interest or value that an owner has in real property over and above the liens against it. (2) A part of our justice system by which courts seek to supplement the strict terms of the law to fairness under the circumstances, rather than on fixed legal principles or statutes. (3) Ownership in property, determined by calculating the fair market value less the amount of liens and encumbrances.

EQUITY BUILD-UP The increase of the owner's equity due to mortgage principal reduction and value appreciation.

EQUITY CAPITALIZATION RATE Factor used to estimate the value of the equity in the equity-residual technique of capitalization and other mortgage and equity techniques; the equity cash flow divided by the equity value.

EQUITY FINANCING Lender finances high-ratio loan in exchange for a percentage of ownership and the right to share in the property's cash flow.

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

EQUITY OF REDEMPTION The right to redeem property during the foreclosure period. In California the mortgagor has the right to redeem within 12 months after the foreclosure sale.

EQUITY RESIDUAL TECHNIQUE Technique of income capitalization; The net income remaining to the equity position (after mortgage payments) is capitalized into an estimate of the value of the equity.

EROSION The wearing away of the surface of the land by the action of wind, water, and glaciers, for example.

ERROR, HARMLESS A mistake by a trial judge that did not affect the final judgment in the case.

ERROR, PREJUDICIAL a mistake by a trial judge that may have affected the final judgment in the case. Also called reversible error (because its grounds for reversing the trial court's decision).

ESCALATION The right reserved by the lender to increase the amount of the payments and/or interest upon the happening of a certain event.

ESCALATION CLAUSE A lease clause providing that rental rate will increase or decrease according to selected index of economic conditions, such as the consumer price index.

ESCALATOR CLAUSE A clause in a contract that provides for the upward or downward adjustment of certain items to cover the specific contingencies set forth. A clause in a promissory note, lease, or other document that provides that upon the passage of a specified time or the happening of a stated event, the interest rate shall increase.

ESCHEAT The reversion of property to the state when there are no devisees or heirs capable of inheritance. Reversion of property to the state upon the death of an owner who has no heirs able to inherit.

ESCROW (ACCOUNT) The deposit of instruments and funds with a third neutral party with instructions to carry out the provisions of an agreement or contract. A complete or perfect escrow is one in which everything has been deposited to enable carrying out the instructions. The neutral third party (stakeholder) who holds deeds or other documents pursuant to instructions for delivery upon completion or occurrence of certain conditions.

ESCROW AGENT The neutral third party holding funds or something of value in trust for another or others.

ESCROW COMPANY When an escrow company acts as escrow, it must be licensed by the Commissioner of Corporations.

ESCROW DISBURSEMENT ORDER (EDO) A course of action for determining the disposition of a contested deposit.

ESCROW HOLDERS Lending institutions and attorneys can act as escrow, as can brokers. Brokers can act only as escrow holders in a transaction if he charges the fees provided by law.

ESCROW INSTRUCTIONS The document that authorizes

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an escrow agent to deliver items deposited in escrow once the parties have complied with specified conditions.

ESCROW MEMO The escrow memo contains the names of the buyer and the seller. It also contains information, is a form, and helps with the escrow instructions.

ESCROW NUMBER The file number assigned to an escrow by the escrow officer for identification purposes.

ESCROW OFFICER Also known as an escrow agent, someone qualified to perform all the steps necessary to prepare and carry out escrow instructions.

ESTATE The degree, quantity, nature, and extent of the interest that a person has in real property. (1) Ownership interest in real estate. (2) The quality and quantity of rights in property.

ESTATE AT SUFFERANCE An estate arising when the tenant wrongfully holds over after expiration of the term. The landlord has the choice of evicting the tenant as a trespasser or accepting such tenant for a similar term and under the condition of the tenant's previous holding. Also called a tenancy at sufferance.

ESTATE AT WILL The occupation of real property by a tenant for an indefinite period. It may be terminated at will by one or both parties. A leasehold tenancy, which at common law could be terminated by either party at any time, without advance notice. Thirty days' notice are now required to terminate this type of estate in California.

ESTATE BY THE ENTIRETIES A tenancy created by the husband and wife jointly owning real property with instant and complete right of survivorship.

ESTATE FOR LIFE A freehold estate whose duration is measured by and limited to the life or lives of one or more persons.

ESTATE FROM PERIOD TO PERIOD A leasehold tenancy that continues indefinitely for successive periods of time, until terminated by proper notice. When the periods are one month in duration, it is often called a month-to-month tenancy.

ESTATE TAXES These are a form of taxes that are paid off by the estate of the deceased.

ESTATE FOR YEARS A lease that will expire at a definite time or date. A leasehold tenancy of a fixed duration, being a definite and ascertainable period of a

year or any fraction of multiple thereof. It has a definite beginning and ending date, and hence a known and definite duration.

ESTATE IN FEE SIMPLE SEE: *Fee Simple*.

ESTATE IN REMAINDER SEE: *Remainder*.

ESTATE IN REVERSION SEE: *Reversion*.

ESTATE IN SOLE Real property owned by a corporation.

ESTATE OF INHERITANCE An estate that may go to the heirs of the deceased. All freehold estates are estates of inheritance, except life estates.

ESTIMATE A preliminary opinion of value. Appraise, set a value.

ESTIMATED REMAINING LIFE The period of time (years) it takes for the improvements to become useless.

ESTOP To ban, stop, or impede.

ESTOP NOTICE a notice served on the owner of property or custodian of funds. It requests, with certain penalties for noncompliance, that any funds due to a general contractor be paid to the claimant, laborer, or materialman.

ESTOPPEL A doctrine whereby one is forbidden to contradict or deny his or her own previous statement, act, or position. The doctrine that prevents a person from exercising a legal right, because that person previously acted in an inconsistent manner, so that a third person detrimentally relied on the earlier acts.

ESTOPPEL CERTIFICATE A written statement that bars the signer from making a claim inconsistent with the instrument (commonly used with a mortgage assumption).

ESTOPPEL, PROMISSORY A doctrine applied when someone has made a technically unenforceable promise to another, and the other person has acted in reasonable reliance on the promise. If the person who relied on the promise will suffer harm unless it is enforced, a court may enforce it. Also called the doctrine of detrimental reliance.

ET AL Abbreviation meaning and others (other person).

ETHICS A standard of conduct that all members of a given profession owe to the public, clients or patrons, and to other members of that profession

ET UX Abbreviation meaning and wife.

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EVICTIION Dispossession by legal process, as in the termination of a tenant's right to possession through re-entry or other legal proceedings.

EVICTIION, ACTUAL Physically forcing someone off of property (or preventing them from reentering), or using the legal process to make someone leave. COMPARE: Eviction, Constructive.

EVICTIION, CONSTRUCTIVE When a landlord s an (or failure to an) interferes with the tenant s quiet enjoyment of the property, or makes the property unfit for its intended use, to such an extent that the tenant is forced to move out.

EVICTIION NOTICE A landlord s legal notice to a tenant explaining the tenant s default under the terms of the lease and informing him or her of a pending eviction suit.

EVICTIION, RETALIATORY When a landlord evicts a tenant in retaliation for requesting repairs, filing a complaint against the landlord, or organizing or participating in a tenants rights group.

EVICTIION, SELF-HELP When a landlord uses physical force, a lockout, or a utility shutoff to get rid of a tenant, instead of using the legal process.

EVICTIION, WRONGFUL When a landlord evicts a tenant in violation of the tenant s rights.

EVIDENCE All relevant information, facts, and exhibits admissible in a trial.

EXCEPTIONS Conditional items listed on a preliminary title report and effecting the title.; would be excluded from coverage by the title insurance company.

EXCESS RENT The amount by which the total contract rent exceeds market rent.

EXCESS LAND Land above and beyond what is needed for the highest and best use of the site.

EXCHANGE A reciprocal transfer of properties between two or more parties.

EXCLUSION General affecting title to real property excluded from coverage of a title insurance policy.

EXCLUSIVE AGENCY A contract hiring the broker as the exclusive agent for the seller. If anyone, except the

seller, finds a buyer, the broker has earned the commission.

EXCLUSIVE AGENCY LISTING A written agreement giving one agent the exclusive right to sell property for a specified period of time, but reserving the right of the owner to sell the property himself or herself without liability for the payment of a commission.

EXCLUSIVE-RIGHT-TO-SELL LISTING A written agreement giving one agent the exclusive right to sell property for a specified period of time. The agent may collect a commission if the property is sold by anyone, including the owner, during the term of the listing agreement. An exclusive right to sell listing can best be identified as an Executory Unilateral Contract.

EXCLUSIVE AGENCY AGREEMENT When a broker receives an exclusive agency agreement from the seller, he owes a fiduciary relationship to the seller.

EXCLUSIVE RIGHT TO SELL AGENCY A contract hiring the broker as the only person authorized to sell property. If anyone, including the seller, finds a buyer, the broker earns the commissions.

EXCULPATORY CLAUSE A provision in leases and other instruments seeking to relieve one party of liability for his negligence and other acts. In residential leases such clauses are invalid, and in other leases the courts have limited the landlord's ability to escape liability for intentional acts, and for acts of affirmative negligence.

EXECUTE To complete, make, perform, do or to follow out. To sign a document, intending to make it a binding instrument. The term is also used to indicate the performance of a contract.

EXECUTED CONTRACT Completed and fully performed by both parties.

EXECUTION The legal process in which a court orders an official (such as a sheriff) to seize and sell the property of a judgment debtor to satisfy a judgment lien

EXECUTION LIEN A lien arising because of an execution on property. A judgment is not self-executing; however, when a writ of execution has been obtained, the sheriff will levy (seize) property, which creates a lien on the property.

EXECUTIVE The head of a government, such as president, governor, or mayor.

EXECUTIVE POWER (FREC)(FL) Duties related to the education of the licensees, the regulating of professional

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practices, and the publishing of materials.

EXECUTOR A person named by the testator of a will to carry out its provisions as to the disposition of the estate. A personal representative appointed in a will to administer a decedent's estate.

EXECUTOR/EXECUTRIX A person named in a will to carry out its provisions. If it's a man, he's an executor; if it's a woman, she's an executrix. COMPARE: administrator.

EXECUTORY CONTRAC A contract that is yet to be preformed.

EXEMPT PROPERTY Property that has been decreed to be excluded from taxation or claim by others.

EXEMPTION A provision holding that a law or rule doesn't apply to a particular person or group. For example, a person entitled to a property tax exemption is not required to pay property taxes. An exemption can be full or partial.

EXHIBIT 1. Documentary or physical evidence submitted in a trial. 2. An attachment to a document.

EX PARTE By only one party or side. For example, an injunction obtained by evidence presented by only one side, without notice to the other parties.

EXPANDIBLE HOUSE A home designed for expansion and additions in the future.

EXPANSION A phase of the business cycle characterized by increasing production.

EXPANSION JOINT A fiber strip used to separate units of concrete to prevent cracking due to expansion as a result of temperature changes.

EXPANSION OPTION A lease clause granting a tenant an option to lease additional adjacent space after a specified period of time.

EXPEDIENTES The right to use another's land for a specific purpose, sometimes known as the right-of-way.

EXPENSES Certain items which appear on a closing statement in connection with a real estate sale.

EXPERIENCE EXCHANGE REPORT An annual BOMA publication containing income and expense

statistics for office properties classified by type of building, area and such

EXPORT PRODUCTION Goods and services produced for sale or use outside the town or area in which they are produced.

EXPRESS Stated in words, spoken or written.
COMPARE: Implied.

EXPRESS CONTRACT A contract whose elements are stated either orally or in writing.

EXPROPRIATION To take by public authority through the power of eminent domain.

EXTENDED POLICY An extended insurance policy.

EXTENDER CLAUSE A clause in a listing agreement providing that for a specified period after the listing expires, the broker will still be entitled to a commission if the property is sold to someone the broker dealt with during the listing term. Also called a carryover clause or safety clause.

F

FACADE The face of a building, especially the front face.

FACILITY MANAGEMENT ADMINISTRATOR (FMA) A designation awarded by BOMI based on the curriculum for commercial property specialists who are responsible for real property as a corporate asset.

FACSIMILE (FAX) An exact copy.

FACTOR MARKET A resource pool representing the four major elements of production that are bought and sold.

FACTORS OF VALUE The least important factor in figuring present value is the original cost.

FAILURE OF PURPOSE When the intended purpose of an agreement or arrangement can no longer be achieved; in most cases, this releases the parties from their obligations.

FAIR HOUSING ACT (TITLE VIII OF THE CIVIL RIGHTS ACT 1968) A federal law that prohibits discrimination in the sale, rental or financing of housing based on race, color, religion, sex, handicap, familial status or national origin. One of the regulations of this act is that hallways, doorways and common areas are accessible for the width of wheel chairs.

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FAIR MARKET VALUE The amount of money that would be paid for a property offered on the open market for a reasonable length of time with both the buyer and the seller knowing all uses to which the property could be put and with neither party being under pressure to buy or sell. See market Value.

FAMILIAL STATUS For the purposes of fair housing laws is not synonymous with marital status.

FANNIE MAE The Federal National Mortgage Association (FNMA). Does conforming loans.

FARM AREA A selected and limited geographical area to which a sales associate devotes special attention and study; to farm an area neighborhood.

FARMERS HOME ADMINISTRATION An agency of the Department of Agriculture. Primary responsibility is to provide financial assistance for farmers and others living in rural areas where financing is not available on reasonable terms from private sources.

FASTTRACK CONSTRUCTION A method under which construction of a building begins under a negotiated contract before all plans and specifications have become final. Construction proceeds as plans come off drawing board.

FEASIBILITY STUDY A report on the potential profitability of a propose real estate project. It includes considerations such as land area, physical features of the land, requirements of the project and estimated cost.

FEDERAL DEPOSIT INSURANCE CORPORATION
A federal corporation that insures deposits in commercial banks (FDIC).

FEDERAL FAIR HOUSING LAWS Are not enforced by the Department of Justice

FEDERAL HOME LOAN BANK (FHLB) A district bank of the Federal Home Loan Bank System that lends only to savings and loan associations who are members.

FEDERAL HOME LOAN MORTGAGE CORPORATION (FHLMC) A federal corporation that provides savings and loan associations with a secondary mortgage money market for loans. It is also known as Freddy Mac.

FEDERAL HOUSING ADMINISTRATION (FHA)

An agency of the federal government that insures mortgage loans.

FEDERAL HOUSING FINANCE BOARD Federal agency that regulates the 12 Federal Home Loan Banks.

FEDERAL INSURANCE CONTRIBUTIONS ACT (FICA) A federal regulation requiring employers to pay retirement fund taxes (social security) for employees.

FEDERAL LAND BANK SYSTEM Federal government agency making long term loans to farmers.

FEDERAL NATIONAL MORTGAGE ASSOCIATION (FNMA) A federal corporation that provides lenders with a secondary mortgage money market.

FEDERAL QUESTION A legal issue involving the U.S. constitution, a treaty, or a federal statute. Federal courts have jurisdiction to hear federal question cases, but they may also be decided in state court.

FEDERAL RESERVE SYSTEM The federal banking system of the United States under the control of a central board of governors (Federal Reserve Board). It involves a central bank in each of 12 geographical districts, with broad powers in controlling credit and the amount of money in circulation. They are the primary government regulator in monetary policy activities.

FEDERAL SAVINGS AND LOAN INSURANCE CORPORATION (FSLIC) A federal corporation that insures deposits in savings and loan associations.

FEDERAL STATUTES Bankruptcy proceedings are initiated under Federal statutes.

FEDERAL TRADE COMMISSION (FTC) A federal agency that investigates and eliminates unfair deceptive trade practices.

FEDERAL UNEMPLOYMENT TAX ACT (FUTA) A regulation requiring employers to file federal unemployment tax returns for employees.

FEDERALLY RELATED TRANSACTIONS Any sale transaction that ultimately involves a federal agency in either the primary or secondary mortgage market. Under FIRREA, state certified or state licensed appraisers must be used for certain loans in federally related transactions.

FEE An estate of inheritance in real property for life.

FEE ABSOLUTE SEE: *Fee Simple*.

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FEE, CONDITIONAL Title that may be terminated by a former owner if conditions stated in the deed are not met. The only type of defeasible fee that is recognized in California now. Also called fee simple subject to a condition subsequent. SEE: Power of termination.

FEE SIMPLE An estate in real property by which the owner has the greatest possible power over the title. In modern use it expressly establishes the title of real property with the owner without limitation or end. He or she may dispose of it by sale, trade, or will, as he or she chooses. In modern estates the terms "Fee" and "Fee Simple" are substantially synonymous.

FEE SIMPLE ABSOLUTE The highest estate known at law. A freehold estate of indefinite duration, incapable of being defeated by conditions or limitations. Sometimes simply called fee or fee estate.

FEE SIMPLE DEFEASIBLE (QUALIFIED) A fee simple estate to which certain conditions or limitations attach, such that the estate may be defeated or terminated upon the happening of an act or event. Also called a fee simple subject to a condition subsequent estates.

FEE SIMPLE DETERMINABLE A defeasible fee that is terminated automatically if certain conditions occur. No longer recognized in California; now treated as a conditional fee.

FEE SIMPLE ESTATE The greatest interest that one can have in real property. An estate is unqualified of indefinite duration, freely transferable and inheritable.

FEE SIMPLE SUBJECT TO A CONDITION SUBSEQUENT A fee simple defeasible estate that requires the holder of the future interest to act promptly to terminate the present interest, in order for that interest to be terminated.

FEUDAL TENURE A real property ownership system in which ownership rests with a sovereign who may grant lesser interests in return for service or loyalty. This is in contrast to allodial tenure.

FHA Federal Housing Administration.

FHLMC Federal Home Loan Mortgage Corporation; also known as Freddie Mac. SEE: Secondary Marketing.

FICTITIOUS DEED OF TRUST A recorded deed of trust that discloses all the terms of the trust deed but

does not relate to a specific transaction and is used for reference only.

FIDELITY BOND A security posted for the discharge of an obligation of personal services.

FIDUCIARY A person in a position of trust and confidence, as between principal and broker. A fiduciary may not make a profit from his or her position without first disclosing it to the beneficiary.

FIDUCIARY DUTY That duty owed by an agent to act in the highest good faith toward the principal and not to obtain any advantage over the latter by the slightest misrepresentation, concealment, duress or pressure.

FIDUCIARY RELATIONSHIP a relationship of trust and confidence, where one party owes the other (or both parties owe each other) loyalty and a higher standard of good faith than they owe to third parties. For example, an agent is a fiduciary in relation to the principal; husband and wife are fiduciaries in relation to each other.

FILE AND USE Title insurers in most states file rate schedules, policy forms, and endorsement forms with the state insurance department; they may then use those rates and forms after a specified waiting interval; rates so filed are mandatory.

FILTERING DOWN The process whereby higher-priced properties become available to lower income buyers.

FINAL ORDER A decision made by FREC.

FINANCE CHARGE Any charge a borrower is assessed, directly or indirectly, in connection with the loan.

FINANCIAL INSTITUTIONS REFORM, RECOVERY, AND ENFORCEMENT ACT OF 1989 (FIRREA) Federal legislation to liquidate, consolidate, and recover the assets of troubled savings and loan organizations.

FINANCIAL INTERMEDIARY Financial institutions such as banks, savings and loan associations, mutual savings banks and life insurance companies which receive relatively small sums of money from the public and invest them in the form of large sums. A considerable portion of these funds are loaned on real estate.

FINANCING PROCESS The systematic 5 step procedure followed by major institutional lenders in analyzing a proposed loan, which includes ---- filing of application by a borrower ;lenders analysis of borrower and property; processing of loan documentation; closing (paying) the loan; and servicing

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(collection and record keeping).

FINANCING CONTINGENCY The buyer must use reasonably diligent efforts to secure financing.

FINANCING STATEMENT The instrument filed to perfect the security agreement and give constructive notice of the security interest, thereby protecting the interest of the secured parties. (See Security Agreement; Security Interest; and Secured Party.) The security interest in personal property. It is analogous to a mortgage on real property, except that it secures personal property. Under the UCC, it may be filed in Sacramento with the secretary of state.

FINANCING REAL ESTATE Securing a loan by giving real property as collateral for payment of the debt.

FIND A PURCHASER A provision in a listing contract requiring a broker to produce a ready, willing and able buyer or offer on the terms specified.

FINDER'S FEE Money paid to a person for finding someone interested in selling or buying property. To conduct any negotiations of sale terms, the finder must be a licensed broker or he violates the law.

FINISH FLOOR The final covering on the floor, such as wood, linoleum, cork, or carpet.

FIRE INSURANCE REQUIREMENT FORM A form included in loan papers that a borrower must sign, in which the borrower agrees to obtain fire insurance coverage to protect the property and insure the lender.

FIRST CHOICE Anybody may bid on a piece of property, there are no priorities.

FIRE SAFETY Smoke detectors and fire extinguishers are required by law, but most insurance companies also require them.

FIRE STOP A solid, tight closure of a concealed space placed to prevent the spread of fire and smoke through the space.

FIRST DEED OF TRUST The loan of first priority; it takes precedence over junior loans and encumbrances. Also called senior primary lien.

FIRST TIME HOME BUYERS Generally buy homes with two or less bedrooms.

FIRM COMMITMENT The amount lenders agree to

lend on a specified property to a specified borrower for a certain length of time.

FIRST AMENDMENT The constitutional amendment guaranteeing freedom of speech, press, assembly, and religion.

FIRST LIEN POSITION The spot held by the deed of trust with highest lien priority, when there is more than one deed of trust on the property. SEE: Deed of Trust, First.

FIRST MORTGAGE A legal document pledging collateral for a loan (See mortgage) that has first priority over all other claims against the property except taxes and bonded indebtedness. That mortgage is superior to any other.

FIRST TRUST DEED The deed with the highest position of being collected first.

FISCAL POLICY Programs by the federal government that are intended to influence economic activity by making changes in government expenditures and taxation implemented by the U.S. Treasury.

FIVE YEARS Commissioners Final Public Report Expiration date.

FIVE-YEAR FORECAST A long-term. projection of estimated income and expense for a property based on predictable changes.

FIXED EXPENSES An expense item in a property's operating budget that does not fluctuate with rental income.

FIXED (INTEREST) RATE MORTGAGE A mortgage with an interest rate that does not change over the life of the loan.

FIXED TERM A period of time with a definite ending date.

FISCAL POLICY Programs by the federal government that are intended to influence economic activity by making changes in government expenditures and taxation.

FIXED EXPENSES Operating costs that are more or less permanent and that vary little from year to year.

FIXITY OF LOCATION The physical characteristic of real estate that subjects it to the influence of its surroundings.

FIXTURE An item of personal property that has been so attached to real property as to be considered part of that real property.

FIXTURES Items that were originally personal property but

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that have become part of the real property, usually because they are attached to the real property more or less permanently. Examples: Store fixtures built into the property and plumbing fixtures.

FLAG LOT Rear lot, behind other houses or lots, with a long, narrow access road (like a flagpole).

FLASHING Sheet metal or similar material used to protect a building from water seepage.

FLAT FEE A property management fee expressed as a dollar amount per year or month.

FLAT LEASE SEE: *Straight Lease*.

FLEA MARKET A large building or open area in which space is sold to individuals for the sale of merchandise, usually used or of a collectible nature.

FLOOR AREA RATIO METHOD A Flexible method of limiting the size of a building in relation to the size of a lot; used in some zoning ordinances as an alternative to strict size and coverage limits.

FNMA Federal National Mortgage association; also known as Fannie Mae. SEE: Secondary Marketing.

FOOTING The base or bottom of a foundation wall, pier, or column.

FOOTLOOSE A term describing industries that are capable of being located almost anywhere.

FOLLOW-UP What a sales associate does after a sale to maintain customer contact and goodwill.

FORCIBLE DETAINER Wrongful retention of property by actual or constructive force.

FORCIBLE ENTRY Entry into property without the consent of the owner, by acts that constitute more than mere trespass.

FORBEARANCE Any arrangement that delays foreclosure action.

FORECASTING Taking the past as a guide to the future, together with judgements from the projections of the future.

FORECLOSURE A legal proceeding to enforce a lien on such as a mortgage or deed of trust. The process by which secured property is seized and sold to

satisfy a debt. A mortgage or involuntary lien must be sold by a court-ordered sale; a sale under a deed of trust may be either by court action or through a private trustee's sale.

FORECLOSURE, JUDICIAL A lawsuit filed by a mortgagee or deed of trust beneficiary to foreclose on the security property when the borrower has defaulted.

FORECLOSE, NONJUDICIAL Foreclosure by a trustee under the power of sale clause in a deed of trust.

FOREIGN TRADE ZONE (FTZ) An area designated under federal law that permits manufacturing, shipping or storage of goods duty-free.

FORFEITURE Loss of a legal right, interest, or title by default.

FORM REPORT Written appraisal report presented on a standardized form or checklist.

FORMAL APPRAISAL An estimate of value that is reached by the collection and analysis of relevant data. A formal appraisal is usually reported in writing.

FORMAL COMPLAINT An outline of charges against a licensee that must be answered within the statutory time limit.

FORMAL CONTRACT Any agreement that contains all the essentials of a contract, including that it is in writing and under seal; a contract dependent on a particular form.

FORMAL HEARING (*See Hearing*)

FORMAL WILL A will signed by the testator in the presence of two or more witnesses, who must themselves sign the will.

FOUR UNITIES SEE: Unities, Four.

FOUNDATION That part of a structure or wall wholly or partly below the surface of the ground that is the base or support, including the footings.

FOURTEENTH AMENDMENT The constitutional amendment that directs that no state can deprive a person of life, liberty, or property without due process or equal protection of the law.

FRANCHISE A specified privilege awarded by a government or business firm which awards an exclusive dealership.

FRAUD Deception that deprives another person of his or her rights or injures him or her. False representation or concealment of material facts that induces another justifiably to rely on it to his detriment.

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FRAUD, ACTIONABLE Fraud that meets certain criteria, so that the victim can successfully sue. The victim/plaintiff usually must prove that the defendant concealed a material fact or made a false statement (intentionally or negligently) with the intent to induce the victim to enter a transaction, and that the victim was harmed because he or she relied on the misrepresentation.

FRAUD, ACTUAL Intentional misrepresentation or concealment, or negligent misrepresentation, which is making a false statement without reasonable grounds for believing it is true.

FRAUD, CONSTRUCTIVE A breach of duty that misleads the person the duty was owed to, without an intention to deceive.

FREDDIE MAC (See FEDERAL HOME LOAN MORTGAGE CORPORATION.)

FREE AND CLEAR Title to property that is absolute and unencumbered.

FREEHOLD An estate of fee. An estate in real property that is either a life estate or an estate in fee.

FREEHOLD ESTATE An estate of indeterminable duration, e.g., fee simple or life estate.

FRONT-END RATIO The ratio used by lenders to qualify a borrower for a loan, determined by adding the principal, interest, taxes, insurance, and mortgage insurance on the new loan and by dividing by the borrower's gross monthly income.

FRONT FOOTAGE Property measurement for sale or valuation purposes. The property measurement is along the street line, and each front foot extends to the depth of the lot. It is usually used in connection with commercial property.

FRONTAGE A term used to describe or identify that part of a parcel of land or an improvement on the land that faces the street or a body of water. The term is also used to refer to the lineal extent of the land or the improvement that is parallel to and facing the street, e.g., a 75 foot frontage.

FRONT MONEY The minimum amount of money necessary to initiate a real estate venture, to get the transaction underway.

FROST LINE The depth of frost penetration in the soil.

FRUCTOSE Fruits, crops, and other plants. If the vegetation is produced by human labor, such as crops, it is called fructus industrialis; vegetation growing naturally is called fructus naturales.

FRUCTUS INDUSTRIALES Plants planted and cultivated by people, such as crops (fruits of industry).

FRUCTUS NATURALES Naturally occurring plants (fruits of nature).

FRUITS AND NUTS Usually bring the highest monetary return per acre.

FSBO (For Sale BY Owner) Property offered for sale typically without the use of a real estate broker.

FULL CASH VALUE SEE: Value, Full Cash.

FULLY INDEXED NOTE RATE As related to adjustable rate mortgages, the index value at the time of application plus the gross margin states in the note.

FUNCTIONAL OBSOLESCENCE A loss value due to adverse factors from within the structure which affect the utility of the structure, value and marketability.

FUNCTIONAL UTILITY The combination of the usefulness and attractiveness of a property.

FUNDING The release of loan funds from a lending institution to the escrow company, generally on the closing day of escrow or recordation.

FUNDING LETTER Written request to a lender for the release of loan funds; also called *request for loan proceeds*.

FURTHER ASSURANCE A provision in a deed containing a covenant or warranty to perform any further acts the grantee (buyer) might require to perfect title to the property.

FURRING Strips of wood or metal fastened to wall to even it, form air space, or to give the wall greater thickness.

FUTURE ADVANCES Future (additional) loans made by a lender and secured under the original deed of trust. The advances may be either optional or obligatory, but the deed of trust or mortgage must provide in the security instrument that it will cover any such future advances.

FUTURE APPRECIATION This appreciation is referred to as savings value.

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FUTURE BENEFITS The anticipated benefits the present owner will receive from the property in the future.

FUTURE INTEREST An estate that does not or may entitle one to possession or enjoyment until a future time.

FUTURE VALUE The estimated lump-sum value of money or property at a date in the future.

G

GABLE ROOF Pitched roof with sloping sides.

GAIN A profit, benefit, or value gain

GAIN, CAPITAL A gain realized on the sale of a capital asset. Real estate is considered a capital asset if it is income property, or property used in a trade or business.

GAMBREL ROOF A curb roof, having a steep lower slope with a flatter upper slope above.

GARNISHMENT A legal process to seize a debtor's property or money in the possession of a third party.

GUARANTEE OF TITLE An assurance of clear title.

GENERAL AGENT A representative authorized by the principal to perform only acts related to a business or to employment of a particular nature.

GENERAL LIEN A lien on all the property of the debtor.

GENERAL PARTNERSHIP An association of two or more persons for the purpose of jointly conducting a business, each being responsible for all the debts incurred in the conducting of that business.

GENERAL PLAN A long-term, comprehensive plan for the development of a city or county, used as a guide in preparing zoning ordinances.

GENERAL PLAN RESTRICTIONS Covenants, conditions, and restrictions placed on a subdivision or other large tract of land, designed to benefit and burden each lot in the tract.

GENERAL WARRANTY DEED A deed in which the grantor warrants the title against defects that might have arisen before or during his or her period of

ownership.

G.I. LOANS Common term for loans guaranteed by the department of veterans Affairs for qualified veterans. Also known as DVA loans.

GIFT A voluntary transfer of property without consideration.

GIFT DEED A deed for which there is no material consideration.

GINNIE MAE The GNMA.

GIRDER A beam used to support other beams, joists, and partitions.

GOING CONCERN VALUE The worth of a business, including real estate, goodwill and earning capacity.

GOLF COURSES One of the major things that builders like to build close to or around.

GOOD FAITH A party's honest intent to transact business; free from any intent to defraud the other party, each party's faithfulness to one's duty or obligations set forth by contract.

GOOD FAITH IMPROVER Someone who makes an improvement on land in the mistaken belief that he or she owns the land. Also called an innocent improver

GOODWILL An intangible but salable asset of a business derived from the expectation of continued public patronage.

GOVERNMENT LOT A parcel of land that can't be divided into a regular section in the government survey, because of the convergence of range lines, or because of a body of water or some other obstacle or irregularity.

GOVERNMENT NATIONAL MORTGAGE ASSOCIATION (GNMA) A federal corporation that assists in financing special assistance programs for federally aided housing. The corporation is also known as Ginny Mae.

GOVERNMENT SPONSORED ENTERPRISE (GSE) Collective title for the secondary market consisting of the FNMA, FHLMC; and GNMA.

GOVERNMENT SECURITIES In order to combat inflation the Federal Reserve will buy government securities on the open market.

GOVERNMENT SURVEY A method of specifying the location of a parcel of land using prime meridians, base line, standard parallels, guide meridians, townships and sections.

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GRADE Ground level at the foundation.

GRADUATED LEASE Usually a long-term lease that provides for adjustments in the rental rate on the basis of some future determination. For example, the rent may be based upon the result of appraisals to be made at predetermined times in the future.

GRADUATED PAYMENT MORTGAGE (GPM) A land loan for which periodic payments increase at a stated period of time and then level off for the remainder of the term of the loan.

GRANT (1) To transfer. (2) A deed. (3) When used in a deed, a technical term implying certain warranties. A transfer or conveyance of real estate.

GRANT DEED In California, a deed in which the word grant is used as a work of conveyance and therefore by law implies certain warranties, deed used to transfer property in California. By statute it impliedly contains only two limited warranties.

GRANTEE The buyer; a person to whom a grant is made.

GRANTING CLAUSE Words in a deed that indicate the grantor's intent to transfer an interest in property.

GRANTOR The seller; one who signs a deed. The seller or person who executes a grant.

GRANTOR/GRANTEE INDEXES Indexes of recorded documents, with each document listed in alphabetical order according to the last name of the grantor (in the grantor/grantee index) and grantee (in the grantee/grantor index). The recording number of each document is given, so that they can be located in the public record. COMPARE: Tract Index.

GRATUITOUS AGENT A person not paid by the principal for services on behalf of the principal, who cannot be forced to act as an agent, but who becomes bound to act as an agent, but who becomes bound to act in good faith and obey the principal's instructions once he or she undertakes to act as an agent.

GREAT DEPRESSION During this period one of the facts is that even though the economy slumped the population grew.

GREENBELT LAW (FL) Legislation that authorizes county property appraisers to assess land used for agricultural purposes according to its current value as

agricultural land.

GRID A chart used in rating the borrower, property, and neighborhood.

GROSS FLOOR AREA A method of measuring industrial space in which the area is the total of all floor space within the exterior walls of the building, with no allowance made for structural projections and with a required minimum ceiling height of 7 ½ feet.

GROSS INCOME Total income before expenses are deducted.

GROSS INCOME MULTIPLIER (GIM) The ratio of the selling price (or appraisal value) to the gross income of a property. May be multiplied by the gross income of a property to produce an estimate of the property's value. Also known as the gross rent multiplier (GRM).

GROSS LEASE A common residential lease under which the tenant pays a fixed rental and the landlord pays all operating expenses for the property.

GROSS MARGIN With regard to an adjustable rate mortgage, an amount expressed as percentage points, stated in the note which is added to the current index value on the rate adjustment date to establish the new note rate.

GROSS NATIONAL PRODUCT The total value of all goods and services produced in an economy during a given period of time.

GROSS RENT MUTIPLIER A number that reflects the ratio between the sales price of a property and its gross monthly rents. It is used in the income approach of appraising property.

GROSS SALES The total sales made by a retail tenant at a leased premises. A proportion of gross sales is charged as rental consideration under a percentage lease.

GROSS SCHEDULED INCOME Total income from investment property before deducting any expenses.

GROUND LEASE An agreement leasing land only, without improvements, ordinarily with the understanding that improvements will be placed on the land by the tenant.

GROUND RENT (1) Earnings from the ground only. (2) Earnings of improved property after an allowance is made for earnings of improvements. (3) A perpetual rent that a grantor in some states may reserve to himself or herself and his or her heirs when he or she conveys real property.

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GROUP LICENSE A right granted a sales associate or broker associate to work various properties owned by affiliated entities under one owner developer.

GROWING EQUITY MORTGAGE Loan with fixed interest rate and scheduled annual increases in monthly payments, resulting in shorter maturity.

GUARDIAN A person appointed by a court to administer the affairs of a minor or an incompetent person.

GUIDE MERIDIANS SEE: Meridians, Guide.

H

HARD MONEY LOAN Loan usually from a private lender. Actual money loaned and secured by a trust deed as opposed to a loan carried back by a seller, in which no money passes.

HABENDUM CLAUSE The to have and hold clause which may be found in a deed.

HANDICAP STATUS As defined in the Fair Housing Act, a physical or mental impairment that substantially limits one or more major life activities.

HAZARD COMMUNICATION STANDARD PLAN An OSHA-mandated plan to be compiled by property managers detailing protective measures to be implemented when handling hazardous chemicals. See *Occupational Safety and Health Administration*

HAZARD INSURANCE Insurance that protects the owner and lender against physical hazards to property such as fire and windstorm damage.

HEADER A beam placed perpendicularly to joists and to which joists are nailed in the framing of openings such as windows, doors, and stairways.

HEARING A session in which testimony and arguments are presented, especially before an official.

HEIRS Persons who succeed to the estate of someone who dies intestate (without a will). It sometimes indicates anyone who is entitled to inherit a decedent's property.

HEREDITAMENT A term usually referring to real

estate and all that goes with it as being incidental.

HIGHER LAND COSTS This generally leads to the lot sizes of the homes being decreased.

HIGHEST AND BEST USE An appraisal phrase that means that use of real property that is most likely to produce the greatest net return on land or buildings, or both, over a given period of time. Qualifies as the highest and best use.

HIGH FARM LAND COSTS To be able to come out at the end of the year with a profitable statement some cattlemen have had to plant fruits and vegetables.

HIGH LOCAL UNEMPLOYMENT The type of area that will except businesses that have high employment, but create noise and dust.

HIP ROOF A pitched roof with sloping sides and ends.

HISTORIC COST Cost of a property at the time it was constructed or purchased.

HIV Persons afflicted with HIV are not protected under federal fair housing laws.

HOLDER IN DUE COURSE One who has taken a negotiable note, check, or bill of exchange in due course (1) before it was past due; (2) in good faith; (3) without knowledge that it has been previously dishonored and without notice of any defect at the time it was negotiated to him or her; (4) for value. Someone who acquires a negotiable instrument in good faith and without any actual or constructive notice of defect. The acquisition must occur before the note's maturity. Such a holder takes the note free from any personal defenses (such as failure of consideration, fraud in the inducement) that may be available against the maker.

HOLOGRAPHIC WILL A will that is entirely written, dated, and signed by the testator in the testator's handwriting. No witnesses are needed.

HOLDOVER TENANT Tenant who remains in possession of leased property after the expiration date of the lease.

HOME EQUITY LOANS Due to the Tax Reform Act of 1986 these loans have become very popular due to their tax advantages.

HOMEOWNER S ASSOCIATION A nonprofit association made up of homeowners in a subdivision responsible for enforcing the subdivisions CC&Rs and managing other community affairs.

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HOMEOWNERS ENDORSEMENT An addition to a policy of title insurance that extends the normal policy to cover items other than those stated in the standard policy; may include such items as mineral rights and mechanics liens.

HOMEOWNER'S EXEMPTION An exemption or reduction in real property taxes available to those who reside on their property as of March 1. The current amount is \$70 off the normal tax bill otherwise due.

HOME PURCHASE LOAN The leader in home purchase lending is saving institutions.

HOMESTEAD (1) A home upon which the owner or owners have recorded a Declaration of Homestead, as provided by California statutes, that protects the home against judgments up to a specified amount. (2) A probate homestead is a similarly protected home property set aside by a California probate court for a widow or minor children. A special, limited exemption against certain judgments available to qualified homeowners.

HOTEL MANAGEMENT Property managers usually attend a college course which is part of a major in hotel-restaurant management.

HOMESTEAD EXEMPTION In some jurisdictions, a reduction in the assessed value allowed for one's principal residence.

HOUSEHOLD One individual, or a group of individuals, living in dwelling unit.

HOUSING AND URBAN DEVELOPMENT (HUD) DEPARTMENT. A U.S. government agency established to implement certain federal housing and community development programs. This federal agency attempts to assure decent, safe, and sanitary housing for all Americans, and investigates complaints of discrimination in housing.

HOUSING FINANCIAL DISCRIMINATION ACT (1977)
Prevents discrimination in the purchase, construction, rehabilitation, improvement of housing accommodations because of conditions, characteristics, or trends in the neighborhood.

HUD The department of housing And Urban development which is responsible for the implementation and administration of U.S. government housing and urban development programs.

HUD FORM A final accounting of closing costs, itemizing the buyer's and seller's closing costs separately, a consumer protection form.

HUNDRED PERCENT LOCATION A retail business location considered the best available for attracting business.

HYPOTHECATE (HYPOTHECATION) To give something as security without giving up possession of it. To pledge property; to pledge a security interest in property without the transfer of possession.
An example is a trust deed.

ILLUSORY CONTRACT An agreement that gives the appearance of a contract, but in fact is not a contract because it lacks one of the essential elements.

IMMIGRATION REFORM AND CONTROL ACT OF 1986
The act must be adhered to by all American employers.

IMMUNE Real property that is owned by a unit of government and is not subject to taxation.

IMPERFECT REAL ESTATE MARKET The following three factors help to make the real estate market imperfect, (1) Imperfect knowledge, (2) Production time for new units, and (3) Must sell and will sell sellers.

IMPLIED Not expressed by words, but presumed from facts, acts, or circumstances.

IMPLIED BY LAW Required by law to be part of an agreement; read into an agreement even if it contradicts the express terms the parties agreed to.

IMPLIED CONTRACT An agreement that has not been put into words, but is implied by the actions of the parties.

IMPLIED LISTING An employment contract that arises from the conduct of the broker and the seller and may be enforceable even though not clearly spelled out in words.

IMPLIED WARRANTY SEE: Warranty, Implied.

IMPLIED WARRANTY OF HABITABILITY A warranty implied by law in every residential lease, that the property is safe and fit for habitation.

IMPOUND (ACCOUNT) A trust account established by the lender to pay property taxes and hazard insurance.

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IMPROVEMENTS Man-made additions to real property. Generally increasing the value of the property.

INCOME Amount earned or gained, not return of capital.

INCOME AND EXPENSE REPORT A monthly financial report showing the income from property, operating expenses and the amount remitted to the owner.

INCOME APPROACH (Income Approach to value)
An appraisal technique used on income producing properties. Also known as the **Capitalization Approach**.

INCOME FORECAST Gross or net income estimate.

INCOME (PRODUCING) PROPERTY Property that generates rent (or other income) for the owner, such as an apartment building. Most of this property is owned by individuals.

INCOME RATIO The monthly payment on a loan (including principal, interest, taxes and hazard insurance) divided by the borrowers monthly gross income.

INCOME STATEMENT A summary of all income and expenses of a business for a stated period of time.

INCOME STREAM Actual or estimated flow of net earnings over time.

INCOMPETENT Someone incapable of managing his or her own affairs by reason of age, disease, weakness of mind, or any other cause. Any increase. (1) A term frequently used to refer to

INCREMENT the increased value of land because of population growth and increased wealth in the community.

INCUBATOR SPACE A building located in an industrial park and divided into small units of varying sizes to accommodate young, growing companies that want to combine office and industrial space at one location.

INCURABLE DEPRECIATION Building defects or problems that would cost more to repair than the anticipated value increase from such repair.

INDEBTEDNESS A debt or obligation.(2)

"Unearned increment" is used in this connection since the values increased without effort on the part of the owner.

INEFFECTIVE Status of a license when it is inactive or has been suspended.

INDEMNIFY To make a payment for a loss.

INDEMNIFICATION Compensation to a person who has already sustained a loss. For example, insurance payment for a loss under policy.

INDEMNITY a guarantee against loss; a building contractor may, for example, give a title company an indemnity agreement that renders the title company harmless against any liens that may arise due to the contractor's failure to pay his or her bills.

INDEPENDENT CONTRACTOR A person who contracts to do a job for another but maintains control over how he or she will carry out the task, rather than following detailed instructions. COMPARE: Employee.

INDEX a number used by a lender to measure interest rate changes over time; used as a guide for resetting rates of adjustable rate loans.

INDEX LEASE A lease containing an escalation clause.

INDEX METHOD Method for estimating construction costs; adjusts original costs to the current cost level by a multiplier obtained from a published cost index.

INDICATED VALUE Value estimate calculated/produced by an appraisal approach.

INDIRECT COSTS All of the time and money costs involved in a construction project that are not directly involved with construction itself. Examples are loan fees, interest, legal fees, and marketing costs.

INDIRECT LIGHTING A method of illumination in which the light is reflected from the ceiling or other object outside the fixture.

INDIRECT MANAGEMENT COSTS Expenses in the budget of a real estate agency or parent company that are partially attributable to the operation of the management department.

INDIVIDUAL BUSINESS OWNER When an individual owner rents office space both the husband and the wife should sign.

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INDIVIDUAL LENDER Seller, third party, or real estate **agent**; any person or group of persons other than institutional lenders.

INDORSEMENT (1) The act of signing one's name on the back of a check or a note, with or without further qualification. (2) The signature described above. The title insurance policy usually has one of these.

INDUSTRIAL PARK A suburban industrial subdivision designed to offer comparatively small firm's land in outlying areas with good accessibility to transportation now often called a business park.

INDUSTRIAL LEASE The following should be contained in this type of lease; what happens if a industrial tenant violates pollution laws, what happens if there is a strike and picket lines block other tenants access and is the storage of hazardous materials allowed on the premises.

INDUSTRIAL REAL ESTATE Properties that include (1) sites in industrial parks or subdivisions, (2) redeveloped industrial parcels in central areas, (3) industrial acreage. It is commonly owned by the company occupying it.

INFLATION Increase in prices for goods and services resulting from too much money in circulation or rising costs of services and material.

INFLATION ENDORSEMENT Coverage that may be added to the standard owner's policy of title insurance; it adjusts the amount of coverage according to cost-of-living index.

INFORMAL APPRAISAL An estimate of value that is reached by using intuition, past experience, and general knowledge.

INFORMAL HEARING A respondent who does not dispute allegations of material fact in the administrative complaint may request an informal hearing before the FREC for the final action complaint.

INFORMATION SUPERHIGHWAY A system of fiber optic cables that will allow rapid transfer of electronic data of all different types(text, voice, video, etc.).

INFRASTRUCTURE The man-made physical features of urban area, such as roads, highways, sewage and drainage systems and utility facilities necessary to support a concentration of population.

INGRESS The act of or avenue for entering property.

INHERIT To take property through a deceased's estate.

INITIAL MOVE-IN FEES This fee should be paid by money order or certified check.

INJUNCTION An order issued by a court to restrain one or more parties to a suit or proceeding from performing an act deemed inequitable or unjust in regard to the rights of some other party or parties in the suit or proceeding.

IN-MIGRATION Movement into a community or region by new residents.

INNOCENT IMPROVER SEE: *Good Faith Improver*.

INQUIRY NOTICE SEE: *Notice, Inquiry*.

INSTALLMENT A partial payment of a debt due in a series of payments.

INSTALLMENT NOTE A note that provides that payments of a certain sum or amount be paid in more than one payment on the dates specified in the instrument.

INSTALLMENT-SALE(Method) A method of reporting capital gains by installments for successive tax years to minimize the impact of capital gains tax in the year of the sale.

INSTALLMENT SALES CONTRACT Also known as an agreement of sale or a land contract.

INSTITUTE OF REAL ESTATE MANAGEMENT (IREM) A subsidiary group of the National Association of Realtors, founded in 1933 to encourage professionalism in the field of property management.

INSTITUTIONAL LENDER Lenders who make a substantial number of real estate loans, such as banks, savings and loan associations, and insurance companies.

INSTITUTIONAL PROPERTY Office buildings owned and occupied by the same corporation.

INSTRUMENT A written legal document created to affect the rights of the parties. A document that transfers title, creates a lien, or gives a right to payment, such as a deed, deed of trust, or contract. (SEE: *Negotiable Instrument*.)

INSURABLE TITLE A property title that a title insurance company is willing to insure.

INSURANCE CLAUSE A provision in a mortgage that requires the mortgagor to obtain and keep current a hazard

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insurance policy.

INSURANCE COMPANIES Are the most conservative income property owners. They make the policies payable to the insured and the lender.

INSURANCE, HOMEOWNER S Insurance against damage to the real property and the homeowner s personal property.

INSURANCE, TITLE, EXTENDED COVERAGE Title insurance that covers problems that should be discovered by an inspection of the property (such as encroachments and adverse possession) in addition to the problems covered by standard coverage policies.

INSURANCE, TITLE, STANDARD COVERAGE Title insurance that protects against latent title defects (such as forged deeds) and undiscovered recorded encumbrances, but does not protect against problems that would only be discovered by an inspection of the property.

INTANGIBLE ASSET Something of value lacking physical substance; existing only in connection with something else(e.g., the goodwill of a business).

INTANGIBLE PROPERTY Rights to something other than tangible or physical property.

INTANGIBLE TAX ON MORTGAGES, STATE Tax required prior to a mortgage being recorded. The costs is based on the value of the mortgage.

INTEGRATION CLAUSE A provision in a contract document stating that the document contains the entire agreement between the parties.

INTEGRATIVE NEGOTIATION Goals of the parties are mutual gain, win-win

INTENSITY The concentration of activity (pedestrian and vehicular traffic) used as a means of designating land for commercial zones.

INTENT, OBJECTIVE A person s manifested intention; what he or she appears to intend, whether or not that is what he or she actually intends.

INTENT, SUBJECTIVE What a person actually intends, whether or not that is apparent to others.

INTEREST 1. A right or share in something (such as a piece of real estate). 2. A charge a borrower pays to a

lender for the use of the lender s money. COMPARE : Principal.

INTEREST, FUTURE An interest in property that will or may become possessory at some point in the future. SEE: Remainder; Reversion.

INTEREST-ONLY LOAN A straight non-amortizing loan, in which only interest is paid. Interest can be paid periodically or at maturity , when principal is paid in a lump sum.

INTEREST, PREPAID Interest on a new loan that must be paid at the time of closing; covers the interest due for the first month of the loan term. Also called interim interest.

INTEREST RATE The percentage of a sum of money charged for its use.

INTEREST, UNDIVIDED A co-tenant s interest, giving him or her the right to possession of the whole property, rather than to a particular section of it. SEE: Unity of Possession.

INTERIM FINANCING Any short-term financing, such as a Swing Loan or a loan used to finance construction, due at the completion of the construction. Usually paid off with h the proceeds of a Take-out loan

INTERIM OCCUPANCY When title and possession do not transfer at the same time, the real estate licensee should prepare an interim occupancy.

INTERIOR LOT Lot with frontage on only one street.

INTERMEDIARY Financial institution that acts as a go-between for savers, depositors, and investors.

INTERMEDIATION The process whereby financial middleman consolidate many small savings accounts belonging to individual depositors and invest those funds in large, diversified projects.

INTERMEDIATE-TERM LOANS Temporary short-term loans, ordinarily three to ten years, that include home improvement loans, consumer loans or loans for the purpose of permitting a developer to delay long-term financing until more favorable loan conditions.

INTERMEDIATE THEORY STATE A state in which the security of the mortgage is based on the title theory or deed of trust; but requires the lender to foreclose to obtain legal title.

INTERMINGLE See *Comingle*

INTERNAL RATE OF RETURN The rate of return generated by an investment over the holding period; considers all future

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benefits, discounting them to equal the present value.

INTERNATIONAL COUNCIL OF SHOPPING CENTERS

(ICSC) An organization of shopping center owners, managers and major tenants that function as a medium for the interchange of information about shopping center operations.

INTERNATIONAL FACILITY MANAGEMENT

ASSOCIATION (IFMA) An association created in 1980 to provide support to facility management professionals through career development, education and research programs.

INTERPLEADER A course of action when two contesting parties cannot reach an arbitrated agreement, A legal proceeding whereby the broker, having no financial interest in the disputed funds, deposits with the court the disputed escrow deposit so that the court can determine who is the rightful claimant. A court proceeding initiated by a stakeholder, such as a broker or escrow agent.

INTERROGATORIES Written questions submitted to the opposing party in a lawsuit during discovery, which he or she is required to answer in writing and under oath.

INTERVAL OWNERSHIP Fee simple possession, for the limited time purchased (one or more weeks), of a time-share unit, complete with deed, title and equity.

INTER VIVOS TRUST A living trust; inter vivos is a Latin expression meaning among the living.

INTERVAL OWNERSHIP See time sharing

INTESTATE A person who dies without a will.

INTESTATE SUCCESSION Distribution of the property of a person who died intestate to his or her heirs.

INVERSE CONDEMNATION ACTION A court action by a private landowner against the government, seeking compensation for damage to property that resulted from government action.

INVERTED PYRAMID A way of visualizing ownership of real property; theoretically, a property owner owns all the earth, water, and air enclosed by a pyramid that has its tip at the center of the earth and extends up through the property boundaries out into the sky.

INVESTING The two main reasons for investing are income and profit.

INVESTMENT The outlay of money in the anticipation of income or profit; the sum risked or the property purchase.

INVESTMENT CONTRACT A type of security using the sale of real property as the investment.

INVESTMENT PROPERTY Unimproved property held as an investment because it is appreciating in value.

INVESTMENT VALUE The worth of a property to a particular investor based on his or her desired rate of return, risk tolerance, etc.

INVESTOR A person who holds property primarily for future appreciation in value for federal and state income tax purposes.

INVITEE A person who enters another's land because of an express or implied social invitation, such as a social guest. The term also covers certain government workers who enter someone's land, such as police officers and firefighters. Classification of such status was revoked by a recent court case.

INVOLUNTARY ALIENATION Title to real property may be acquired or transferred by operation of law or court order.

INVOLUNTARY CONVERSION The loss of real property due to destruction, seizure, condemnation, foreclosure sale, or tax sale.

INVOLUNTARY INACTIVE The license status that results when a license is not renewed at the end of the license period.

INVOLUNTARY LIEN Any lien imposed on property without the consent of the owner.

IRREVOCABLE Incapable of being recalled or revoked; unchangeable.

IRRIGATION DISTRICTS Quasi-political districts created under special laws to provide for water services to property-owners in the district.

IREM CODE OF ETHICS A set of guidelines on good business conduct for professional property managers.

IRS Internal Revenue Service.

ISSUE A person's direct descendants: children, grandchildren, great-grandchildren, and so on.

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J

JALOUSIE A screen or shutter consisting of overlapping horizontal slats that is used on the exterior to keep out sun and rain while admitting light and air.

JAMB The side post or lining of a doorway, window, or other opening.

JOINDER REQUIREMENTS The rules requiring both husband and wife to consent to and sign agreements and conveyances concerning community property.

JOINT The space between the adjacent surfaces of two components joined and held together by nails, glue, or cement, for example.

JOINT NOTE A note signed by two or more persons who have equal liability for payment.

JOINT PROTECTION POLICY A title insurance policy insuring the interest of both owner and lender.

JOINT TENANCY Joint ownership by two or more persons with right of survivorship. Four unities must be present: time, title, interest, and possession. Property held by two or more people with right of survivorship.

JOINT TENANCY DEED A deed that gives title to grantee as joint tenants.

JOINT TRUSTEESHIP A trust created jointly by husband and wife.

JOINT VENTURE In legal effect it is a partnership for a limited, specific business project.

JOISTS One of a series of parallel beams to which the boards of floor and ceiling laths or plaster boards are nailed and supported in turn by larger beams, girders, or bearing walls.

JUDGMENT A court of competent jurisdiction's final determination of a matter presented to it. The final decision by a court in a lawsuit, motion, or other matter.

JUDGMENT AFFIRMED A decision by an appellate court reaffirming, approving, and agreeing with an inferior court's decision.

JUDGMENT CREDITOR A person who is owed money

as a result of a judgment in a lawsuit.

JUDGMENT DEBTOR A person who has an unsatisfied money judgment levied against him or her.

JUDGMENT LIEN A money judgment that, because it has been recorded, has become a lien against the judgment debtor's real property.

JUDGMENT REVERSED A decision by an appellate court disagreeing with an inferior court's decision and modifying the decision to conform with its findings.

JUDICIAL FORECLOSURE SEE: Fore closure, Judicial.

JUDICIAL REVIEW When a court considers whether or not a statute or regulation is constitutional.

JUDICIAL SALE A sale of property by court proceedings to satisfy a lien.

JUMBO LOAN Amount of loan exceeding the maximum purchased by FNMA and FHLMC. Also called a *Nonconforming Loan*.

JUNIOR LIEN A lien lower in priority or rank than another or other liens.

JUNIOR MORTGAGE A mortgage second in lien to a previous mortgage.

JUNIOR TRUST DEED Any trust deed which is not a first trust deed.

JURAT Certificate of an officer, such as notary public or magistrate, who has witnessed someone's signature to a sworn document; also, that part of an affidavit stating by whom, where, when, and before whom it was sworn.

JURISDICTION The authority of a court to hear and decide a particular type of case. The power of a court to hear and decide a case or issue.

JURISDICTION, APPELLATE The authority to hear an appeal (as opposed to conducting a trial). Compare: Jurisdiction, Original.

JURISDICTION, DIVERSITY The federal courts' power to hear cases in which a citizen of one state sues a citizen of another state (or country).

JURISDICTION, GENERAL When a court's jurisdiction is not limited to specific types of cases.

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JURISDICTION, ORIGINAL The authority to conduct a trial (as opposed to hearing an appeal). COMPARE: Jurisdiction, Appellate.

JURISDICTION, PERSONAL A court's authority over a particular individual; usually obtained by service of process

JURISDICTION, SUBJECT MATTER The types of cases a particular court has authority to hear. COMPARE: Jurisdiction General.

JUST COMPENSATION SEE: Eminent Domain.

JUST VALUE The fair market value.

K

KEY LOT Lot that has several other lots backing onto its sideyard.

KEY TENANT A major department store in a shopping center. Also called anchor store.

KICKBACK Payment of money from someone other than the buyer or seller associated with the real estate business.

KIOSK A small sales stall in a shopping mall.

KITING Also known as ballooning, an unethical and fraudulent act in which dual contracts are made, one at the true purchase price and the second at a higher price, with the hope of duping the lender into granting a higher loan

L

LABOR An agent of production; cost of all operating expenses and wages except management.

LABOR-EXTENSIVE INDUSTRY A business with a low concentration of employees per acre.

LABOR-INTENSIVE INDUSTRY A business with a high concentration of employees per acre.

LABOR-ORIENTED INDUSTRY a business that tends to locate near a low-cost labor pool.

LACHES Unreasonable delay in asserting one's legal rights.

LAFCO Local Agency Formation Commission.

LAISSEZ-FAIRE Allow to act; noninterference by government in trade, industry, and individual action generally.

LAND The surface, the soil and rocks beneath, and the airspace above that the landowner can reasonably use and enjoy.

LAND CONTRACT(of sale) A contract used in the sale of real property when the seller wishes to retain legal title until all or a certain part of the purchase price is paid by the buyer. It is also referred to as an installment sales contract or an agreement of sale.

LAND DESCRIPTION (LEGAL DESCRIPTION) A definite and positive written identification of a specific parcel of land and its location without additional oral testimony.

LANDLOCKED Property totally surrounded by other property with no means of ingress or egress.

LANDLORD The person who leases property; the owner of the property.

LAND SALES CONTRACT Contract for Deed) A contract for the sale of property, by which possession is delivered to the buyer, but title remains with the seller until full payment or the satisfaction of other stated conditions.

LAND RESIDUAL TECHNIQUE Technique of income capitalization; the net income remaining to the land (after income attributable to the building has been deducted) is capitalized into an estimate of value for the land.

LANDS, TENEMENTS, AND HEREDITAMENT Inheritable lands or interest.

LARGE PARCEL Total parcel of property from which a governmental body is acquiring only a portion through condemnation.

LATE CHARGE A charge made by a lender against a

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borrower who fails to make loan installments when due.

LATE SUPPORT The support that the soil of an adjoining owner gives to his or her neighbor's land.

LATENT DEFECTS Defects that are not visible or apparent; hidden defects.

LATERAL SUPPORT SEE: Support, Lateral.

LATH A building material of wood, metal gypsum, or insulating board fastened to the frame of a building to act as a plaster base.

LAUNDRY ROOM The building owner may own and service the machines, outside vendors may own and handle the machines themselves or the machines may be operated on a card instead of a coin.

LAWFUL OBJECT A legal purpose.

LAW OF FIXTURES Five tests to determine whether an object is a fixture or personal property.

LAY MEMBER One not belonging to or connected with a particular profession.

LEASE A contract between owner and tenant, setting forth conditions upon which the tenant may occupy and use the property and the term of the occupancy.

LEASE ASSUMPTION A transaction whereby a property owner agrees to take over the balance of payments on a prospective tenant's current lease if he or she rents space in the owner's property.

LEASED FEE Property owner's interest in leased property.

LEASE, FIXED A lease in which the rent is set at a fixed amount, and the landlord pays most or all of the operating expenses (such as taxes, insurance, and repair costs). Also called a flat lease, gross lease, or straight lease.

LEASE, GRADUATED A lease in which it is agreed that the rental payments will increase at intervals by an agreed amount or according to an agreed formula.

LEASEHOLD ESTATE The estate of a tenant under a lease. (See Estate for Years.)

LEASE, NET A lease requiring the tenant to pay all the costs of maintaining the property (such as taxes,

insurance, and repairs), in addition to the rent paid to the landlord.

LEASE OPTION A lease in which the lessee is given the option to purchase the property at a specific price and under the terms set out in the lease option agreement.

LEGACY A gift of money by will.

LEGAL ADVICE Legal advice is not something that a real estate agent gives. Refer the client to a lawyer.

LEGAL DOCUMENT SERVICE The process server must be at least 18 years of age and the person receiving the service must be at least 18 years of age.

LEGAL DESCRIPTION A description recognized by law; a description by which property can be definitely located by reference to government surveys or approved recorded maps.

LEGALLY SUFFICIENT (FL) A complaint that contains facts indicating that a violation has occurred of a Florida statute, a DBPR rule, or a FREC rule.

LEGATEE Someone who receives personal property (a legacy) under a will.

LEGISLATURE The arm of a government that has primary responsibility for making new laws.

LENDER A lender with assets of more than \$10,000,000 per year must not disclose to the public the race, sex and income of the loan applicants, the amount of loans requested, and the action taken by the lender on the loan application.

LENDERS ESCROW INSTRUCTIONS A lender's instruction to an escrow company giving specific conditions that must be met before escrow can close or the deed of trust can be recorded.

LENDER'S TITLE INSURANCE Title insurance issued for the unpaid mortgage amount to protect the lender against title defects.

LESSEE A tenant; the person who is entitled to possession of property under a lease.

LESSOR A landlord; the property owner who executes a lease.

LESS-THAN-FREEHOLD ESTATE A leasehold estate.

LET The temporary use of property to be rented.

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LETTER OF CREDIT Letter from a bank asking that the holder be allowed to withdraw money from the recipient bank or agency that will be charged back to the first bank.

LETTER OF INTENT An expression of intent to invest, develop, or purchase without creating any firm legal obligation to do so.

LETTER REPORT One-to five-page written report summarizing the appraisal and its conclusions.

LEVEL Used in finance to express the payment where the monthly sum of principal and interest is always the same.

LEVEL-PAYMENT PLAN A method of amortizing a mortgage whereby the borrower pays the same amount each month.

LEVERAGE Use of borrowed funds to purchase property, with the expectation of increasing the rate of return to equity; sometimes called trading on the equity. An example of using maximum credit.

LEVY To execute upon; to seize and sell property to obtain money to satisfy a judgment.

LIABILITY The claim of creditors against a business.

LIABILITIES Debts or claims that creditors have against assets.

LIABILITY INSURANCE Insurance protecting a property owner or manager in case of damage to the person or property of another due to the owner's or manager's negligence.

LICENSE Personal, nonassignable authorization to enter and perform certain acts on another's land.

LICENSEE Under the law before 1968, which classified persons who entered upon others' land, a licensee was someone who entered upon land with the owner's express or implied permission for a business purpose. Referring to real estate licensee he may be given disciplinary action for being incompetent.

LICENSURE Certification as a licensee; the granting by the state of a license to practice real estate.

LICENSE, RESTRICTED A real estate broker's or salesperson's license that includes limitations on the licensee's right to do business; usually issued after a

suspended or revoked license has been reinstated.

LIEN A lien makes the debtor's property security for the payment of a debt or the discharge of an obligation. A charge or claim against property as security for payment of a debt or obligation.

LIENEE One whose property is subject to a claim or charge by another.

LIEN EQUITABLE A lien arising as a matter of fairness, rather than by agreement or by operation of law.

LIEN, MATERIALMAN'S Similar to a mechanic's lien, but based on a debt owed to someone who supplied materials (as opposed to labor) for a project.

LIENOR One who has a claim or charge on the property of another.

LIEN PRIORITY The order in which liens are paid off out of the proceeds of a foreclosure sale.

LIEN, PROPERTY TAX A specific lien on property to secure payment of the property taxes.

LIEN, SPECIFIC A lien that attaches only to a particular piece of property (as opposed to a general lien, which attaches to all of the debtor's property).

LIEN, TAX A lien on property to secure the payment of taxes.

LIEN THEORY STATES States in which the mortgagor (borrower) retains legal title to the property; lender (mortgagee) has a lien on the property as a security for the debt.

LIFE ESTATE An estate in real property that continues for the life of a particular person. The life involved may be that of the owner or that of some other person. An estate in property whose duration is limited to and measured by the life of a natural person or persons.

LIFE-ESTATE PUR AUTRE VIE A life estate for the life of another, where the measuring life is someone other than the life tenant.

LIFE INSURANCE COMPANY A business that collects a person's savings by selling contracts (policies) often paid through periodic premiums to provide cash payment upon death.

LIFE SAFETY AND SECURITY A trend in property management that provides for the management of the total physical protection of tenants. A typical life safety and security

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program consists of prevention, detection, containment and counteraction.

LIFE SAFETY CONTROL CENTER A security center found most often in large complexes, responsible for handling various emergencies impacting complex workers.

LIFE TENANT Someone who owns a life estate; the person entitled to possession of the property during the measuring life.

LIFETIME CAP Ceiling for rate increases over life of an ARM, expressed as a particular percentage rate or as so many points over or under the initial rate.

LITTORAL RIGHTS Rights to shoreline property on a large body of water, such as an ocean or lake.

LIMITED APPRAISAL REPORT When exercising the departure provision you are usually working under this provision.

LIMITED LIABILITY COMPANY A business entity where each owner has the limited liability of a corporate shareholder and the tax advantages of a partner.

LIMITED LIABILITY PARTNERSHIP A partnership composed of some partners whose contribution and liability are limited. There must always be one or more general partners with unlimited liability and one or more limited partners with limited liability. A special partnership composed of limited and general partners. The general partners have unlimited liability and total management, whereas the limited partners have to voice in the management and their only financial exposure is to the extent of their investment. In some ways the limited partners' interest is similar to that of stockholders in a corporation.

LINEAL The line of ancestry or a straight line

LINEAR FOOT A measurement meaning one foot or 12 inches in length as contrasted to a square foot or a cubic foot.

LINEAR REGRESSION Statistical technique for calculating sales adjustment; line of best fit for two variables.

LINK Each deed or other instrument transferring title in *the chain of title*, the history of ownership of a parcel of real estate.

LINEAL Descended in a direct family line; relating to

or derived from ancestors.

LINTEL A horizontal board that supports the load over an opening such as a door or window.

LIQUIDATED DAMAGES CLAUSE An agreement between the parties that in the event of a breach, the amount of damages shall be liquidated (set or fixed). The amount is set before the breach, usually at the time of making the contract, on the assumption that the exact amount of damages is difficult to determine because of the nature of the contract.

LIQUIDATION The process of determining liabilities and apportioning the assets in order to discharge the indebtedness of a business to be sold.

LIQUIDITY The ease with which property can be converted into cash.

LIQUIDITY OF INVESTMENT The ease in which investments can be quickly turned into cash.

LIS PENDENS A notice of pending litigation recorded to give constructive notice of a suit that has been filed. A recorded notice that a lawsuit is pending, the outcome of which may affect title to property.

LISTING An employment contract between a broker and his principal (client).

LISTING AGREEMENT An employment contract authorizing a broker to sell, lease, or exchange an owner's property.

LITIGANT A party to a lawsuit; a plaintiff or defendant.

LITIGATION A civil lawsuit; a judicial controversy.

LITTORAL Legal rights related to land abutting an ocean, sea, or lake, usually extending to the high-water mark.

LOAD FACTOR The ratio of rentable space to usable space on a multiple-tenancy floor of an office building.

LOAN APPLICATION A lender's initial source of information on a borrower/applicant and the collateral involved; stipulates the amount of money requested and the repayment terms.

LOAN APPLICANT'S AGE A lender may consider a loan applicant's age when making a determination of the applicant's credit worthiness.

LOAN ASSUMPTION In a loan assumption setup the seller

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and buyer are liable under the loan.

LOAN ASSUMPTION FEE A fee a lender charges a buyer in return for granting the buyer permission to assume an existing loan.

LOAN CLOSING When all conditions of the loan have been met, the loan officer authorizes the recording of the trust deed and disbursement of funds.

LOAN COMMITTEE The committee in a lending institution that reviews and approves or disapproves the loan applications recommended by a loan officer.

LOAN COMMITMENT A lender's agreement to lend a specified amount of money; must be exercised within a certain time limit.

LOAN, CONSTRUCTION A loan made to cover the cost of construction of a building, usually arranged so that the money is advanced in installments as the work progresses.

LOAN, CONVENTIONAL Loan with only the property as security, without the government insuring (FHA) or guaranteeing (VA) the loan.

LOAN CORRESPONDENT A loan agent usually used by distant lenders to help the lender make real estate loans.

LOAN FEE A loan origination fee.

LOAN, GUARANTEED A loan in which someone (the VA, for example) guarantees repayment; so that if the borrower defaults, the guarantor reimburses the lender for some or all of the loss.

LOAN ORIGATION Steps involved in the loan process, from application to close of escrow.

LOAN ORIGATION FEE A fee a lender charges a borrower in exchange for issuing a loan; also called a loan fee.

LOAN PACKAGE A group of documents prepared along with a loan application to give the prospective lender complete details about the proposed loan.

LOAN, PURCHASE MONEY 1. A loan the borrower uses to buy the security property (as opposed to a loan secured by property the borrower already owns). 2. A carryback loan.

LOAN-TO-VALUE-RATIO (LTV) Percentage of a loan to a property's appraised value; expressed in terms as to how much the lender will lend.

LOAN TRUST FUND ACCOUNT (See Impound Account.)

LOAN UNDERWRITING The process of approving or disapproving loan applications.

LOAN VALUE The lender's appraised value of the property.

LOCAL ACCESS NETWORK A method of linking together personal computers within the same office to allow communication between the computers.

LOCAL PRODUCTION Goods and services produced for sale or use in the town or area in which they are produced.

LOCK-IN CLAUSE A clause in a promissory note or land contract that prohibits prepayment before a specified date, or prohibits it altogether.

LOCK-IN RATE Formal commitment to lend a specific amount or at a specific rate, guaranteed for a specific time period.

LOFT A low-rent, multistory building located in the central business district, originally used for a combination of manufacturing, office and storage space.

LONG-LIVED, INCURABLE PHYSICAL DETERIORATION Loss in value attributable to the major components of a building, when age is the major contributing factor and the cost of repair would exceed the value that would be added to the structure by the repair.

LOSS, CAPITAL A loss taken on the sale of a capital asset. Real estate is considered a capital asset if it's income property, investment property, or property used in a trade or business.

LOSS FACTOR The ratio of rentable space to usable space on a single-tenancy floor of an office building.

LOSS, PASSIVE A loss taken in connection with income property. SEE: Passive Income.

LOT A parcel of land; especially, a parcel in subdivision.

LOT AND BLOCK DESCRIPTION The type of legal description used for platted property. The description states only the property's lot number and block number in a particular subdivision. To find out the exact location of the property's

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boundaries you consult the plat map for that subdivision at the county recorders office.

LOT BOOK REPORT A short title company report providing the property owners name, the vesting, the property's legal description, and a plat map.

LOUVER An opening with a series of horizontal slats set at an angle to permit ventilation without admitting rain, sunlight, or vision.

LUMP SUM Payment of the entire principal amount due at maturity on a straight note.

LUMP-SUM DOLLAR ADJUSTMENT Type of sales adjustment; specific dollar amount is added or subtracted for each differing feature.

M

MAI A term that designates a person who is a member of the American Institute of Appraisers of the National Association of Realtors.

MAILBOX RULE An acceptance of a contract offer is effective as of the moment it is mailed, even though the other party hasn't received it yet.

MAINTENANCE CLAUSE A provision in a mortgage agreement that requires mortgagors (borrowers) to maintain mortgaged property in good condition.

MAINTENANCE STAFF OR PERSONNEL May be either employees or independent contractors. They should report the number of people living in a residential unit, the use of extension chords and the storage of flammable products.

MAJORITY, AGE OF The age at which a person gains legal capacity; in California, 18 years old. COMPARE: *Minor*.

MAKER A person who signs a promissory note; the borrower who promises to repay the debt.

MLS Mere membership in an MLS by a broker creates a dual agency with the principals of other broker members of the MLS. (Multiple Listing Service)

MALFEASANCE The committing of an unlawful act, especially by a public official.

MANAGEMENT CONFIRMATION LETTER This letter contains: where the owner has moved to, why he or she did not sell and his or her current goal in renting the property.

MANAGEMENT PLAN The financial and operational strategy for the ongoing management of a property. It is based on the market analyses, a property analyses and the owners goals and consists of an operating budget, a five year forecast and sometimes a comparative income and expense analysis. Future data very important.

MANAGEMENT PRICING WORKSHEET A method of computing management fees by itemizing management activities, calculating the direct cost to the firm and adding a percentage for profit.

MANDAMUS, WRIT OF A court decree ordering a lower court judge, public official, or corporate officer to perform an act acquired of that office.

MANDATE Directive from higher authority to a lower body.

MARGINAL LAND Land which barely pays the cost of working or using it.

MARGIN The amount added to the index rate determined a borrowers adjusted interest rate on a adjustable loan.

MARGIN OF SECURITY The difference between the amount of secured loan(s) on a property and its appraised value.

MARKET APPROACH (to value) SEE: *Sales Comparison Approach*.

MARKET ANALYSES A regional and neighborhood studies of economic. Demographic and other information made by the property manager to determine the supply and demand, market trends and other factors important in leasing and operating a specific property.

MARKET-ORIENTED INDUSTRY A business that tends to locate near industrial users and consumers of its products.

MARKET DATA APPROACH (See Comparative Market Analysis.)

MARKET EXPOSURE Making a reasonable number of potential buyers of a property is available for sale.

MARKET METHOD OF DEPRECIATION SEE: *Sales Data Method of Depreciation*.

MARKET PRICE _____ The price paid regardless of

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pressures, motives, or intelligence.

MARKET RENT The rental income the property could command if placed for rent on the open market as of the effective date of the appraisal.

MARKET TREND DATA Two forces that tend to affect value in this outlook are social and economic, and governmental and environmental.

MARKET VALUE _____ (1) The price at which a willing seller would sell and a willing buyer would buy, neither being under abnormal pressure. (2) As defined by the courts, it is the highest price estimated in terms of money that a property will bring if exposed for sale in the open market, allowing a reasonable time to find a purchaser with knowledge of the property's use and capabilities for use.

MARKETABLE TITLE Title free and clear of reasonable objections and doubts; also called merchantable title.

MASTER IN CHANCERY An appointed assistant to the court.

MATERIAL FACT _____ A fact that would be likely to affect a person's decision in determining whether to enter into a particular transaction.

MATERIALMAN Someone who supplies materials for a construction project. SEE: Lien, Materialman's. COMPARE: Mechanic.

MATURE PHASE SEE: Stable Phase.

MATURITY DATE The date by which a loan is supposed to be paid off in full.

MAXIMUM PERCENTAGE LEASE A type of percentage lease that sets a ceiling on the amount of rent to be paid.

MEASURING LIFE SEE: Life Estate.

MECHANIC Someone who performs work (construction, improvement, or repairs) on real property. SEE: Lien, Mechanic's. COMPARE: Materialman.

MECHANIC'S LIEN _____ A lien given by statute to persons supplying labor, materials, or other services to improve real property. Whenever a contractor, laborer, or materialman provides labor or materials to improve

real property and is not paid, that person is entitled to a lien against the property as a means of securing payment. Certain statutory steps must be taken to file, record, and foreclose the lien. Memo to set: A document filed in a lawsuit which asks to be placed on the waiting list ("docket") for the next available court date.

MEDIATION The act of having a third party attempt to reconcile a dispute between two parties.

MEDIATION CLAUSE A clause in a contract requiring mediation in the event of a dispute.

MEDIATOR A person who helps the parties reach a voluntary agreement.

MEETING OF MINDS SEE: Mutual Consent.

MEGALOPOLIS A heavily populated urban area which includes many cities.

MENACE A threat to use duress. (See Duress.)

MERCHANTABLE TITLE (See Marketable Title.)

MERCHANTS ASSOCIATION An organization of shopping centers tenants intended to facilitate joint advertising, promotion and other activities beneficial to the center.

MERGER Uniting two or more separate properties by transferring ownership of all of them to one person.

MERGER OF TITLE The combination of two estates. Also refers to the joining of one estate burdened by an encumbrance and another estate benefitted by the encumbrance. Whenever a benefit and a burden are merged, the encumbrance is extinguished.

MERIDIANS Imaginary north-south lines that intersect base lines to form a starting point for the measurement of land.

MERIDIAN, PRINCIPAL In the government survey system, the main north-south line in a particular grid, used as the starting point in numbering the ranges. California has the Humboldt Meridian, the Mt. Diablo Meridian, and the San Bernardino Meridian.

METES Measurements.

METES AND BOUNDS DESCRIPTION _____ Terms used to describe the boundary lines of land, setting forth all the boundary lines together with their terminal points and angles. Metes means measurements Bounds means boundaries.

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MIDDLEMAN An intermediary who merely brings two parties together.

MILL A taxation measurement equal to one tenth of one percent (\$.001).

MILLAGE A tax expressed as the number of mills to be applied.

MINERAL RIGHTS Rights to the minerals located beneath the surface of a piece of property.

MINIMUM-GUARANTEED PERCENTAGE LEASE A type of percentage lease that requires the tenant to pay either a fixed minimum rental or a percentage of gross sales, whichever is greater.

MINIMUM RENT Base rent that is the fixed minimum amount paid under a percentage lease.

MINIRESORT A budget motel that has been transformed into a desirable weekend vacation spot by capitalizing on local recreational areas and points of interest.

MINISTORAGE Small, secure storage units rented to individuals and small businesses. Rent is usually established after surveying similar spaces to determine market rents.

MINOR (1) A person under the age of majority. (2) In California all persons under eighteen years of age - the age of majority in California. Someone under age 18.

MINOR, EMANCIPATED A minor who is or has been married, is on active duty in the armed forces, or has a declaration of emancipation from a court. An emancipated minor has legal capacity to contract.

MINUS CASH FLOW An event that takes place when there is not enough cash to cover expenses and service the mortgage debt.

MISDEMEANOR Any crime punishable by fine or imprisonment other than a penitentiary.

MISFEASANCE A lawful act done in a negligent or unlawful manner.

MISPLACED IMPROVEMENT A building that is functionally obsolete because it is the wrong type or use for its location; an example of functional obsolescence.

MISREPRESENTATION An intentional or negligent suggestion or statement of a material fact in a false manner with the intent of deceiving someone into taking a course of action he would not otherwise normally pursue.

MISTAKE, MUTUAL When both parties to a contract were mistaken about a fact or a law.

MISTAKE, UNILATERAL When only one of the parties to a contract was mistaken about a fact or a law.

MITIGATION Facts or circumstances that tend to justify or excuse an act or course of conduct.

MIS Mortgage Information System

MIXED CAPITALISM The U.S. economic system is a prime example. Many different types of businesses abound in the U.S. giving it strength economically.

MIXED-USE DEVELOPMENT (MXD) A development in the use of property combining retail, office-residential or industrial-office residential development.

MOBILE HOME PARK The property manager of this type of rental must offer a one-year lease to all tenants.

MODULAR HOME Building composed of modules constructed on an assembly line in a factory.

MONETARY POLICY Programs by the Federal Reserve System that increase or decrease the supply of or demand for money in an effort to achieve designated economic goals.

MONTH-TO-MONTH TENANCY A lease of property for a month at a time, under a periodic tenancy that continues for successive months until terminated by proper notice, usually 30 days.

MONTHLY MORTGAGE PAYMENTS A specified amount of money that is paid every month to reduce the amount of the mortgage.

MOBILE HOME A stationary, non motorized vehicle designed and equipped for human habitation. It may be transported to a homesite by special equipment.

MOLDING Usually patterned strips used to provide ornamental variation of outline or contour, such as cornices, bases, window and door jambs.

MONUMENT A fixed object and point established by surveyors or others to establish land locations.

MORAL TURPITUDE An act of corruption, vileness, or

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moral depravity; a disgraceful action or deed.

MORATORIUM The temporary suspension, usually by statute, of the enforcement of liability for debt.

MORTGAGE An instrument by which property is hypothecated to secure the payment of a debt or obligation.

MORTGAGE-BACKED SECURITIES Investment securities similar to bonds representing an interest in a pool of mortgages.

MORTGAGE BANKERS Use their own funds to make loans, sell loans to investors and service loans that they have made.

MORTGAGE BROKERS Differ from mortgage bankers in that they invest no capital; their prime function is to bring together borrowers and lenders, for this they are paid a fee.

MORTGAGE COMPANY A mortgage loan company that originates, services, and sells loans to investors.

MORTGAGE/EQUITY ANALYSIS A technique used to analyze the debt and equity return requirements of an investment.

MORTGAGE INSURANCE PREMIUM (MIP) FHA insures lenders against loss on FHA loans;. The premium can be paid up front or financed as part of the loan.

MORTGAGE LOAN DISCLOSURE STATEMENT A statement that informs the buyer of all charges and expenses related to a particular loan.

MORTGAGE, SATISFACTION OF The document a mortgagee gives the mortgagor when the mortgage debt has been paid in full, acknowledging that the debt has been paid and the mortgage is no longer a lien against the property. COMPARE: reconveyance.

MORTGAGEE One to whom a mortgagor gives a mortgage to secure a loan or performance of an obligation: the lender under a mortgage. (See Secured Party.) A creditor (lender) under a mortgage. A lender who holds a mortgage on a specific property as security for the money loaned to the borrower.

MORTGAGE GUARANTY INSURANCE

Insurance against financial loss available to mortgage lenders from the Mortgage Guaranty Insurance Corporation, a private company organized in 1956.

MORTGAGE YIELD The rate of return for a buyer of an exiting loan that takes into consideration the interest rate, discount rate, loan servicing fees and the term of the loan.

MORTGAGOR One who gives a mortgage on his or her property to secure a loan or assure performance of an obligation; the borrower under a mortgage. (See Debtor.) A borrower (property owner) of money under a mortgage.

MOTELS AND HOTELS Access from freeways or highways is a very important factor of doing business.

MULTIMEDIA A computer system or program that utilizes data in several different forms (i.e., text, voice, music and video)

MULTIPLE LICENSES Licenses held by a broker in two or more real estate firms.

MULTIPLE LISTING A listing, usually an exclusive-right-to-sell, taken by a member of an organization composed of real estate brokers with the provisions that all members will have the opportunity to find an interested client; a cooperative listing. A listing taken by a broker and shared with other brokers through a specialized distribution service, usually provided by the local real estate board. Generally, such listings are exclusive right to sell listings.

MULTIPLE REGRESSION Statistical technique for calculating sales adjustments for more than one feature.

MUNICIPAL COURT An inferior trial court having jurisdiction in cases involving up to \$15,000 in money damages and in unlawful detainer actions in which the rental value is under \$1,000 per month.

MUTUAL ASSENT An agreement between the parties in a contract. The offer and acceptance of a contract.

MUTUAL CONSENT When all parties freely agree to the terms of a contract, without fraud, undue influence, duress, menace, or mistake. Mutual consent is achieved through offer and acceptance; it can be referred to as a meeting of the minds.

MUTUAL MISTAKE SEE: *Mistake, Mutual.*

MUTUAL SAVINGS BANK A savings bank originated in the New England states in which depositors place their savings with the right to borrow money for home loans. There are no

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mutual saving banks in California.

MUTUAL WATER COMPANY A water company organized by or for water-users in a given district, with the object of securing an ample water supply at a reasonable rate. Stock is issued to users.

N

NAR National Association of Realtors.

NAREB National Association of Real Estate Boards. This trade organization is now known as the National Association of Realtors.

NARRATIVE REPORT A detailed formal written report of the appraisal and the value conclusion.

NATIONAL ASSOCIATION OF INDUSTRIAL AND OFFICE PARKS (NAIOP) A professional association for developers, owners and managers of office/business/industrial parks.

NATIONAL ASSOCIATION OF REALTORS (NAR) Has a professional organization of property managers called the Institute of Real Estate Management.

NATIONAL ENVIRONMENTAL POLICY ACT (NEPA) A federal act passed in 1970 that requires the processing of environmental impact disclosures for major federal action affecting the environment.

NATURAL PERSON A human being, an individual (as opposed to an artificial person, such as a corporation).

NEGATIVE AMORTIZATION Occurs when normal payments on a loan are insufficient to cover all interest then due, so that unpaid interest is added to principal. Thus, even though payments are timely made, the principal grows with each payment.

NEGLIGENCE Either the failure to act as a reasonable, prudent person, or the performance of an act that would not be done by a reasonable, prudent person.

NEGOTIABLE Capable of being assigned or transferred by endorsement; checks, drafts and notes are all negotiable.

NEGOTIABLE INSTRUMENT (NOTE) A check or

promissory note that meets specified statutory requirements and is therefore easily transferable in somewhat the same manner as money. The negotiable instrument can be passed by endorsement and delivery (or in some cases by mere delivery), and the transferee takes title free of certain real defenses (such as failure of consideration, fraud in the inducement) that might exist against the original maker of the negotiable instrument. You are not responsible for this if it has been forged or altered

NEGOTIABILITY Loan is capable of being sold on the secondary mortgage market.

NEIGHBORHOOD An area whose occupants and users share some common ties or characteristics.

NEIGHBORHOOD CENTER A shopping center of about 30,000 to 100,000 square feet (15 to 20 retail spaces) catering to 1,000 families or more.

NEIGHBORHOOD CYCLE The process of neighborhood change, involving four phases of change: development, maturity, decline, and renaissance. (SEE: Principle of Change.)

NEPA Abbreviation for the National Environmental Protection Act, a federal statute requiring all federal agencies to prepare an Environmental Impact Statement and meet other requirements whenever a major federal action is anticipated that could significantly affect the environment.

NET This type of adjustment is the net sum of positive and negative adjustments.

NET AREA SEE: Useful Area.

NET INCOME Gross annual income less income lost due to vacancies and uncollectible rents, less all operating expenses.

NET INCOME RATIO Net income divided by gross income.

NET LEASE Lease under which the lessee pays all property expenses.

NET OPERATING INCOME (NOI) The resulting amount when all operating expenses are subtracted from effective gross income.

NET LISTING A listing that provides that the agent may retain as compensation for his or her services all sums received over and above a stated net price to the owner. An employment agreement that entitles the broker to a commission only in the amount, if any, that the sales price of the property exceeds the listing price. No implied or expressed warranties.

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NET PRESENT VALUE This the discounted cash flow approach to capital budgeting.

NET SPENDABLE INCOME Net operating income less vacancies, uncollectible rents, and other operating expenses.

NEUTRAL DEPOSITORY An escrow business conducted by someone who is a licensed escrow holder.

NEW CAR DEALERS The best location for a new car dealer is with other different new car dealers.

NOLO CONTENDERE A pleading of no contest by a defendant; a plea in a criminal action not admitting guilt but subjecting the defendant to punishment as if it were a guilty plea.

NOMINAL INTEREST RATE A state (or contract) rate of interest. May not correspond to the true or effective annual percentage rate (e.g., when payments are made monthly).

NONBINDING ARBITRATION The decision of the arbitrator is review able by the court.

NONCOMPETING TENANT RESTRICTIONS A lease clause granting a retail tenant an exclusive right to operate without competition on the property.

NON-CONFORMING LOAN A loan for an amount that exceeds the Fannie Mae/Freddie Mac guide lines for a *conforming loan*. The limit is adjusted annually. Also known as a *jumbo loan*.

NONCONFORMING USE A property use that doesn't conform to current zoning requirements, but is allowed because the property was being used in that way before the present zoning ordinance was enacted.

NONFIDUCIARY LENDER Loan sources such as individuals who owe no agency duty, because they lend their own funds rather than invest on behalf of other lenders.

NONFREEHOLD ESTATE A lease tenancy. (See under Estates for the four types of lease hold estates.)

NONINSTITUTIONAL LENDER Lenders on real estate loans other than banks, insurance companies, and savings and loan associations.

NONJUDICIAL FORECLOSURE Foreclosure and sale of property without resort to court action, by private sale. For deeds of trust the foreclosure provisions are

outlined by the statutes and the requirements in the security instrument, which include a notice of default, right to reinstate, publication of sale, and trustee's sale.

NONPOSSESSORY INTEREST An interest in property that does not include the right to possess and occupy the property; an encumbrance, such as a lien or an easement.

NON-RECURRING CLOSING COSTS Fees and costs that are paid only once usually at closing, such as title insurance or points.

NONRECURRING VARIABLE EXPENSE A type of variable property expense (e.g.; capital improvements) that occurs only once.

NONRECOGNITION PROVISION A provision in the income tax law that allows a taxpayer to defer recognition and taxation of a gain until a later time or later transaction.

NOTARY PUBLIC An individual licensed by the state to charge a fee for acknowledging signatures on instruments.

NOTE A signed written instrument promising payment of a stated sum of money. Shortened name for a promissory note. A note may contain all the following clauses, request for notice, prepayment penalty and late charges.

NOTE, DEMAND A promissory note that is due when-ever the holder of the note demands payment.

NOTICE, ACTUAL Actual knowledge of a fact, as opposed to knowledge imputed by law.

NOTICE OF COMPLETION A notice recorded after termination of work on improvements, limiting the time in which mechanic's liens can be filed against the property.

NOTICE OF CESSATION A notice recorded by a property owner when construction on the property has ceased, although the project hasn't been completed; it limits the period in which laborers and suppliers can file mechanics liens.

NOTICE OF CHANGE OF TERMS OF TENANCY This notice may be used for rent increases, to notify tenant of new property manager and to notify tenants that they must begin to pay for certain utilities,

NOTICE OF DEFAULT A notice that is recorded in the county recorder's office stating that a trust deed is in default and that the holder has chosen to have the property sold. The trustor (property owner) has three months after the date of recording to reinstate the loan. Recorded notice that a trustor has defaulted on his secured debt. The correct name for this is request for notice.

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NOTICE, INQUIRY When there were circumstances that should have alerted someone to a possible problem and caused him or her to investigate further, he or she may be held to have had notice of the problem.

NOTICE OF INTENTION To sell under bulk transfer law would be recorded in the county where the business is located.

NOTICE OF LEVY A notice recorded by the receiver after a court has issued a decree of foreclosure.

NOTICE OF NONCOMPLIANCE (FL) Issued by the DBPR in the case of a minor rule violation that does not endanger the public health, safety and welfare.

NOTICE OF NONRESPONSIBILITY A notice provided by law designed to relieve a property owner from responsibility for the cost of work done on the property or materials furnished for it when the work or materials were ordered by a person in possession. Notice relieving an owner from possession. Notice relieving an owner from mechanic's liens for work on property not ordered by that owner.

NOTICE TO PAY RENT OR QUIT A notice to a tenant to vacate rented property. Also called a three-day notice. Notice given to a tenant in default of his lease terms or on his rent, which directs him either to cure the default or to vacate the premises. This should only be used when there is an existing lease.

NOTICE OF SALE A notice issued by a trustee (or by the receiver after a decree of foreclosure) setting the date for the foreclosure sale.

NOVATION The acceptance of a new contract in substitution for the old contract, with the intent that the new contract will extinguish the original contract. Sometimes encountered in transfers of deeds of trust, where the new owner assumes the debt and the lender, through novation, releases the former owner from any liability under the original promissory note and deed of trust.

NOW ACCOUNTS Negotiable order of withdrawal, an interest bearing checking account permitted for the first time by savings and loan associations and banks as of 1982.

NUISANCE Anything that is injurious to health or indecent or offensive to the senses, or any obstruction to the free use of property so as to interfere with the comfortable enjoyment of life or property or unlawfully

obstructs the free passage or use, in the customary manner, of any navigable lake or river, bay, stream, canal, or basin, or any public park, square, street, or highway. A legal wrong arising from acts or use of one's property in a way that unreasonably interferes with another's use of his property.

NUISANCE RENT RAISE The amount of money a property manager can raise current rents without causing a vacancy based on the theory that the tenant will pay rather than suffer the trouble and expense of moving.



OBJECTIVE INTENT SEE: Intent. Objective.

OBLIGATORY ADVANCES Disbursements of money that the lender is required to make, under terms of the loan, over the period of the construction loan.

OBLIGEE A promisor; a person to whom another is bound by a promise or another obligation.

OBLIGOR A borrower or mortgagor.

OBSERVED CONDITION METHOD OF DEPRECIATION
SEE: *Cost-to-Cure Method of Depreciation*.

OBsolescence Loss in value due to reduced desirability and usefulness of a structure because its design and construction become obsolete; loss because of becoming old-fashioned and not in keeping with modern needs.

OCCUPATIONAL SAFETY AND HEALTH ADMINISTRATION (OSHA) a federal organization empowered to prescribe and legislate the use of potentially toxic chemicals and compounds, and other safety rules for the workplace.

OFFER A proposal to create a contract, which signifies the present intent of the offeror to be legally bound by his proposal.

OFFERS TO PURCHASE Any offer to purchase received prior to the closing of a sale must be presented by the broker unless instructions stating otherwise are received from the seller.

OFFEREE A person to whom an offer is made.

OFFEROR A person who makes an offer.

OFFICE BUILDINGS Have had a national vacancy rate of about 11%.

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OFFICE OF THRIFT SUPERVISORS (OTS) A branch of the United States Treasury Department that replaced the Federal Home Loan Bank Board as regulator of the thrift industry.

OFFICE PARK See *business park*

OFFICE POLICY MANUAL This contains objectives of the business enterprise, employee and personnel policies and safety regulations, and job descriptions and benefits.

OFFICIAL RECORDS A master set of books kept by the county recorder in which copies of all recorded documents in that county are stored; may be microfilmed.

OFF-PRICE CENTER A specialized type of shopping center recognized by the Urban Land Institute; a variation on the discount department store concept.

OFFSET STATEMENT Statement by owner of a deed of trust or mortgage against the property, setting forth the present status of the debt and lien. Also called a beneficiary statement.

OIL COMPANIES Because they have large tracts of land and are amply funded these companies are suited to develop large tracts of land.

ON-SITE JOB PROGRAM Employment of tenants occupying low-cost residential buildings to perform maintenance work in these buildings.

OPEN-END MORTGAGE OR DEED OF TRUST (CLAUSE) A mortgage containing a clause that permits the mortgagor or trustor to borrow additional money without rewriting the mortgage or deed of trust.

OPEN MARKET TRANSACTION Transaction in which both buyer and seller act willingly, with full knowledge of all details of the property and transaction, and under no pressure.

OPEN LISTING An authorization given by a property-owner to a real estate agent in which the agent is given the nonexclusive right to secure a purchaser. Open listings may be given to any number of agents without liability to compensate any except the one who first secures a buyer ready, willing, and able to meet the terms of the listing or who secures the acceptance by the seller of a satisfactory offer.

OPERATING BUDGET A projection of income and expense for the operation of a property over a one-year period.

OPERATING EXPENSES Expenses required to run a property. Includes fixed, variable, and reserves for replacement.

OPERATING STATEMENT Written record of a property's gross income, expenses, and resultant net income for a given period of time.

OPINION An agent's opinion is not a sueable matter.

OPINION, JUDICIAL A judge's Written statement of a decision in a court case, outlining the facts of the case and explaining the legal basis for the decision.

OPINION OF TITLE An attorney's written evaluation of the condition of title to a real property, based upon careful examination of the abstract of title.

OPINION OF VALUE An estimate of a property's worth given by a licensee for the purpose of a prospective sale.

OPTION CONTRACT A right to have an act performed in the future; a right given for a consideration to purchase or lease a property upon specified terms within a specified time; a contract to keep an offer open for a particular period of time. The right of a person to buy or lease property at a set price at any time during the life of a contract.

OPTION TO RENEW A lease provision giving the tenant the right to extend the lease for an additional period of time on specified terms.

OPTIONEE The person to whom an option is given.

OPTIONOR The person who gives an option.

OPTION LISTING A listing that also includes an option, permitting the broker to buy the property at the stated price at any time during the listing period.

OPTION ON PROPERTY Allows the buyer to buy within certain restrictions but does not make buyer obligated to buy.

OPTION TO PURCHASE An option giving the optionee the right to buy property owned by the optionor at an agreed price during a specified period.

ORAL CONTRACT A verbal agreement, one not reduced to writing.

ORDINANCE A law passed by a political subdivision of the state (such as a town, city, or county).

ORIENTATION Placement of a house on its lot with regard to its exposure to the rays of the sun, prevailing winds, privacy from the street, and protection from outside noises.

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ORIGINATION FEE Fee paid to the lender for originating and closing the loan; typically 1% of the loan amount.

OR-MORE CLAUSE A simple prepayment clause that permits the borrower to make a normal payment or any larger amount, up to and including the entire outstanding balance, without a prepayment penalty.

OSTENSIBLE That authority which a person reasonably believe an agent possesses because of the acts or omissions of the principal.

OSTENSIBLE AGENCY An agency implied by law because the principals intentionally or inadvertently caused a third person to believe someone to be his agent, and that third person acted as if that other person was in fact the principal's agent.

OSTENSIBLE PARTNERSHIP One or more parties cause a third party to be deceived into believing that a business relationship exists when no such relationship exists.

OTS Took over the responsibilities of the disbanded Federal Home Loan Bank Board.

OUSTER One co-tenant refuses to allow occupancy by the other co-tenant.

OUTLAW The Statute of Limitations has expired.

OVERBUILDING Two things caused by overbuilding are lower rents and increased vacancy factor.

OVERAGE A percentage of gross sales over a certain amount paid to an owner in addition to a minimum base rent; often required in percentage leases.

OVERAGE RENT Amounts paid over and above the base rent, under a percentage lease.

OVERALL CAPITALIZATION RATE (OAR) The relationship between net income and value for the total property. Used to capitalize income.

OVERHANG The part of the roof that extends beyond the walls and that shades buildings and covers walks.

OVER IMPROVEMENT An improvement that is not the highest and best use for the site on which it is placed, by reason of excessive size or cost.

OVERAGES Unexplained overages in trust accounts may not be used to offset shortages.

OVERLAPPING TRUST DEED See *Blanket Deed of Trust or Mortgage*

OWNER OF THE FUNDS All profits earned by a broker through misuse of trust belong to the owner of the funds.

OWNERSHIP The right of a person to use and possess property to the exclusion of others.

OWNERSHIP IN SEVERALTY Ownership by a single individual. COMPARE: Concurrent Ownership.

OWNER S TITLE INSURANCE Title insurance issued for the total purchase price of the property to protect the new homeowner against unexpected risks.

P

PACKAGE LOAN (MORTGAGE) Loan secured both by real and personal property, usually appliances and other fixtures.

PACKAGE TRUST DEED OR MORTGAGE A trust deed secured by both real property and personal property. (Appliances, furniture etc.)

PAPER Notes in lieu of cash.

PANIC SELLING SEE: Blockbusting.

PAR The face amount of a loan with no premium or discount.

PARCEL A lot or piece of real estate, particularly a specified part of a larger tract.

PAROL Oral or verbal.

PAROL CONTRACT An oral or verbal contract.

PAROL EVIDENCE RULE A rule of courtroom evidence that once the parties make a written contract, they may not then introduce oral agreements or statements to modify the terms of that written agreement. An exception exists for fraud or mistake, which will permit the parties to offer evidence to vary the terms of the writing.

PARQUET FLOOR Hardwood flooring laid in squares or patterns.

PARTIAL EVICTION A situation in which the landlord s

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negligence renders all or part of the premises unusable to the tenant for the purposes intended in the lease.

PARTIAL RECONVEYANCE (DEED) In a deed of trust or mortgage, a clause that permits release of a parcel or part of a parcel from the effects and lien of that security instrument. The release usually occurs upon the payment of a specified sum of money.

PARTIAL RELEASE CLAUSE A clause in a trust deed that provides for the release of part of the property from the lien of the trust deed upon payment of a specific portion of the debt.

PARTIAL TAKING Governmental agency acquiring only a portion of a property through condemnation.

PARTICIPATION When a lending institution sells a part interest in a block of loans to another institution or agency.

PARTICIPATION CERTIFICATE Proof of membership in a trust cooperative granted in a particular amount, usually with right to occupy a unit in property owned by trust.

PARTITION ACTION A legal action by which co-owners seek to sever their joint ownership. The physical division of property between co-owners, usually through court action.

PARTITION, JUDICIAL A court action to divide up a property among its co-owners, so that each owns part of it in severalty, or (if it is not practical to divide the property physically) each gets a share of the sale proceeds.

PARTITION, VALUNTARY When co-owners agree to terminate their co-ownership, dividing up the property so that each owns a piece of it in severalty.

PARTNER, GENERAL A partner who has the authority to manage and contract for a general or limited partnership, and who is personally liable for the partnership's debts.

PARTNER, LIMITED A partner in a limited partnership who is primarily an investor and does not participate in the management of the business, and who is not personally liable for the partnership's debts.

PARTNERSHIP An association of two or more persons to unite their property, labor or skill, or any one or combination thereof, in prosecution of some joint business, and to share the profits in certain proportions. An agreement of two or more individuals jointly to undertake a business enterprise. If it is a general

partnership, all partners have unlimited liability and, absent other agreements, share equally in the management and profits of the business.

PARTNERSHIP, GENERAL A partnership in which each member has an equal right to manage the business and share in the profits, as well as an equal responsibility for the partnership's debts. All of the partners are general partners.

PARTNERSHIP, LIMITED A partnership made up of one or more general partners and one or more limited partners.

PARTNERSHIP PROPERTY All property that partners bring into their business at the outset or later acquire for their business; property owned as tenants in partnership. SEE: Tenancy in partnership

PARITY WALL A wall erected on the line between two adjoining properties that are under different ownership for the use of both owners.

PASSIVE INCOME Income (rents) received from income property, as opposed to wages, salaries, interest, dividends, or royalties. An IRS term.

PASS-THROUGH SECURITIES Certificates pledging a group (pool) of existing government-backed mortgages used for the purpose of channeling funds into housing markets.

PATENTS (1) Conveyance of title to government land. (2) An ambiguous legal description. Deeds used by the U.S. government when confirming or transferring ownership to private parties.

PATIO HOME SEE: Zero-Lot-Line Home.

PAYEE The person entitled to payment under a promissory note.

PAYMENT CLAUSE A provision in a promissory note, deed of trust, or mortgage, permitting the debtor to pay off the obligation before maturity.

PAYOFF CHECK Final disbursement check to a lender to pay off a loan in full.

PAYOR Person who pays the sum on a note due to a payee.

PENALTY CLAUSE A provision in a mortgage that requires that requires the buyer to pay a penalty in money if the mortgage payments are made in advance of the normal due date or if the mortgage is paid in full ahead of the due date.

PENNY The term, as applied to nails, that serves as a measure of nail length and is abbreviated by the letter d.

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PERCENTAGE ADJUSTMENT Type of sales adjustment; the estimated difference between the comparable sale and the subject is first calculated as a percentage of the sale price of the comparable, and then applied as an upward or downward adjustment to the price.

PER-UNIT-COST-METHOD A method of computing management fees based on the management firm's capabilities and the direct cost of managing a specific number of units.

PERCENTAGE FEE A property management fee expressed as a percentage of the gross collectible income from a property.

PERCENTAGE LEASE A lease on property, the rental for which is determined by the amount of business done by the tenant, usually a percentage of gross receipts from the business, with provision for a minimum rental.

PERCOLATION The ability of the soil to absorb water.

PER DIEM By the day; an allowance for daily expenses.

PERFORMANCE Point when a party or parties to a contract fulfill the promises or obligations in the contract.

PERFORMANCE BOND A bond furnished to guarantee that a builder will perform in accordance with the contract terms and that the property at completion will be free of mechanics liens.

PERIMETER HEATING Baseboard heating or any system in which the heat registers are located along the outside walls of a room, especially under the windows.

PERIODIC COST A type of fixed property expenses that occurs on a regular but infrequent basis.

PERIODIC TENANCY A leasehold estate that continues indefinitely for successive periods of time, until terminated by proper notice. When the periods are one month in duration, it is often called a month-to-month lease.

PERMANENT FINANCING See *Take-out Loan*

PERSONAL INJURY A term commonly used in tort (e.g. negligence cases) indicating an injury to one's being or body (for example, cuts or broken bones) as opposed to injury to his property.

PERSONAL PROPERTY Any property that is not

real property. (See Real Property.) Property that is movable, as opposed to real property, which is immovable; also includes intangible property and leasehold estates.

PERSONAL REPRESENTATIVE Administrator for a deceased person's estate.

PERSONALTY Personal property.

PERSONAL USE PROPERTY Property that a taxpayer owns for his or her own use (or family use), as opposed to income property, investment property, dealer property, or property used in a trade or business.

PETITION TO CONFIRM Filed with the court when a party refuses to comply with the arbitration award.

PETITION TO REVIEW A request to a court of appeal asking to examine the record of the proceedings in a specific case.

PETITIONER A person who petitions the court on a special proceeding or a motion.

PHYSICAL CONDITION OF PROPERTY When evaluating the physical condition of a building it is also important to note the number and size of the units and the staff size.

PHYSICAL DETERIORATION OR DETERIORATION The loss of value from all causes of age and action of the elements. Loss in value brought about by wear and tear, disintegration, use and actions of the elements.

PIER A column of masonry used to support other structural members.

PITCH The incline or rise of a roof.

PITI The monthly payments necessary to cover principal, interest, taxes, and insurance.

PLAINTIFF The party who initiates a lawsuit; the person who sues another.

PLANNED UNIT DEVELOPMENT (PUD) A development (usually residential) with small, clustered lots designed to leave more open space than traditional subdivisions have. Each individual lot is substandard, has inadequate parking, and has equity that often increases at a faster pace than other association housing.

PLANNING Devising ways and means for achieving desired goals.

PLANNING COMMISSION A local government agency responsible for preparing the community's general plan for

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development. SEE: General Plan.

PLANS AND SPECIFICATIONS Architectural and engineering drawings and specifications for construction of a building, including description of materials and manner in which they are to be applied.

PLANT DEPARTMENT Department in a title company where research materials and copies of official documents are kept.

PLATE BOOK A large book containing subdivision plats, kept at the county recorder's office.

PLATE A horizontal board placed on a wall or supported on posts or studs to carry the trusses of a roof or rafters directly; a shoe or base member, as of a partition or other frame; a small flat board placed on or in a wall to support girders and rafters, for example.

PLAT MAP Map of land subdivision or housing development.

PLEDGE Deposition of personal property by a debtor with a creditor as security for a debt or engagement.

PLEDGEE One who is given a pledge as security. (See Security Party)

PLEDGOR One who gives a pledge as security. (See Debtor)

PLOTT AGE or ASSEMBLAGE INCREMENT (VALUE) The appreciation in unit value created by joining smaller ownerships into one large single ownership.

PLYWOOD (1) Laminated wood made up in panels. (2) Several thicknesses of wood glued together with grains at different angles for strength.

PMI Private mortgage insurance. See mortgage insurance.

POINT OF BEGINNING (POB) The starting point in a metes and bounds description; described by reference to a monument.

POINT In the context of a loan, a point is equal to 1% of the loan amount and would be included in the loan costs.

POINTS (See Discount Points)

POINT ESTIMATE The final estimate stated in a single dollar amount.

POINT OF BEGINNING (POB) The starting (and ending) place in a land survey using the metes-and-bounds method of property description.

POINT OF CONTACT INFORMATION Any means by which to contact the brokerage firm or individual licensee including mailing address, physical street address, e-mail address, telephone numbers, and fax machine numbers.

POLICE POWER The right of the state to enact laws and regulations and its right to enforce them for the order, safety, health, morals, and general welfare of the public. The power of the state to prohibit acts that adversely affect the public health, welfare, safety, or morals. (Zoning and building codes are examples of exercise of the police power.)

POLICY MANUAL The notebook of written rules and regulations that set desired standards and procedures in an office.

POORER NEIGHBORHOODS These neighborhoods suffer the most during a recession.

PORTFOLIO LENDER A lender that keeps loans for its own portfolio, rather than selling the loan on the secondary market to Freddie Mac or Fannie Mae.

POST AND BEAM This type of framing is larger-sized lumber used so that the framing members can be spaced farther apart.

POSSESSION 1. The holding and enjoyment of property. 2. Actual physical occupation of real property.

POSSESSION DATE Day when the buyer actually moves on to the property; may be different from the close of escrow or recording date.

POSSESSORY INTEREST An interest in property that includes the right to possess and occupy the property; not necessarily ownership.

POTABLE Water suitable for drinking.

POTENTIAL GROSS INCOME The total annual income a property would produce with 100% occupancy and no collection or vacancy losses.

POWER OF ATTORNEY An instrument authorizing a person to act as the agent of the person granting it. A special power of attorney limits the agent to a particular or specific act, as a landowner may grant an agent special power of attorney to convey a single and specific parcel of property. Under a general power of attorney, the agent may do almost anything for the principal that the principal could do himself or herself. A document authorizing a person (an attorney-in-fact) to act as

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an agent.

POWER OF SALE CLAUSE A clause in a deed of trust giving the trustee the right to foreclose nonjudicially (sell the debtor's property without a court action) if the borrower defaults.

POWER OF TERMINATION The future interest created whenever there is a grant of a fee simple subject to a condition subsequent estate. The future interest matures into a present interest estate only if the holder timely and properly exercises his right upon a breach by the current holder of the fee estate.

PRECEDENT A published judicial opinion that serves as authority for determining a similar issue in a later case. SEE: Stare Decisis

PRECEDENT, BINDING A precedent that a particular court is required to follow.

PREDICTIONS An agent's predictions are not a sure matter.

PREEMPTION SEE: *Right of Preemption*.

PREFABRICATED HOUSE A house manufactured, and sometimes partly assembled, before delivery to the building site.

PREJUDGEMENT ATTACHMENT An attachment of property made before the trial, with the intent of holding that property as security, to have an asset to sell if the court judgment is favorable to the attaching party.

PRELIMINARY REPORT A report showing the current status of a property and the condition under which a title company is willing to insure title as of a specific date.

PREMISES SECTION (See *Granting Clause*)

PREMIUM An amount, usually measured in points, in excess of the loan balance owing, paid for the purchase of a note and a trust deed.

PREPAID ITEMS Expenses paid by borrower-buyer at closing, such as taxes, insurance, and interest.

PREPAYMENT Paying off part or all of a loan before payment is due.

PREPAYMENT CLAUSE A provision in a mortgage that allows the mortgagor to pay the mortgage debt ahead of schedule without penalty.

PREPAYMENT PENALTY Penalty for the payment

of a note before it actually becomes due. A fee or charge imposed upon a debtor who desires to pay off his loan before its maturity. Not all prepayment clauses provide for a penalty, and in many real estate transactions the law regulates the amount of penalty that may be changed.

PREPAYMENT PRIVILEGE Allows borrower to make extra payments on the principal payment without penalty.

PRESCRIPTION, EASEMENT BY Securing of an easement by open, notorious, and uninterrupted use, adverse to the owner of the land for the period required by statute, which, in California, is five years. A method of obtaining an easement by adverse use over a prescribed period of time.

PRESENT INTEREST An estate in land that gives the owner the right to occupy his property immediately; as opposed to a future interest, which grants only the right to occupy the premises at some future date.

PRESENT VALUE Current value or the discounted value of some future income or benefits.

PRESUMPTION That which may be assumed without proof. A conclusion or assumption that is binding in the absence of sufficient proof to the contrary.

PRE-TAX CASH FLOW The amount of income available to the owner after the mortgage lender has been paid its portion of the net operating income.

PREVENTIVE MAINTENANCE A program of regularly scheduled maintenance activities and routine inspections of the interior and exterior of the buildings, equipment and grounds. Its objective is to preserve the physical integrity of the property, eliminate corrective maintenance costs and ensure uninterrupted service to the tenants.

PRICE The amount of money or other consideration given for a property; agreed upon between buyer and seller; also called *purchase price* or *sales price*.

PRICE LEVEL ADJUSTED MORTGAGE (PLAM) Interest rate is fixed, but outstanding loan balance and monthly payments vary according to changes in some price index.

PRIMA FACIE (1) Presumptive on its face. (2) Assumed correct until overcome by further proof. Facts, evidence, or documents that are taken at face value and presumed to be as they appear (unless proven otherwise).

PRIME CONTRACTOR A construction supervisor who contracts with the property manager to oversee a job and then sublets the work to various skilled trades people.

PRIMARY LENDER Financial institution that makes

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mortgage loans directly to borrower.

PRIMARY MARKET A source for the purchase of a mortgage by a borrower.

PRIMARY MORTGAGE MARKET The market in which loans are made directly to the borrowers.

PRIME RATE Interest rate banks charge preferred customers.

PRINCIPAL The employer of an agent. Someone who hires an agent to act on his behalf. The term also refers to the amount of an outstanding loan (exclusive of interest).

PRINCIPAL MERIDIANS Imaginary lines running north and south and crossing a base line at a definite point; used by surveyors for reference in locating and describing land under the government survey system.

PRINCIPLE OF ANTICIPATION Value is the present worth of future benefits, both income and intangible amenities.

PRINCIPLE OF CHANGE Real estate values are constantly changed by social, economic, and political forces in society. (SEE: Neighborhood Cycle.)

PRINCIPLE OF COMPETITION Market demand generates profits and profits generate competition; competition stabilizes profits.

PRINCIPLE OF CONFORMITY Maximum value results when properties in a neighborhood are relatively similar in size, style, quality, use and/or type.

PRINCIPLE OF CONSISTENT USE Both land and improvements must be appraised for the same use.

PRINCIPLE OF HIGHEST AND BEST USE Maximum market value of a given parcel of land, vacant or improved, is created by development or utilization at its highest and best use.

PRINCIPLE OF INCREASING AND DECREASING RETURNS Income and other benefits available from real estate may be increased by adding capital improvements only up to the point of balance in the agents of production, beyond which the increase in value tends to be less than the increase in costs.

PRINCIPLE OF PROGRESSION AND REGRESSION Lower-valued properties generally benefit from close proximity to many properties of higher value and higher-valued properties tend to suffer when placed in close

proximity with lower-valued properties.

PRINCIPLE OF SUBSTITUTION When a property can be easily replaced by another, the value of such property tends to be set by the cost of acquiring an equally desirable substitute property.

PRINCIPLE OF SUPPLY AND DEMAND Prices and rent levels tend to increase when demand is greater than supply and tend to decrease when supply exceeds demand.

PRINCIPLE OF SURPLUS PRODUCTIVITY, BALANCE AND CONTRIBUTION Income that is available to land, after the other economic agents have been paid for, is known as the surplus of productivity; a proper balance of the agents maximizes the income available to land; the value of any agent is determined by its contribution to the whole.

PRINCIPAL RESIDENCE PROPERTY Real property that is the owner's home, his or her main dwelling. A person can only have one principal residence at a time. The term is most often used in connection with the income tax laws.

PRIOR APPROPRIATION A system of allocating water rights. Under this system, a person who wants to use water from a particular lake or river is required to apply for an appropriation permit. It is not necessary to own property beside the body of water in order to acquire an appropriative right. COMPARE: Riparian Rights.

PRIORITY That which comes first in point of time or right. superior, higher, or preferred rank or position. Private restrictions Are normally found in the CC&R .

PRIVATE MORTGAGE INSURANCE See *Mortgage Insurance*

PRIVATE SECTOR When there is a federal deficit, the treasury covers the short fall by issuing interest-bearing securities to investors, in doing so, the government is actually borrowing money from the private sector.

PRIVITY Closeness or mutuality of a contractual relationship.

PROBABLE CAUSE Reasonable grounds or justification for prosecuting.

PROBATE Court supervision of the collection and distribution of a deceased person's estate.

PROBATE COURT A court that oversees the distribution of property under a will or by intestate succession.

PROBATION A suspended sentence during good behavior, usually under supervision.

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PROCEDURAL LAW The law of how to present and proceed with legal rights (for example, laws of evidence, enforcement of judgments). It is the opposite of substantive law.

PROCESSING Preparation of loan application and supporting documents for consideration for by a lender or an insurer.

PROCURING CAUSE That event originating from another series of events that, without a break in continuity, results in an agent's producing a final buyer.

PROFESSIONAL ASSOCIATION (PA) A business corporation consisting of one or more individuals engaged in a primary business that provides a professional service.

PROFIT The amount one makes over and above one's costs.

PROFIT AND LOSS STATEMENT An annual financial report of a property's actual net profit before taxes.

PRO FORMA STATEMENT An estimate of the economic results of a proposed project; a projected income statement.

PROGRESSION The principle that states the value of an inferior property is enhanced by its association with superior properties of the same type.

PROMISEE Someone who has been promised something; someone who is supposed to receive the benefit of a contractual promise.

PROMISOR Someone who has made a contractual promise to another.

PROMISSORY ESTOPPEL SEE: Estoppel, Promissory.

PROMISSORY NOTE See Note

PROOF, BURDEN OF The responsibility for proving or disproving a particular issue in a lawsuit. In most cases, the plaintiff has the burden of proof.

PROOF, STANDARD OF The extent to which the plaintiff or prosecutor must have convinced the jury or judge in order to win the case. In most civil suits, a preponderance of the evidence must support the plaintiff's case. In a criminal action, the prosecutor's case must be proven beyond a reasonable doubt.

PROPERTY. Everything capable of being owned and acquired lawfully. The rights of ownership. The right to use, possess, enjoy, and dispose of a thing in every legal way and to exclude everyone else from interfering with these rights. Property is classified into two groups, personal property and real estate.

PROPERTY ANALYSIS A study made to familiarize a property manager with the nature and condition of a building, its position relative to comparable properties and its estimated income and operating expenses.

PROPERTY HELD FOR PRODUCTION OF INCOME SEE: *Income Property.*

PROPERTY INCOME One way to increase property income in a large metropolitan area is to rent garages and storage space separately.

PROPERTY INSURANCE (See *Hazard Insurance*)

PROPERTY MANAGEMENT A branch of the real estate profession that seeks to preserve or increase the value of an investment property while generating income for its owners. The portion of the real estate business involving the operations, maintenance and marketing of income-producing property.

PROPERTY MANAGEMENT FEES For many real estate offices property management fees are a more steady source of income than commissions.

PROPERTY MANAGER A broker acting as a property manager may not legally refuse to rent an apartment to an unmarried couple. The property manager must make sure the property management contract gives him or her the specific right to display signs on the property. Some of his duties are; preparing a twelve month statement, forecasting projected monthly dues and creating budgets and handling expenses.

PROPERTY PROFILE Shows the way title was taken.

PROPERTY TAX SEE: *Tax, Property.*

PROPERTY USED IN A TRADE OR BUSINESS Property such as business sites and factories used in one's trade or business.

PROPOSITION 13 The initiative measure passed in 1978 that led to major revisions in California's property tax laws.

PROPOSITION 90 Allows a senior citizen to purchase a new house in a different county and keep his or her old tax bill.

PRORATION The process of dividing something (especially a sum of money or an expense) proportionately. The bankers

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rule. (360 days)

PROPRIETARY LEASE The right of a member of a cooperative to occupy a unit in the building subject to certain conditions.

PROFIT A PRENDRE An easement coupled with a power to consume resources on the burdened property.

PROMISSORY NOTE A written promise to pay a designated sum of money at a future date.

PROPERTY Anything that may be owned. Anything of value in which the law permits ownership.

PRORATE To divide or assess proportionate shares of charges and credits between buyer and seller according to their individual period of ownership.

PRORATIONS Adjustments of interest, taxes, and insurance, etc., on a pro rated basis as of the closing or agreed upon date based on a 30 day month.

PRORATION OF TAXES Division of the taxes equally or proportionately between buyer and seller on the basis of time of ownership.

PROVISIONAL TITLE A condition in a deed makes the title provisional.

PROXIMATE CAUSE That cause of an event which, in a natural and continuous sequence unbroken by a new cause, produced that event, and without which the event would not have happened. Also, the procuring cause. A broker is the procuring cause of a sale if his or her efforts set in motion an unbroken chain of events that resulted in the sale.

PUBLIC ACCOMMODATIONS Places of public accommodations constructed for first occupancy before August 26, 1990 are required to remove architectural barriers which limit access by disabled persons.

PUBLIC RECORDS Records which by law impart constructive notice of matters relating to land.

PUBLIC TRUSTEE The county official whose offices has been created by the statute to whom title to real property in certain states, e.e, Colorado, is conveyed by trust deed for the use and benefit of the beneficiary, who usually is the lender.

PUBLICITY Editorial space in a newspaper, magazine or other medium that is not paid for but serves to attract public attention to an individual, firm or commodity.

PUD A form of development that contains a mixture of building types and land use.

PUFFING Superlative statements about a property that shouldn't be considered assertions of fact. The best buy in town, or It's a fabulous location are examples of puffing. Puffing is not a sueable matter.

PUNITIVE DAMAGES Money awarded by the court for the sole purpose of punishing the wrongdoer, and not designed to compensate the injured party for his damages.

PUR AUTRE VIE SEE: Life Estate *Pur Autre Vie*.

PURCHASE AND INSTALLMENT SALEBACK Involves purchase of the property upon completion of construction and immediate saleback on a long-term installment contract.

PURCHASE OF LAND, LEASEBACK AND LEASEHOLD MORTGAGES An arrangement whereby land is purchased by the lender and leased back to the developer with a mortgage negotiated on the resulting leasehold of the income property constructed. The lender receives an annual ground rent, plus a percentage of income from the property.

PURCHASE AND LEASEBACK Involves the purchase of property by the buyer and immediate leaseback to seller.

PURCHASE MONEY INSTRUMENT A mortgage or deed of trust that does not permit a deficiency judgment in the event of foreclosure and sale of the secured property for less than the amount due on the promissory note. It is called purchase money since the deed of trust and mortgage was used to buy all or part of the property.

PURCHASE-MONEY MORTGAGE OR PURCHASE-MONEY DEED OF TRUST (PMM) A mortgage or deed of trust given as part or all of the consideration for the purchase of property or given as security for a loan to obtain money for all or part of the purchase price.

PURCHASE AND SALE AGREEMENT A contract in which a seller promises to convey title to real property to a buyer in exchange for the purchase price. Usually called a deposit receipt in California. SEE: Deposit receipt.

PURCHASE PRICE See *price*



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QUADRANT Quarter; any of the four quarters into which something is divided.

QUALIFICATION The process of reviewing prior to the approval (of a buyers housing needs and financial abilities, of a borrower's mortgage loan application, or of an application for licensure. (Underwriting)

QUALITY OF CONSTRUCTION Classification or rating based on basic structural integrity, materials, finishes, and special features.

QUANTITY SURVEY A highly technical process in arriving at a cost estimate of new construction and sometimes To in the building trade as the price take-off method. It involves a detailed estimate of the quantities of raw material. Used as well as the current price of the material and installation costs. These factors are all added together to arrive at the cost of a structure. It is usually used by contractors and experienced estimators.

QUARTER ROUND A molding whose profile resembles a quarter of a circle.

QUASI Almost as if it were.

QUASI-CONTRACT A contract implied by law; that is, the law will imply and consider certain relationships as if they were a contract.

QUASI-LEGISLATIVE (FL) Powers delegated to the FREC to enact rules and regulations, decide questions of practice, and validate records. (imprint with FREC's seal).

QUASI- JUDICIAL (FL) Powers delegated to the FREC to discipline real estate licensees for violations of real estate license law and FREC administrative rules.

QUASI PARTNERSHIP (See *Ostensible Partnership*)

QUESTION OF FACT In a lawsuit, a question about what actually occurred, as opposed to a question about the legal consequences of what occurred (a question of law).

QUESTION OF LAW In a lawsuit, a question about what the law is on a particular point; what the legal rights and duties of the parties were.

QUIET ENJOYMENT The right of an owner to the use of property without interference with his or her possession or use.

QUITE TITLE A court action brought to establish title and to remove a cloud from the title.

QUIET TITLE ACTION A lawsuit designed to remove any clouds on a title to property. It forces the claimant of an adverse interest in property to prove his right to title; otherwise he will be forever barred from asserting it.

QUITCLAIM DEED A deed to relinquish any interest in property that the grantor may have, but implying no warranties. A deed that transfers only whatever right, title, or interest, if any, the grantor owns, without implying any warranties.

QUORUM The minimum number of persons who may lawfully transact the business of a meeting.

R

RACE/NOTICE RULE When the same property has been sold to two different buyers, if the second buyer records his or her deed before the first buyer, the second buyer has good title to the property - as long as he or she did not have notice of the first buyer's interest.

RADIANT HEATING A method of heating, usually consisting of coils or pipes placed in the floor, wall, or ceiling.

RAFTER One of a series of boards of a roof designed to support roof loads.

RANGE A strip of land six miles wide, determined by a government survey, running in a north-south direction.

RANGE LINES (SUBMERIDIANS) A series of government survey lines running north and south at six-mile intervals starting with the principal meridian and forming the east and west boundaries of townships.

RANGE VALUE The appraiser's estimate of the range in which the property's value is most likely to be.

RATE ADJUSTMENT DATE With respect to an adjustable rate mortgage, the date the borrower's note range may change.

RATIFICATION The adoption or approval of an act performed on behalf of a person without previous authorization. Approval and confirmation of a prior act performed on one's behalf by another person without previous authority.

RATIFIED Approved

RATIO The relationship in quantity, size or amount between two things; proportions.

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REAL ESTATE (See Real Property)

REAL ESTATE SALES ASSOCIATE The same as a real estate salesperson, holding a real estate license and employed by a broker.

REAL ESTATE DEBT Real estate debt has been rapidly increasing over the past two decades.

REAL ESTATE CYCLE A sequence of strengths and weaknesses that occurs in the real estate segment of the general business economy; phases of the cycle are influenced by, but are not identical to, those of the business cycle.

REAL ESTATE SETTLEMENT PROCEDURES ACT (RESPA) A federal law requiring the disclosure to borrowers of settlement (closing) procedures and costs by means of a pamphlet and forms prescribed by the United States Department of Housing and Urban Development.

REAL ESTATE SYNDICATE An organization of investors usually in the form of a limited partnership who have joined together for the purpose of pooling capital for the acquisition of real property interests.

READY, WILLING, AND ABLE BUYER A purchaser of property, who is willing to buy on terms acceptable to the seller, and who further possesses the financial ability to consummate the sale. Producing such a buyer sometimes earns the broker a commission, even though a sale is not forthcoming.

REAL ESTATE Land, including the air above and the earth below, plus any permanent improvements affecting the utility of the of the land; real property; property that is not personal property.

REAL ESTATE ADVERTISING All references to age in real estate advertising are prohibited.

REAL ESTATE AGENT A real estate agent is required to use diligence, care and skill in the performance of his duties.

REAL ESTATE BUSINESS A commercial activity in which the sale, purchase, leasing rental or exchange or management of real property is conducted by qualified and licensed parties acting either for themselves or for compensation.

REAL ESTATE BOARD An organization whose

members consist primarily of real estate brokers and salespersons.

REAL ESTATE CONTRACT 1. A purchase and sale agreement. 2. A land contract. 3. Any contract having to do with real property.

REAL ESTATE CYCLE Periodic pattern of changes in the amount of construction and volume of sales in the real estate market.

REAL ESTATE INVESTMENT TRUST(REIT) A specialized form of holding title to property that enables investors to pool their resources and purchase property, while still receiving considerable tax advantages, without being taxed as a corporation. Also known as REIT.

REAL ESTATE LICENCE The commissioner has the right to suspend a real estate a real estate licence when a licensee : makes a secret profit, acts for more than one party without the consent of each and is derelict in his duty. A license is not required when an owner rents or manages his or her own property.

REAL ESTATE LICENSEE MALFEASANCE (CA) The special fund established by the legislature to help compensate victims of real estate licensee malfeasance a Recovery Account Fund.

REAL ESTATE PROFESSION A profession requiring knowledge of real estate values, experience in dealing with the public, plus exceptional personal integrity and character as qualifications to act as advisors and agents for members of the public.

REAL ESTATE RECOVERY ACCOUNT (CA) Awards of attorneys fees, and punitive damages, may be recovered from the Real Estate Recovery Account. An individual's recovery from the Real Estate Recovery Account is not limited to \$50,000 per transaction.

REAL ESTATE SALESPERSON Is the agent of the employing broker. A real estate salesperson is the special agent. In California a real estate salesperson must be licenced by the Department of Real Estate. (DRE)

REAL ESTATE SERVICES Real estate activities involving compensation for performing the activities for another.

REAL ESTATE TRUST A special arrangement under federal and state law whereby investors may pool funds for investments in real estate and mortgages and yet escape corporation taxes.

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REAL PROPERTY Land and anything affixed, incidental, or appurtenant to it, and anything considered immovable under the law. Land, buildings, and other immovable property permanently attached thereto.

REAL ESTATE PURCHASE CONTRACT Must be made by parties with legal capacity to do so, must be an offer made on definite terms and with a lawful objective, and must include acceptance of the terms by all parties and some form of consideration.

REAL PROPERTY ADMINISTRATOR (RPA) A property manager who has successfully completed BOMI's educational program and fulfilled other requirements for this professional designation.

REAL PROPERTY LOAN LAW Article 7 of Chapter 3 of the Real Estate Law under which a real estate licensee negotiating loans secured by real property within a specified range is required to give the borrower a statement disclosing the costs and terms and which also limits the amount of expenses and charges that a borrower may pay with respect to the loan.

REAL PROPERTY SALES CONTRACT An agreement to convey title to real property upon satisfaction of specified conditions which does not require conveyance within one year of formation of the contract. The buyer does not take title.

REAL PROPERTY TAXES. Unpaid real property taxes constitute a lien prior to a mortgage lien.

REASONABLE TIME In the real estate business 30 days is considered a reasonable time.

REALIZATION The point at which a gain or profit is actually obtained; for example, the value of a piece of property has been increasing steadily, but the owner's profit won't be realized until she sells the property.

REALTOR A real estate broker holding active membership in a real estate board affiliated with the National Association of Realtors. Membership in a trade organization for brokers or salespeople is optional.

REALTY Real property.

REASONABLE TIME A variable period of time, which may be affected by market conditions, desires of the owner, supply and demand, fluctuations of values, or an official decision.

REBUTTABLE PRESUMPTION A presumption that is not conclusive and that may be contradicted by evidence. A presumption that applies unless proven

inapplicable by the introduction of contradictory evidence.

RECAPTURE (1) The rate of interest necessary to provide for the return of an investment. (2) A provision in tax laws that reduces certain benefits from claiming depreciation.

RECAPTURE CLAUSE A provision in a percentage lease that grants the landlord the right to terminate the lease at the end of a certain period if gross sales have not reached the level anticipated during negotiations.

RECAPTURE PROVISION A clause within an assignment and subletting lease clause giving the landlord the right to recover any space that the tenant is unable to occupy or sublease.

RECEIVER A neutral third party, appointed by the court to collect the rents and profits from property, and distribute them as ordered by the court. Often used as a remedy when mere damages are inadequate.

RECEIVERSHIP CLAUSE A provision in a mortgage, related to income producing property, that is designed to require that income derived shall be used to make mortgage payments in the event the mortgagor (borrower) defaults.

RECESSION The peak in the business cycle; the point at which the supply equals and begins to surpass demand.

RECIPROCAL When you divide a number into one, the result is a reciprocal.

RECIPROCAL OF THE CAPITALIZATION RATE Multiplier and factor are the reciprocals.

RECOMMENDED ORDER A determination by an administrative judge that includes findings and conclusions as well as other information required by law or agency rule to be a final order.

RECOGNITION The point at which a gain is taxed (which is ordinarily in the year it was realized, but may be later if a nonrecognition provision applies).

RECONCILIATION The process by which the appraiser reviews and considers the indicated values developed by the applied approaches to arrive at a final value conclusion.

RECONSIDERATION A request by the Department of Real Estate or the respondent made before the effective day of the hearing decision.

RECONVEYANCE (DEED OF) A conveyance to the landowner of the legal title held by a trustee under a deed of trust. The transfer of property back from a lender who holds an interest as security for the payment of a debt. In a deed of

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trust, the beneficiary reconveys property upon satisfaction of the promissory note.

RECONVEYANCE DEED _____ Conveys title from trustor to trustee.

RECONVEYANCE, PARTIAL A reconveyance that releases some parcels from the lien of a blanket deed of trust, usually recorded when the borrower has paid off a certain amount of the debt.

RECORDATION (RECORD) Filing of instruments for record in the office of the county recorder. The act of having a document filed for record in the county recorder's office. Once recorded, the instrument gives constructive notice to the world.

RECORDED LOT, BLOCK AND TRACT Legal description of a parcel of land by means of reference to a recorded plat of a subdivision.

RECORDING The process of placing a document on file with a designated public official for public notice.

RECORDING NUMBER The numbers stamped on documents when they are recorded, used to identify and locate the documents in the public record. (Each page is stamped with a consecutive number, but an entire document is often referred to by the number on the first page.)

RECOVERING ADDICTS Are considered handicapped persons and are protected under the Federal Fair Housing Act

RECOVERY FUND. Generally administered by the Real Estate Commission. Requires licensees to contribute, then reimburses aggrieved persons who are unable to collect from brokers for wrongdoings. Real Estate Commissioner. The public official charged with enforcing the real estate laws as they apply to licensees, subdivisions, and real estate related activities.

RECOVERY PERIOD The assigned time over which property is depreciated for tax purposes.

RECTANGULAR SURVEY SYSTEM System for legal description of property based on principal meridians, baselines, and a grid system.

RECURRING COSTS Any item that requires an impound account.

RECURRING CLOSING COSTS Costs and fees that will be paid monthly or annually such as fire, insurance, interest, property taxes and mortgage insurance.

RECURRING VARIABLE EXPENSE A type of variable property expense (e.g., redecorating costs) that occurs repeatedly on an irregular basis.

REDEEM To buy back; repurchase; recover.

REDEMPTION Buying back one's property after a judicial sale. The repurchasing of one's property after a judicial sale.

REDEMPTION, EQUITABLE RIGHT OF The right of a borrower to redeem property prior to the foreclosure sale.

REDEMPTION PERIOD Period of time in which the borrower may redeem his or her property.

REDEMPTION, STATUTORY RIGHT OF The right of a mortgagor to redeem property after a foreclosure sale.

REDEVELOPMENT Existing structures are destroyed and new ones are built immediately.

REDLINING Is the failure or refusal by the lender to provide financing in certain communities. Redlining does not include any consideration of the market value of the real estate intended to secure the loan. A licensee is required to report any institution that he knows that is taking part in this activity.

REFINANCING The paying-off of an existing obligation and assuming a new obligation in its place. To finance anew, or extend or renew existing financing.

REFORMATION A legal action to correct a mistake in a deed or other document.

REGIONAL CENTER A large shopping center containing from 70 to 225 stores and more than 400,000 square feet of leasable area.

REGIONAL MAIL For this type of mail to be successful it must encompass a surrounding population of over 150,000 people within a 15-mile radius.

REGISTRATION Authorization by the state to place an applicant on the register (record) of officially recognized individuals or businesses.

REGRESSION The principle that states that the value of a superior property is adversely affected by its association with an inferior property of the same type.

REGULARLY RECURRING COSTS A type of fixed property expense (e.g. cleaning costs) that occurs consistently each month.

REGULATION 1. A rule adopted by an administrative agency. 2. Any governmental order having the force of law.

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REGULATION Z The Federal Reserve Board's regulation that implements the Truth in Lending Act. An estimated breakdown of costs that will be incurred in obtaining a loan; given to the borrower by an institutional lender before the loan is taken out; a consumer protection form.

REINSTATE To cure a default under a note secured by a trust deed.

REIT A method of pooling investment money using the trust form ownership.

RELATION BACK A legal doctrine that allows a court to rule that a party acquired title at some point before he or she actually received the deed. Applied in cases involving escrow or the exercise of an option to purchase.

RELIGIOUS ORGANIZATIONS May limit sales or rentals of dwellings for noncommercial purposes to members of the same religion.

REINSTATEMENT A right available to anyone under an accelerated promissory note secured by a deed of trust or mortgage on property. If a deed of trust is foreclosed by trustee's sale, the debtor may have up to three months from the recording of the notice of default to pay the amount in arrears plus interest and costs, thereby completely curing the default (reinstating) without penalty.

REGIONAL ANALYSIS Includes economic conditions, physical attributes and population growth.

REHABILITATION The restoration of property to satisfactory condition without drastically changing the plan, form or style of architecture.

REINTERMEDIATION Return of savings to thrift institutions from previously higher paying investment outlets.

REIT A Real Estate Investment Trust is a business trust which deals principally with interest in land ---- generally organized to conform to the Internal Revenue Code.

REJECTION Refusal to accept an offer. Repudiation of an offer automatically terminates the offer.

RELATIVE COMPARISON ANALYSIS The adjustment terms are expressed in terms of value (superior, inferior, etc.).

RELEASE To give up or abandon a right. The release of rights may be voluntary, as when one voluntarily discharges an obligation under a contract. The release may be involuntary, by operation of the law; for example, one's wrongful conduct may bar him from asserting his rights. In deeds of trust a partial release clause frees certain property from the security of the deed of trust upon the payment of specified sums of money.

RELEASE CLAUSE A stipulation in a deed of trust or mortgage that upon the payment of a specific sum of money to the holder of the deed of trust or mortgage, a particular lot or area shall be removed from the blanket lien on the whole area involved.

RELEASE DEED An instrument executed by the mortgagee or the trustee reconveying to the mortgagor or trustor the real estate which secured the loan after the debt has been paid in full.

RELEASE OF LIABILITY An agreement by the lender to terminate the personal obligation of the buyer.

RELICTION The gradual lowering of water from the usual watermark.

REMAINDER An estate that vests after the termination of the prior estate, such as after a life estate. Example: A life estate may be granted to Adams, with the remainder granted to Baker. Most commonly, an estate (future interest) that arises in favor of a third person after a life estate.

REMAINDER DEPRECIATION The possible future loss in a value of an improvement to real property.

REMAINDERMAN The person who has an estate in remainder.

REMAINDER PARCEL The portion of a property left to the owner when there has been a partial taking by eminent domain.

REMAND To send back to a lower court for further action.

REMEDY The means by which a right is enforced, preserved, or compensated. Some of the more common remedies are damages, injunctions, rescission, and specific performance.

REMODELING To change the floor plan or architectural style of the improvements.

RENAISSANCE Fourth phase in the cycle of a neighborhood, the transition to a new cycle through the demolition, relocation, or major renovation of existing buildings.

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RENEGOTIABLE RATE MORTGAGE A loan secured by a long term mortgage which provides for renegotiation, at pre-determined intervals, of the interest rate (for a maximum variation of five percent over the life of the mortgage).

RENT The consideration paid by a tenant for possession of property under a lease.

RENTABLE SPACE According to BOMA. The floor area of an office building minus allowances for stairs, elevator shaft, duct work and other areas not available to the tenant.

RENTAL AGREEMENT This agreement should be a bilateral, executory contract. All parties should get a signed copy.

RENTAL HOUSING The demand for rental housing are produced by , the price of the home, the volume of sales and the future housing supply.

RENTAL PROPERTY ADS These ads that give phone numbers should have a recorded message so that there is no doubt about what they hear.

RENUNCIATION When someone who has been granted something or has accepted something later gives it up or rejects it; as when an agent withdraws from the agency relationship. COMPARE: Revocation.

RENT CONTROL Rent control of rental property will usually decrease investing in rental property. Places the government's burden of supporting the poor on the shoulders of private property owners.

RENT MULTIPLIER SEE: Gross Income Multiplier.

RENT ROLL Total of all scheduled rental amounts for tenant space, services and parking.

RENTAL LOSS METHOD OF DEPRECIATION SEE: Capitalized Income Method of Depreciation.

RENUNCIATION To abandon an acquired right without transferring that right to another.

REPLACEMENT COST METHOD The cost to replace a structure with one having utility equivalent to that being appraised, but constructed with modern materials and according to current standards, design and layout. This method uses the three following items; the square foot method, the unit-in-place method and the quantity survey method.

REPRIMAND An official act of oral and/or written

criticism with a formal warning included.

REPRODUCTION COST The cost of replacing the subject improvement with one that is the exact replica, having the same quality of workmanship, design and layout, or cost to duplicate the asset.

REQUEST FOR NOTICE OF DEFAULT AND NOTICE OF SALE A recorded notice made by anyone requesting that he or she be notified in the event that a Notice of Default is recorded.

RESCIND To annul, cancel. Repeal or terminate.

RESCISSION The unmaking of a contract, and the restoring of each party to the same position each held before the contract arose.

RESCISSION OF CONTRACT The cancelling of a contract by either mutual consent of the parties or legal action.

RESERVATION A right or interest retained by a grantor when conveying property; also called an exception.

RESERVE ACCOUNT SEE: Impound account.

RESERVES (1) In a common interest subdivisions, an accumulation of funds collected from the owners for future replacement and major maintenance of the common area facilities. (2) With regard to mortgage loans, an accumulation of funds, collected from the borrower by the lender as part of each monthly mortgage payment , an amount allocated to pay property taxes and insurance when they are due.

RESERVES FOR REPLACEMENT Annual allowances set up for replacement of building components and equipment.

RESIDENTIAL PROPERTY There are more square feet of this type of property to be managed than any other type. The type of property that people live in or rent.

RESIDENTIAL REAL ESTATE The majority of loans from savings and loans are used for this type of real estate.

RESIDENTIAL SALE The sale of improved residential property of four or fewer units, the sale of unimproved residential property intended for use as four or fewer units, or the sale of agricultural property of ten or fewer acres.

RESIDUAL TECHNIQUES OF CAPITALIZATION Income approach to valuation methods that separate income attributed to components of the property, such as land or building , or debt or equity, for purposes of analysis.

RESIDUE That portion of a person's estate that has not been specifically devised.

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RES JUDICATA The legal doctrine holding that once a lawsuit between two parties has been tried and a final judgment has been issued, neither one can sue the other over the same dispute again.

RESOLUTION OF A CONTRACT Three methods of resolving a contract are negotiation and compromise, arbitration and default. The end result of contract negotiations.

RESPA (See Real Estate Settlement Procedures Act)

RESPONDEAT SUPERIOR This Latin phrase, "let the master answer," means that an employer is liable for the tortuous acts of an employee, and a principal is liable for the acts of an agent. To be liable, the acts must be within the "course and scope" of the agency or employment. For example, an employer would not be liable for the acts of an employee while at home and not doing work for the employer.

RESPONDENT The person against whom an appeal is taken; the opposite of an appellant.

RESTITUTION Restoring something to a person that he or she was unjustly deprived of.

RESTRICTED REPORT This report may only be used by the client and for one particular purpose.

RESTRICTION A limitation on the use of real property arising from a contract or a recorded instrument. An encumbrance on property that limits the use of it; usually a covenant or condition.

RESTRICTION, DEED A restrictive covenant in a deed.

RESTRICTION, PRIVATE A restriction imposed on property by a previous owner, or the subdivision developer; a restriction covenant or a condition in a deed.

RESTRICTION, PUBLIC A law or regulation limiting or regulating the use of real property.

RESTRICTIVE COVENANT A promise to do or not do an act relating to real property; usually an owner's promise to not use property in a particular way. May or may not run with the land. Sometimes between the owner and the neighboring owner.

RESTRICTED LICENSE A license with restrictions attached.

RETALIATORY EVICTION A landlord's attempt to evict a tenant from a lease because the tenant has used the remedies available under the warranty of habitability.

RETROSPECTIVE VALUE The value of the property as of a previous date.

RETURN Profit from an investment; the yield

RETURN ON INVESTMENT General rule of return on investment and risk, is the greater the return on the investment the greater the risk.

REVENUE STAMPS SEE: Tax, Documentary Transfer.

REVERSE To overturn a lower court's decision on appeal, ruling in favor of the appellant. COMPARE: Affirm.

REVERSE ANNUITY MORTGAGE Stream of monthly payments provided to homeowners through an annuity purchased by a loan against the owner's accumulated equity in their home.

REVERSION The right a grantor keeps when he or she grants someone an estate that will or may end in the future. Examples: The interest remaining with a landlord after he or she grants a lease, or the interest an owner of land has after he or she grants someone a life estate. Any future interest (estate) left in the grantor. The residue of an estate left in the grantor after the termination of a lesser estate.

REVERSIONARY INTEREST The interest which a person has in lands or other property, upon the termination of the preceding estate. A future interest.

REVOCATION Withdrawal of an offer or other right, thereby voiding and destroying that offer or right. It is a recall with intent to rescind.

REZONE An amendment to a zoning ordinance, usually changing the uses allowed in a particular zone. Requires the approval of the local legislative body. Also called a zoning amendment. COMPARE: Zoning, Spot.

RIDER An addition to a document.

RIDGE The horizontal line at the junction of the top edges of two sloping roof surfaces. (The rafters at both slopes are nailed at the ridge.)

RIDGE BOARD The board placed on edge at the ridge of the roof to support the upper ends of the rafters; also called roof tree, ridge piece, ridge plate, or ridgepole.

RIGHT OF FIRST REFUSAL A right of preemption.

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RIGHT OF PREEMPTION A right to have the first chance to buy or lease property if the owner decides to put it up for sale or make it available. Also called a right of first refusal. COMPARE: *Option*.

RIGHT OF SURVIVORSHIP The right to acquire the interest of a deceased joint-owner. It is the distinguishing feature of a joint tenancy.

RIGHT TRIANGLE A right triangle in which two of the sides meet at a right angle.

RIGHT OF RESCISSION A borrower's right to cancel a credit contract within three business days from the day he or she entered into the loan contract.

RIGHT OF WAY The right to pass over a piece of real property or to have pipes, electrical lines, or the like go across it. An easement granting a person the right to pass across another's property.

RIGHT, TITLE AND INTEREST A term used in deeds to denote that the grantor is conveying all of that to which grantor held claim.

RIGHT-TO-USE A leasehold interest in a time-share unit based on a limited time (one or more weeks) specified in the agreement.

RIPARIAN RIGHTS The right of a landowner with regard to a stream crossing or adjoining his or her property.

RISER (1) The upright board at the back of each step of a stairway. (2) In heating, a riser is a duct slanted upward to carry hot air from the furnace to the room above.

RISK The chance of loss of all or a part of an investment; the uncertainty of financial loss.

RISK ANALYSIS A study made, usually by a lender, of the various factors that might affect the repayment loan.

RISK RATING A process used by the lender to decide on the soundness of making a loan and to reduce all the various factors affecting the repayment of the loan to a qualified rating of some kind.

ROLLOVER When a taxpayer sells his or her principal residence and reinvests the sale proceeds in another home, deferring recognition of the gain on the sale.

ROUNDED To reflect the input numbers with the highest degree of precision, answers should be rounded.

ROW HOUSE SEE: *Townhouse*.

RULE AGAINST PERPETUITIES A complex set of laws designed to prevent excessive restrictions on the transferability of property. The rule holds that "no interest is good unless it must vest, if at all, not later than 21 years after some life in being at the creation of the interest."

RULES-OF AGENCY DISCLOSURE Can be given with a seller's listing. The exact wording of the Rules-of-Agency Disclosure is not dictated by statute. Transactions involving the sale of non-residential property requires the statutory Rules-of-Agency Disclosure be given to the buyer.

RULE OF CAPTURE A legal principle that grants a landowner the right to all oil and gas produced from wells on his or her land, even belonging to someone else.

RUNNING WITH THE LAND Binding or benefiting the successive owners of a piece of property, rather than terminating when a particular owner transfers his or her interest. Usually said in reference to an easement or a restrictive covenant.

RURAL HOUSING SERVICES ADMINISTRATION (FL) An agency of the Department of Agriculture that offers assistance to rural residents and communities.

R-VALUE A special rating or method of judging the insulating effectiveness of insulation products.

S

SAFETY CLAUSE In a listing agreement, a provision that if anyone found by the broker during his listing period purchases the property within a specified time after the expiration of the listing, the broker receives his full commission.

SALES PRICE See *Price*

SALES COMPARISON APPROACH TO VALUE See *Market Approach to Value*

SATISFACTION OF MORTGAGE SEE: Mortgage, Satisfaction of.

SALE-LEASEBACK A situation in which the owner of a piece of property sells it and retains occupancy by leasing it from the buyer.

SALE-LEASEBACK-BUY-BACK A sale and leaseback transaction in which the leaseholder has the option to buy back

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the original property after specified period of time.

SALE OF RENTAL PROPERTY _____ In the sale of rental property an agency agreement requires a written contract.

SALES ANALYSIS GRID Table of relevant data on comparable properties.

SALES ASSOCIATE A licensed individual who, for compensation, is employed by an owner-developer or by a broker.

SALES COMPARISON (APPROACH) One of the three classic approaches to value. It involves comparing similar properties, that have recently sold, to the subject property This method is considered the most important one..

SALES CONTRACT _____ A contract between buyer and seller setting out the terms of sale.

SALES DATA METHOD OF DEPRECIATION Method of estimating depreciation wherein building values abstracted from sales are compared to current costs new.

SALESPERSON _____ An individual licensed to sell property, but who must at all times be under the supervision and direction of a broker.

SALVAGE VALUE _____ In computing depreciation for tax purposes, the reasonably anticipated fair market value of the property at the end of its useful life and must be considered with all but the declining balance methods of depreciation.

SANDWICH LEASE _____ A leasehold interest that lies between the primary lease and the operating lease. Example: A leases to B; B subleases to C; C subleases to D. C's lease is a sandwich lease.

SASH A wood or metal frame containing one or more windowpanes.

SATISFACTION OF MORTGAGE _____ Discharge of a mortgage or deed of trust lien from the records upon payment of the secured debt. Discharge of an obligation or indebtedness by paying what is due.

SATISFACTION OF JUDGEMENT This paying off judgement. It must be recorded to clear title

SATISFACTION PIECE An instrument for recording and acknowledging payment of an indebtedness secured with a mortgage.

SAVINGS ASSOCIATION INSURANCE FUND (SAIF)

Administered by the FDIC to insure deposits at savings and loans and federal savings banks. _____

SAVINGS AND LOAN ASSOCIATIONS Deposit-type savings institutions that are major lenders in the residential field.

SAVINGS BANKS _____ Savings and loan associations using newly-permitted designations.

SCARCITY In relatively short supply.

SCRIBING Fitting woodwork to an irregular surface.

SEAL _____ An impression mark or stamp made to attest to the execution of an instrument.

SEASONAL VARIATIONS Changes in the economy that recur at least once a year.

SECRET PROFIT A financial benefit that an agent takes from a transaction without informing the principal; usually the result of self-dealing.

SECOND FLOOR One disadvantage of adding a second floor is that an additional set of stairs may be required or a fire scape may have to be added.

SECOND MORTGAGE (SECONDARY FINANCING) A loan that is junior or subordinate to a first mortgage, normally taken out when the borrower needs more money.

SECONDARY FINANCING _____ A loan secured by a second mortgage or a second deed of trust.

SECONDARY LENDER Agency or financial institution that buys mortgage loans previously made by primary lenders.

SECONDARY MARKETING Buying and selling existing mortgage and trust deed loans. The primary market is the one in which lenders loan money to borrowers; the secondary market is the one in which the lenders sell their loans to the large secondary marketing agencies (FNMA, FHLMC, and GNMA) or to other investors.

SECONDARY MORTGAGE MARKET The purchasing and selling of existing mortgages and notes secured by a deed of trust. This market is dominated by Fannie Mae, Freddie Mac and Ginnie Mae.

SECRET PROFIT OR COMMISSION (See Overage)

SECTION _____ A square mile of land, as established by government survey, containing 640 acres.

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SECTION OF TOWNSHIP A section of township consists of 360 acres.

SECTOR THEORY A development method that resembles a pie chart.

SECURITY Property pledged to ensure payment of debt; collateral.

SECURED DEBT An obligation that includes property held as security for the payment of that debt; upon default, the property may be sold to satisfy the debt.

SECURED PARTY The party having the security interest in personal property. The mortgagee, conditional seller, or pledgee is referred to as the secured party.

SECURITY AGREEMENT An agreement between the secured party and the debtor that creates a security interest in personal property. It replaced such terms as chattel mortgage, pledge, trust receipt, chattel trust, equipment trust, conditional sale, and inventory lien.

SECURITY DEPOSIT A deposit made to assure performance of an obligation, usually by a tenant. A sum of cash given as collateral to ensure faithful performance of specified obligations. A landlord has three weeks in which to return the unused portion of the tenant's security deposit.

SECURITY INTEREST A term designating the interest of a secured creditor in the personal property of the debtor.

SECURITIZATION Debt issuance backed by mortgage portfolio

SEIZIN The possession of land under a claim of freehold.

SELF-DEALING When a real estate agent buys the principal's property him or herself (or sells it to a relative, friend, or associate, or to a business he or she has an interest in), without disclosing that fact to the principal, and in violation of his or her fiduciary duties to the principal.

SELF-EXECUTING ARBITRATION CLAUSE The parties do not need to use the court to compel arbitration.

SELLER The owner of the property now being sold. Most trust deeds and notes are held by the seller.

SELLER FINANCING When a seller extends credit to a buyer to finance the purchase of the property; as opposed to having the buyer obtain a loan from a third party, such as an institutional lender. SEE: Loan, Carryback.

SELLER'S MARKET The market condition which exists when a seller is in a more commanding position as to price and terms because demand exceeds supply.

SELLING OFFICE (SO) In MLS printouts, the selling broker is noted as the selling office.

SEMIFIDUCIARY LENDER Noninstitutional source of real estate lending, such as through a mortgage broker, involving greater risks than funding through fiduciary lenders.

SENIOR CITIZEN HOUSING To qualify as senior citizen housing, a project must not limit residency to persons over the age of 62.

SENIOR LIEN A lien that is superior to or has priority over another lien. Also, the first deed of trust or lien on a property.

SEPARATE PROPERTY Property that is owned by a husband or wife and that is not community property. It is property acquired by either spouse prior to marriage or by gift or inheritance after marriage; also, in California, it is the income from separate property after marriage. Property held by a married person that is not community property; it includes property owned before marriage and property acquired after marriage by gift or inheritance.

SEPTIC TANK An underground tank in which sewage from the house is reduced to liquid by bacterial action and drained off.

SERVICE OF PROCESS Delivery of a legal document (especially a summons) to a person in accordance with the rules prescribed by statute, so that he or she is held to have received it (whether or not he or she actually did).

SERVICE INDUSTRIES Businesses that attract local money (e.g., grocery stores, retail shops).

SERVICING LOANS Supervising and administering a loan after it has been made. This involves such things as collecting payments, keeping accounting records, computing on interest and principal, foreclosure of defaulted loans, and so on.

SERVIENT ESTATE That parcel of property which is burdened by and encumbered with an easement.

SERVIENT TENEMENT An estate burdened by an easement.

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SETBACK The minimum distance a building or other improvement must stand from the property lines; in accord with local zoning ordinances or deed restrictions.

SET-BACK ORDINANCE An ordinance prohibiting the erection of a building or structure between the curb and the set-back line. (see Building Line)

SETTLEMENT 1. An agreement between the parties to a civil lawsuit, in which the plaintiff agrees to drop the suit in exchange for money or the defendant's promise to do or refrain from doing something. 2. Closing.

SETTLEMENT STATEMENT A document that presents a final, detailed accounting for a real estate transaction, listing each party's debits and credits and the amount each will receive or be required to pay at closing. Also called a closing statement.

SETTLOR One who creates an inter vivos or living trust.

SEVERABLE When one provision in a law or a contract can be held unenforceable, without making the entire law or contract unenforceable.

SEVERALTY Sole ownership of property. Ownership by one person.

SEVERALTY OWNERSHIP Ownership by only one person; sole ownership.

SEVERANCE Termination of a joint tenancy, turning it into a tenancy in common.

SEVERANCE DAMAGE Damage to the value of the remainder parcel as a result of a partial taking by eminent domain.

SHAKE A hand-split shingle, usually edge-grained.

SHARED APPRECIATION MORTGAGE A loan having a fixed rate of interest set below the market rate for the term of the loan which also provides for contingent interest to be paid to the lender on a certain percentage of appreciation in the value of the property against which the loan is secured upon transfer of sale of the property or the repayment of the loan.

SHEATHING Structural covering, such as boards, plywood, or wallboard, placed over the exterior studding or rafters of a house. The skin that covers the house.

SHERIFF'S DEED A deed given by court order in connection with the sale of property to satisfy a

judgment.

SHERIFF'S SALE A foreclosure sale held after a judicial foreclosure. Sometimes called an execution sale.

SHOPPING CENTER A shopping center can be a complicated management problem as it may contain the following problems, security patrols, unchaperoned minors, and large parking lots.

SHORT PAYOFF Lender agreement to compromise a debt. Also called short sale.

SHORT PLATTING Subdividing a parcel of land into two, three, or four lots.

SHORT (TERM) RATE A reduced rate for title insurance applicable in cases where the owner of a property has been insured previously or where any lender has been insured somewhat recently on the property.

SICK BUILDING SYNDROME A physical condition caused by substances within a building that causes symptoms that disappear when occupant leaves the building.

SIDE YARD The area between a building and one of the side boundaries of the lot it is located on.

SIGHT DEPOSIT See Demand Deposit

SIGNED INSTRUMENT It is unlawful to modify without the consent and knowledge of the party related to the instrument

SIGNS The property manager must make sure the property management contract gives him or her the specific right to display signs on the property.

SILL The board or piece of metal forming the lower side of an opening, such as a door sill or window sill.

SIMPLE CONTRACT Essentials of a simple contract are lawful object, mutual consent, and capable parties.

SIMPLE INTEREST Interest computed on the principal; amount of a loan only as distinguished from compound interest.

SINGLE AGENT A broker who represents the seller or the buyer but not both.

SINGLE BATH HOMES There are very few of these homes being built now as buyers generally demand two bathrooms.

SINGLE-HUNG A window characterized by a movable lower sash.

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SINKING FUND (1) A fund set aside from the income from property that, with accrued interest, will eventually pay for replacement of the improvements. (2) A similar fund set aside to pay a debt.

SITE PLAN A document that indicates the improvements details for a project of greater-than-average-size.

SITUS Relationships and influences created by location of a property that affect value (e.g.; accessibility, personal preference).

SIXTY-TWO-OR-OVER SENIOR CITIZEN HOUSING If a housing project qualifies as 62-or-over senior citizen housing, all persons under the age of 62 are excluded, including spouses under the age of 62.

SLAB-ON-GRADE Concrete foundation poured directly on the ground.

SLANDER OF TITLE A false and malicious statements disparaging an owner's title to property and resulting in actual pecuniary damage to the owner.

SLUM CLEARANCE The razing of substandard and unsalvageable residential buildings for redevelopment.

SMALL CLAIMS COURT A branch of the Municipal Court. The rules of this court forbid parties to be assisted by attorneys, dispense with most formal rules of evidence, and have all trials heard by judges. The monetary limit of cases before the court is \$1,500.

SOCIETY OF INDUSTRIAL AND OFFICE REALTORS (SIOR) An association of Realtor specializing in leasing and selling industrial and office property.

SOIL PIPE Pipe carrying waste from the house to the main sewer line.

SOLD TO THE STATE A bookkeeping entry on the county tax rolls indicating that the property taxes are delinquent. The entry begins the five-year redemption period, after which the property may be physically sold to the public for back taxes.

SOLE OR SOLE PLATE A structural member, usually two-by-four, on which wall and partition studs rest.

SOLE PROPRIETOR A sole proprietor may have a trade name and may or may not have employees.

SPAN The distance between structural supports, such as walls, columns, piers, beams, and girders.

SPECIAL AGENT One authorized by a principal to perform a particular act or transaction, without contemplation of continuity of service as with a general agent.

SPECIAL ASSESSMENT Legal charge against real estate by a public authority to pay the cost of public improvement, as distinguished from taxes levied for the general support of government.

SPECIAL-FUNCTION A town whose employment concentrates on one special service or purpose.

SPECIAL EXCEPTION PERMIT SEE: Conditional Use Permit.

SPECIAL POWER OF ATTORNEY A written instrument whereby a principal confers limited authority upon an agent to perform certain prescribed acts on behalf of the principal.

SPECIAL PURPOSE PROPERTY Hotels, resorts, nursing homes, theaters, schools, places of worship and other business or organizations whose special needs dictate design and operation of the building.

SPECIAL TAX ASSESSMENTS Special tax assessments differ from annual tax assessments because special assessments provide for local improvement.

SPECIAL WARRANTY DEED A deed in which the grantor warrants or guarantees the title only against defects arising during grantor's ownership of the property and not against defects existing before the time of grantor's ownership.

SPECIFIC CYCLE A wavelike movement, similar to the business cycle, that occurs in certain sectors of the general economy.

SPECIFIC LIENS Claims that affect only the property designated in the lien instruments or agreements.

SPECIFIC PERFORMANCE A legal action to compel performance of a contract; for example a contract for the sale of land. A contract remedy by which one party is ordered by the court to comply with the terms of the agreement.

SPOT ZONING SEE: Zoning, Spot.

SPOUSE A person's husband or wife.

SREA The Society of Real Estate Appraiser

STABLE PHASE Second phase in the cycle of a neighborhood, marked by stability of the existing buildings and occupants.

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STABILIZED BUDGET Part of a five -year projected budget, arrived at by averaging income and expense items over a five-year period.

STANDARD DEPTH Generally the most typical lot depth in the neighborhood.

STANDARD FIRE INSURANCE A basic form of insurance protecting a property against direct loss or damage.

STANDARD OF PROOF SEE: Proof. Standard of.

STANDBY COMMITMENT The mortgage banker frequently protects a builder by a standby agreement, under which the banker agrees to make the mortgage loans at an agreed price for many months into the future. The builder deposits a standby fee with the mortgage banker for this service. Frequently, the mortgage broker protects self by securing a standby from a long term investor for the same period of time, paying a fee for this privilege.

STARE DECISIS _____ a fundamental principle of law, which holds that courts should follow prior decisions on a point of law. A proper decision is a binding precedent on equal or lower courts having the same facts in controversy.

STARKER A taxpayer who won an important U.S. Court of Appeals case in 1979 (T.J. Starker v. U.S.) Dealing with delayed exchange and whose name is synonymous with the those exchanges; the Starker ruling has since been modified in IRS Code Section 1031

STATE ACTION In constitutional law, action by a government (federal, state, or local) rather than by a private party.

STATE BOARD OF EQUALIZATION. Is responsible for collecting state taxes.

STATE COURT Cases that involve the U.S. government are not heard in state court.

STATEMENT OF ISSUES A written allegation by the commissioner identifying the issues and listing the rules violated, used in a non property right hearing.

STATUTE _____ A written law.

STATUTE OF FRAUDS _____ The state law that provides that certain contracts must be in writing in order to be enforceable in the courts. Examples: real property leased for more than one year or an agent's

authorization to sell real estate. A law that requires certain contracts (including most real estate contracts) to be in writing to be enforceable.

STATEMENT OF IDENTITY Form often required by the title company from buyer and seller to ensure that items found in the title search apply to the individuals in question.

STATUTE OF LIMITATIONS A statute that requires lawsuits to be brought within a certain time to be enforceable. The basic periods are one year for personal injury, two years for oral contracts, three years for damages to real or personal property, four years for written contracts, and three years from date of discovery for fraud.

STATUTORY CONSTRUCTION When a judge interprets and applies a statute in the course of resolving a lawsuit.

STATUTORY LAW Laws adopted by a legislative body (congress, a state legislature, or a county or city council), as opposed to constitutional law, case law, or administrative regulations.

STATUTORY WARRANTY DEED A short term warranty deed which warrants by inference that the seller is the undisputed owner, has the right to convey the property, and will defend the title if necessary. This type of deed protects the purchaser in that the conveyer covenants to defend all claims against the property. If conveyer fails to do so, the new owner can defend said claims and sur former owner.

STAY Delay temporarily; stop for a limited time.

STEERING Channeling prospective buyers or tenants to particular neighborhoods based on their race, religion, national origin, or ancestry.

STEPPED-UP BASIS _____ a higher, increased tax value of property given as the result of most sales or taxable transfers. The tax basis is used in computing capital gains and losses on the transfer of property.

STEP-UP LEASE (STEP-UP CLAUSE) Lease agreement that establishes progressively higher rental amounts for different segments of the lease term; graduated lease.

STOCK The ownership element in a corporation usually divided into shares and represented by transferable certificates (may be divided into two or more classes of differing rights and stated values).

STOCK COOPERATIVE SEE: Cooperative.

STRAIGHT LEASE Lease agreement in which rent is a fixed amount that stays the same over the entire lease term.

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STRAIGHT-LINE DEPRECIATION _____ an accounting procedure that sets the rate of depreciation as a fixed percentage of the amount to be depreciated; the percentage stays the same each year.

STRAIGHT-LINE METHOD OF DEPRECIATION
Method of computing depreciation in which the loss in value of a building is assumed to be the ratio of its age (or effective age) to its total useful or economic life.

STRAIGHT MORTGAGE OR DEED OF TRUST
_____ a mortgage or deed of trust in which there is no reduction of the principal during the term of the instrument. Payments to interest are usually made on an annual, semiannual, or quarterly basis.

STRAIGHT NOTE _____ A promissory note that is unamortized. The principal is paid at the end of the term of the note.

STRAIGHT PERCENTAGE LEASE A type of percentage lease that bases rental rate solely on gross sales.

STRICT LIABILITY When someone is held legally responsible for an injury to another, even though he or she did not act negligently. COMPARE: *Negligence*.

STRIKE LIST An arbitration service sends a list of arbitrators to each party and the parties strike the names that are unacceptable.

STRING, STRINGER (1) a timber or other support for cross-members. (2) in stairs, the support on which the stair treads rest.

STRIP CENTER A small shopping center of about 10,000 to 30,000 square feet (four to ten retail spaces) located at the edge of an urban area or in a suburb.

STRUCTURAL DENSITY The ratio of the total ground floor area of a building to the total land area on the site on which it is built.

STUDS OR STUDDING _____ Vertical supporting timbers in walls and partitions.

SUB-ACCOUNTS Sub-accounts within a trust account must be reconciled within the general account.

SUBAGENTS. Subagents are also called selling agents. A licensed salesperson cannot be a subagent of the seller.

SUBBASELINES (See Township Lines)

SUBCHAPTER-S CORPORATION _____ A corporation that, for federal tax purposes only, is taxed similarly to a partnership. The corporate entity is disregarded for most federal tax purposes, and the shareholders are generally taxed as individual partners.

SUBDIVIDE To segment large, acquired tracts of real property in order to create small tracts for the purpose of resale.

SUBDIVIDED LANDS ACT The right of the state to regulate for the purpose of promoting health, safety, welfare and morality.

SUBDIVISION A legal definition of those divisions of real property for the purpose of sale, lease or financing which are regulated by law.

SUBDIVISION PLAT SEE: Plat.

SUBDIVISION REGULATIONS State and local laws that must be complied with before land can be subdivided.

SUBJECT PROPERTY The real property under discussion or appraisal.

SUBJACENT SUPPORT Support that the soil below the surface gives to the surface of the land.

SUBJECT TO (1) Burdened by and liable for an obligation. (2) A method of taking over a loan without becoming personally liable for its payment.

SUBJECT TO" MORTGAGE OR DEED OF TRUST When a grantee takes a title to real property subject to a mortgage or deed of trust, he or she is not responsible to the holder of the promissory note for the payment of any portion of the amount due. The most that he or she can lose in the event of a foreclosure is his or her equity in the property. In neither case is the original maker of the note released from his or her responsibility. (See also Assumption of Mortgage or Deed of Trust.)

SUBLEASE A lease given by a tenant.

SUBLETTING Partial transfer of a tenant's right in a rental property to a third party.

SUBMERIDIANS (See Range Lines)

SUBORDINATE _____ To make subject or junior to.

SUBORDINATION Made subject to or subservient to; assignment to a lesser roll or position.

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SUBORDINATION (AGREEMENT) In a mortgage or deed of trust, a provision that a later lien shall have a priority interest over the existing lien. It makes the existing lien inferior to a later lien, in effect exchanging priorities with that later lien.

SUBORDINATION CLAUSE Senior lien that makes it inferior to what would otherwise be a junior lien.

SUBPOENA A legal order to cause a witness to appear and give testimony.

SUBPOENA DUCES TECUM An order to produce books, records or other documents.

SUBROGATE To substitute one person for another's legal rights to a claim or debt.

SUBROGATION The substitution of another person in place of the creditor with regard to an obligation.

SUBSIDIZED HOUSING Residential development for low-income families that are insured or (indirectly) financed in part by a government agency.

SUBSIDY BUYDOWN Funds provided usually by the builder or seller to temporarily reduce the borrower's monthly principal and interest payment.

SUBSTANTATIVE LAW The laws describing rights and duties. Differs from procedural law, which only describes how to enforce and protect rights.

SUBSTANTIAL PERFORMANCE When a promisor doesn't perform all of his or her contractual obligations, but does enough so that the promisee is required to fulfill his or her side of the bargain. COMPARE: Breach, Material

SUBSTITUTION, PRINCIPLE OF Affirms that the maximum value of a property tends to be set by the cost of acquiring an equally desirable and valuable substitute property, assuming no costly delay is encountered in making the substitution.

SUB-STRUCTURE DATA Includes information about basement or crawl area, parts of the building as is also known as foundation data.

SUBURBAN DEVELOPMENT This was greatly aided by the railroads enabling people easy access to the nearby cities.

SUCCESSION The inheritance of property.

SUCCESSOR IN INTEREST The next succeeding owner of an interest in property. The transferee or recipient of a property interest.

SUCCESSOR S LIABILITY The liability of the next successive owner of the real estate.

SUIT An act of suing; an action in court of law for the recovery of a right or claim.

SUMMARY SUSPENSION Emergency or immediate action against a license to protect the public.

SUMMATION APPROACH SEE: Cost Approach.

SUMMONS A document informing a defendant that a lawsuit has been filed against him or her, and ordering the defendant to file an answer to the plaintiff's complaint with the court.

SUM-OF-THE-YEARS S-DIGITS DEPRECIATION An accelerated depreciation method. Accomplished by multiplying the remaining years of the property's economic life by the property's remaining value and then dividing by the sum of all the years in the remaining economic life of the property.

SUPERFUND AMENDMENTS AND REAUTHORIZATION ACT OF 1986 (SARA) The umbrella title given to various amendments to CERCLA. Amendments limit pesticide liability and provide the government reclamation of contaminated property.

SUPPLY AND DEMAND, PRINCIPLE OF In appraising, a valuation principle stating that market value is affected by intersection of supply and demand forces in the market as of the appraisal date.

SUPERIOR COURT The principal trial court of the state; a court of unlimited monetary and subject matter jurisdiction, and an appeal court for decisions of municipal courts and small claims courts.

SUPERSEDEAS, WRIT OF A stay of enforcement; temporary stop in a legal proceeding; restraining order.

SUPPORT, LATERAL The Support that a piece of land receives from the land adjacent to it.

SUPPORT, SUBJACENT The support that the surface of a piece of land receives from the land beneath it.

SUPPORT RIGHTS The right to have one's land supported by the land adjacent to it and beneath it.

SUPPLY The quantity of goods or services offered for sale to the consumers.

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SUPREME COURT The highest court in the California and the federal court structure. This court is almost exclusively an appeals court, accepting (by certiorari) only those cases that, in the court's desecration, involve issues of significant magnitude and social importance.

SURETY One who guarantees the performance by another, a guarantor.

SURPLUS PRODUCTIVITY, PRINCIPLE OF The net income that remains after the proper costs of labor, organization and capital have been paid, which surplus is imputable to the land and tends to fix the value thereof.

SURRENDER Giving up an estate (such as a life estate or leasehold) before it has expired.

SURVEY The process by which a parcel of land is located on the ground and measured.

SURVIVORSHIP SEE: Right of Survivorship.

SUSPENSION When a real estate agent's license is temporarily withdrawn.

SUSPENSION, SUMMARY License suspension before a hearing has been held.

SWING LOAN A short term loan to bridge the gap between the purchase of a new home and the subsequent sale of an old one.

SYNDICATE An association formed to operate an investment business. A syndicate is not a recognized legal entity; it can be organized as a corporation, partnership, or trust.

SYNDICATION A group of individuals pooling their resources to purchase property through the holding vehicle of a partnership, corporation, or other association. Each individual owns share in the legal entity formed to acquire and hold title to the property.

**SYSTEM MAINTENANCE ADMINISTRATOR (SMA):
SYSTEMS MAINTENANCE TECHNICIAN**
Designations awarded to building engineers and maintenance personnel by the Building Owners and Managers Institute International (BOMI) for completion of courses in building systems operation and maintenance.

TACKING When successive periods of use or possession by more than one person are added together to make up the five years required for prescription or adverse possession.

TAKING When the government acquires private property for public use by condemnation, it's called a taking. The term is also used in inverse condemnation lawsuits, when a government action has made private property useless.

TAKE-OUT LOAN The loan arranged by the owner or builder developer for a buyer. The construction loan made for construction of the improvements is usually paid in full from the proceeds of this more permanent mortgage loan.

TANGIBLE ASSET Anything of substance; personal and real property.

TANDEM PLAN This is the name of the plan used by GNMA and FNMA for buying loans at par, which is less than market value.

TAX A compulsory charge on property or individuals, the payment of which supports a government.

TAXABLE INCOME Gross income minus tax deductions; net operating income plus reserve for replacements minus financing costs and allowable deductions.

TAXABLE VALUE The assessed value less allowable exemptions resulting in an amount to which the tax rate is applied to determine property taxes due.

TAX BASIS The tax value of property to the taxpayer. It is a figure used to compute capital gains and losses.

TAX CERTIFICATE A document sold by a local tax authority granting the certificate buyer the right to receive delinquent taxes plus interest when paid by the legal property owner.

TAX CLAUSE A provision in a mortgage that requires the borrower to pay all legitimate property taxes.

TAX DEED Deed issued to the purchaser at a tax sale.

TAX-DEFERRED EXCHANGE A method of postponing capital gains when disposing of real property by trading one property for another of like kind.

TAX DISTRICT An authority, such as a city, county, school board or special levy area (e.g., water district) with power to assess property owners annually in order to meet its expenditures for the public good.

TAX-FREE EXCHANGE The trade or exchange of one real property for another without the need to pay income taxes on the gain at the time of trade.

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TAX, GENERAL REAL ESTATE Property taxes.

TAX LIEN A claim against real property arising out of non-payment of the property taxes.

TAX PARTICIPATION CLAUSE A lease provision requiring the tenant to pay a pro-rata share of any increase in real estate taxes or assessments in addition to the basic rental.

TAX, PROPERTY An annual ad valorem tax levied on real and personal property.

TAX SALE Sale of property after a period of nonpayment of taxes.

TAX RATE The percentage of value that is used to determine the amount of tax to be levied against each individual unit of property; ad valorem (according to value).

TAX SALE NUMBER A number assigned to a property when property taxes are not paid on time; identifies that property on the delinquent tax roll.

TAX SERVICE A reporting service that notifies the lender in the event the borrower does not keep the property taxes current.

TAX SHELTER An investment that shields items of income or gain from payment of income taxes; a term used to describe some tax advantages of owning real property (or other investments), including postponement or even elimination of certain taxes.

TAX WRITE-OFF When a purchaser buys an older building for this purpose only the building is depreciable not the land.

TECHNICAL OVERSUPPLY A market condition in which available rental space exceeds tenant demand.

TENANCY A leasehold estate. (For specific types of leases see Estates.)

TENANCY AT SUFFERANCE A rental situation in which a tenant who originally obtained possession of the premises legally continues to occupy the property after the expiration of the leasehold interest and without the consent of the owner.

TENANCY AT WILL When a tenant is in possession with the owner's permission, but there's no definite lease term; as when a landlord allows a holdover tenant to remain on the premises until another tenant is found.

TENANCY BY THE ENTIRETIES An estate created by husband and wife jointly owning real property with instant and complete right of survivorship.

TENANCY-IN-COMMON Ownership by two or more persons who hold an undivided interest in real property, without right of survivorship; the interests need not be equal.

TENANCY, TERM SEE: *Estate for Years*.

TENANCY IN PARTNERSHIP The form of concurrent ownership in which general partners own partnership property, whether or not title to the property is in the partnership's name. Each partner has an equal undivided interest, but no right to transfer the interest to someone outside the partnership.

TENANT One who leases real property from the owner.

TENANT ALTERATION COSTS Construction, remodeling and alteration expenses for work needed to make the premises usable by the tenant. These costs are assumed by the tenant or the owner or both and are a major point of negotiations.

TENANTS BY THE ENTIRETIES Under certain state laws, ownership of property acquired by a husband and wife during marriage, which property is jointly and equally owned. Upon death of one spouse it becomes the property of the survivor.

TENANT, HOLDOVER A lessee who remains in possession of the property after the lease term has expired.

TENANT, LIFE Someone who owns a life estate.

TENANT MIX The combination of retail tenants occupying a shopping center; must be considered carefully to achieve maximum profit for each merchant of the center.

TENANT UNION A local organization of residential tenants working for their common interests and rights.

TENANT WARDENS Employees of tenant companies who are schooled in emergency procedures by the building staff to direct their fellow employees during routine drills and actual emergencies.

TENDER An unconditional offer by one of parties to a contract to perform his or her part of the agreement; made when the offeror believes the other party is breaching, it establishes the offeror's right to sue if the other party doesn't accept it. Also called a tender offer.

TENEMENTS All rights in real property that pass with a conveyance of it.

TENTATIVE MAP The Subdivision Map Act requires

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subdividers initially to submit a tentative map of their tract to the local planning commission for study. The approval or disapproval of the planning commission is noted on the map. Thereafter, the planning commission requests a final map of the tract embodying any changes.

TENURE IN LAND The manner in which land is held.

TERM A prescribed period of time; especially, the length of time a borrower has in which to pay off a loan, or the duration of a lease.

TERM LOAN A loan made for a specific period of time.

TERM MORTGAGE A nonamortizing loan that normally calls for repayment of the principal in full at the end of the loan term.

TERMS Refers to the amount of each installment payment, interest rate, due dates, and number of years.

TERMITES Antlike insects that feed on wood.

TERMITE SHIELD A shield, usually of noncorrodible metal, placed on top of the foundation wall or around pipes to prevent passage of termites.

TESTAMENT The written declaration of one's last will.

TESTAMENTARY DISPOSITION A gift passing by will.

TESTATE Describes a person who dies leaving a will.

TESTATOR A person who makes a will. Technically, a testator is a male and a testatrix is a female, although in common use testator refers to anyone who makes a will.

TESTATRIX A woman who makes a will.

TESTER A person working with a fair housing organization, who pretends to be interested in buying or renting property from someone suspected of unlawful discrimination.

THEFT As related to real estate, it includes entering and removing part of the realty, defrauding by misrepresentation, and taking away part of the security for a trust deed with the intent to defraud the beneficiary.

THIRD PARTY Persons who are not parties to a contract which affects an interest they have in the object

of the contract.

THIRTY-DAY NOTICE A notice terminating a periodic tenancy without cause, by ending a tenancy thirty days from date of service.

THREE-DAY NOTICE A notice giving a tenant three days in which to cure a default or quit the premises. It is the first step in an unlawful detainer action, as the means of terminating a lease for cause. When rent is delinquent, it is sometimes called a notice to quit or pay rent.

THREE-QUARTER BATH This bath contains a shower, a sink and a toilet.

THRESHOLD A strip of wood or metal beveled on each edge and used above the finished floor under outside doors.

TIDELANDS Lands that are covered and uncovered by the ebb and flow of the tide.

TIER An east west row of townships (as used in the government survey method of land descriptions).

TIGHT MONEY MARKET A market in which the demand for money exceeds the supply, causing interest rates to increase and borrower qualifications to be tightened.

TIME DEPOSIT Savings account with a fixed maturity, as opposed to a demand deposit.

"TIME IS OF THE ESSENCE" These words, when placed in an agreement, make it necessary that all time limitations and requirements be strictly observed.

TIME-SHARE ESTATE A right of occupancy in a time share project (subdivision) which is coupled with an estate in the real property.

TIME-SHARE CONDOMINIUM Ownership in vacation area residential property for an assigned period, usually two weeks. Also called interval ownership.

TIME-SHARE PROJECT A form of subdivision of real property into rights to the recurrent, exclusive use or occupancy of a lot, parcel, unit or a segment of real property, on an annual or some other period basis, for a specified period of time.

TIME-SHARE USE A license or contractual or membership right of occupancy in a timeshare project which is not coupled with an estate in the real property.

T-INTERSECTION LOT Lot facing the dead-end street at the T-intersection.

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TITLE Evidence of the owner's right or interest in property. (1) The right of ownership. (2) The evidence of a person's ownership or interest in property.

TITLE, AFTER-ACQUIRED Title acquired by a grantor after he or she attempted to convey property he or she didn't own.

TITLE, CLEAR Title that is free of encumbrances or defects: marketable title.

TITLE COMPANY Company authorized to sell title insurance, as well as to serve escrow needs.

TITLE, EQUITABLE The vendee's interest in property under a land contract. Also called an equitable interest. COMPARE: Title, Legal.

TITLE INSURANCE Insurance protecting a property owner against losses resulting from an imperfect title.

TITLE, LEGAL The vendor's interest in property under a land contract. COMPARE: Title, Equitable.

TITLE, MARKETABLE Title free and clear of objectionable liens, encumbrances, or defects, so that a reasonable prudent person with full knowledge of the facts would not hesitate to purchase the property.

TITLE PLANT A duplicate (usually microfilmed) of a county's public record, maintained by a title company at its offices for use in title searches

TITLE REPORT A report which discloses condition of title, made by a title company preliminary to issuance of title insurance policy. A duplicate (usually microfilmed) of a county's public record, maintained by a title company at its offices for use in title searches.

TITLE THEORY A mortgage arrangement whereby title to mortgaged real property vests in the lender. Some states give greater protection to mortgage lenders and assume lenders have title interest, Distinguished from the Lien Theory States

TITLE THEORY STATE A state in which the borrower assigns title to the lender, typically in a deed of trust.

TITLE SEARCH An inspection of the public record to determine all

TIME PERIODS Time periods for various lawsuits are specified in the Statute of Frauds.

TITLE INSURANCE Insurance written by a title company to protect a property-owner against loss if title is defective or not marketable. A special policy of insurance issued by a title company, insuring the owner against loss of or defect in title to the insured property. The policy may be either a CLTA policy, issued to the property owner and to noninstitutional lenders, or an ALTA policy, issued to institutional lenders.

TITLE POLICIES An ALTA lender's policy is the Title Policy usually required by the lender.

TOPOGRAPHY Nature of the surface of the land. Topography may be level, rolling, or mountainous.

TORRENS SYSTEM A governmental title registration system that uses certificates of title issued by a public official (the registrar of title) as evidence of title.

TORRENS TITLE A title included in a state-insured title system no longer used in California.

TORT (1) A wrongful act. (2) A wrong or injury. (3) Violation of a legal right. A civil wrong, not arising from a breach of contract. Most torts lie in negligence, although they could also be intentional torts (such as assault and battery, trespass) or strict liability torts.

TORTFEASOR A person who commits a tort.

TORTIOUS Conduct which amounts to a tort.

TOWNHOUSE One of a row of houses usually of the same or similar design with common side walls or with a very narrow space between adjacent side walls.

TOWNSHIP A territorial subdivision that is six miles long and six miles wide and that contains 36 sections, each one mile square.

TOWNSHIP LINES Lines running east-west, spaced six miles apart, in the government survey system.

TOWNSHIP TIER In the government survey system, a strip of land running east-west, six miles wide and bounded on the north and south by township lines.

TOWNHOUSE A residential unit connected to similar units. Describes a style of architecture, with title to the unit and its lot invested in the individual buyer with an undivided interest in the common area.

TRACS An on-line computer system being developed by HUD to help administer subsidized housing.

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TRACT 1. A piece of land of undefined size. 2. In the government survey system, an area made up of 16 townships; 24 miles on each side.

TRACT INDEX An index of the public record, grouping together all recorded documents that carry a particular legal description. COMPARE: Grantor/grantee Indexes.

TRADE ASSOCIATION A voluntary nonprofit organization of independent and competing business units engaged in the same industry or trade, formed to help solve industry problems, promote progress and enhance service.

TRADE FIXTURES Articles of personal property that are annexed to real property but that are necessary to the carrying on of a trade and are removable by the owner. Fixtures installed to further one's trade, business, or profession. They are an exception to the general rule that fixtures are part of a building. Such fixtures installed by a tenant may be removed before the expiration of the tenancy.

TRADE-IN Method of guaranteeing an owner a minimum amount of cash on the sale of his or her present property to permit him or her to purchase another. If the property is not sold within a specified time at the listed price, the broker agrees to arrange financing to purchase the property at an agreed-upon discount.

TRADE NAME Any adopted or fictitious name used to designate a business concern.

TRANSACTIONAL BROKER A real estate agent representing both buyer and seller in a transaction; also referred to as a dual agent.

TRANSACTION ACCOUNTS Accounts used to make payments or transfers to others, such as a checking account

TRANSFER Conveyance; passage of title.

TRANSFERABILITY The ability to will, lease, give or sell a property.

TRANSFER FEE A charge made by a lending institution holding or collecting on a real estate mortgage to change its records to reflect different ownership.

TRANSFER TAX See *DOCUMENTARY STAMPS*

TRANSFER TAX STAMPS In a real estate sale, the transfer tax stamps are the prime responsibility of the seller.

TRANSFeree The person to whom a transfer is made.

TRANSFEROR The person who makes a transfer.

TRANSMUTATION AGREEMENT A contract in which co-owners agree to change their form of ownership; usually one in which husband and wife agree to change community property to separate property.

TREADS Horizontal boards of a stairway.

TREND A series of related changes brought about by a chain of causes and effects.

TRESPASS An invasion of an owner's rights in his or her property. (1) Unauthorized entry onto another's land. (2) Invasion of another's rights or property.

TRESPASSER One who trespasses. The importance of this classification of individuals on property is created by the methods for removal and the liability of the property owner if the trespasser is injured on his property.

TRIAL The fundamental court proceeding in a lawsuit, in which a judge (and in some cases, a jury) hears evidence presented by both parties and issues a judgment. COMPARE: Appeal.

TRIER OF FACT The one who decides questions of fact in a lawsuit. In a jury trial, it's the jury; in a non-jury trial, it's the judge. (Questions of law are always decided by the judge.)

TRIGGERING TERMS The Truth-in-Lending Act requires creditors to disclose certain information if certain credit terms, are included in the advertisement. Triggering terms include the amount or percentage of down payment, number of payments, period (term) of repayment, amount of any payment, and the amount of any finance charges.

TRIM The finish materials in a building, such as moldings applied around openings (window trim, door trim) or at the floor and ceiling (baseboard, cornice, picture molding).

TRUST A right of property, real or personal, held by one party called the trustee for the benefit of another party called the beneficiary. Arrangement whereby one person holds property for the benefit of another under fiduciary (special confidential) relationship.

TRUST ACCOUNT An account separate and apart and physically segregated from broker's own funds, in which broker is required by law to deposit all funds collected for client.

TRUST COOPERATIVE A cooperative in which legal ownership of a building is held by a trust company.

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TRUST DEED Deed given by a borrower to a trustee to be held pending fulfillment of an obligation, which is usually repayment of a loan to a beneficiary. A deed of trust. It may contain all the following clauses, request for notice, prepayment penalty and late charges.

TRUST FUNDS. Trust funds accepted by a broker may not be placed in the broker's business account, or his personal account. Trust fund handling requirements do not apply to advance fees. A broker must place trust funds in an interest-bearing account if requested by the owner of the funds. The broker must keep records of trust funds deposited in a trust account. A broker must retain records of trust funds for three years after the closing or cancellation of the transaction involving the funds. If a broker is found to be mishandling trust funds, the broker, the broker's business may be handed over to a receiver. Criminal penalties apply to mishandling of trust funds.

TRUSTEE The person who holds property in trust for another. In a deed of trust, the person who holds bare legal title in trust. After a deed has been paid off, the deed reconveying title to the trustor will be signed by the trustee.

TRUSTEE'S DEED The deed issued by the beneficiary after the foreclosure and sale under a deed of trust.

TRUSTEE'S SALE The private sale of property held by a trustee under a deed of trust as part of the foreclosure proceedings.

TRUSTOR (1) One who conveys his or her property to a trustee. (2) The borrower or debtor under a deed of trust.

TRUTH IN LENDING LAW (TIL) A complex set of federal statutes designed to provide a borrower with a means of discovering and comparing the true costs of credit. Under Regulation Z of the act, certain borrowers of property have three days after accepting a loan to rescind without cost or liability.

TWO-STEP MORTGAGE Loan with lower initial fixed interest rate, increasing after conversion period.

TURNOVER The frequency in which new tenants move in and out of a unit.

U

UNCONSTITUTIONAL Violating a provision of the

U.S. Constitution or a state constitution.

UNDERIMPROVEMENT An improvement which, because of its deficiency in size or in cost, is not the highest and best use of the site.

UNDERWRITING Insuring something against loss; guaranteeing financially.

UNDIVIDED INTERESTS SEE : *Interest, Undivided*

UNDUE INFLUENCE Taking any fraudulent or unfair advantage of another's necessity or weakness of mind. Using a position of trust and confidence improperly to persuade a person to take a course of action. By relying on the trusted confidant, the decision maker fails to exercise his free will and independent judgment.

UNEARNED INCREMENT An increase in value of real estate due to no effort on the part of the owner, often due to an increase in population.

UNENFORCEABLE CONTRACT Incapable of being enforced at law. An example of an unenforceable contract is an oral listing agreement to pay a broker a commission.

UNETHICAL CONDUCT An owner/ broker submits a listing to a multiple listing service, and another broker sells his property, however the owner/broker does not disclose that he is a broker would constitute unethical conduct under DRE regulation.

UNIFORM COMMERCIAL CODE A group of statutes establishing a unified and comprehensive scheme for regulation of security transactions in personal property and other commercial matters, superseding the existing statutes on chattel mortgages, conditional sales, trust receipts, assignment of accounts receivable, and other similar matters.

UNIFORM RESIDENTIAL LANDLORD AND TENANT ACT. A model law drafted in 1972 by the National Conference of Commissioners on Uniform State Laws. It serves as a model statute for standardization and regulation of the residential landlord-tenant relationship.

UNIFORM SETTLEMENT STATEMENT A closing statement required for any transaction involving a loan that's subject to the Real Estate Settlement Procedures Act (RESPA).

UNIFORM STANDARDS OF PROFESSIONAL APPRAISAL PRACTICE These standards are developed, interpreted and amended by The Appraisal Standards Board.

UNILATERAL (CONTRACT) One-sided, ex parte.

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UNILATERAL ESCROW INSTRUCTIONS Separate sets of escrow instructions, one for the buyer and one for the seller; normally drawn up after all the information is in and escrow is ready to close.

UNILATERAL MISTAKE SEE: Mistake, Unilateral.

UNLAWFUL DISCRIMINATION A bank refuses to loan money to a buyer because of his religion.

UNINCORPORATED ASSOCIATION The legal designation for an organization that has recorded a statement listing the names of those who are authorized to execute conveyances on its behalf, which makes possible for title to be held in the association's name.

UNITIES, FOUR The unities of time, title, interest, and possession, required for a joint tenancy.

UNIT-IN-PLACE METHOD The cost of erecting a building by estimating the cost of each separate component.

UNITY OF INTEREST When each co-owner has an equal interest (equal share of ownership) in a piece of property.

UNITY OF POSSESSION When each co-owner is equally entitled to possession of the entire property, because the ownership interests are undivided.

UNITY OF TIME When each co-owner acquired title at the same time.

UNITY OF TITLE When each co-owner acquired title through the same instrument (deed, will, or court order).

UNIVERSAL AGENT A representative authorized by the principal to perform all acts that the principal can personally perform and that may be lawfully delegated to another.

UNJUST ENRICHMENT A legal doctrine that prevents a person from inequitably benefitting from another's mistake, poor judgment, or loss. In a land sales contract the vendor may no longer keep both the property and the buyer's excess payments (over his damages) in the event of breach, because to do so would unjustly enrich him at the buyer's expense.

UNLAWFUL Illegal.

UNLAWFUL CONDUCT A licensee solicits a listing by selling a prospective home seller and the property has a high market value when there is no

reasonable basis to the representation. It would be unlawful conduct.

UNLAWFUL DETAINER An action to recover possession of real property. A lawsuit designed to evict a defaulting tenant, or anyone unlawfully in possession of property, from premises. It is summary in nature, entitled to a priority court trial, and litigates only the right to possession of property (and damages resulting therefrom).

UNLAWFUL DISCRIMINATION A person fined with this act may be fined as high as \$10,000 for a first violation.

UNLIQUIDATED DAMAGES The amount of valuable consideration awarded by a court to an injured party as a result of a default.

UNSECURED DEBT A debt not backed by specific property to satisfy the indebtedness in case of default.

UNSECURED NOTE (LOAN) A loan granted solely on the strength of a borrower's signature; no security is pledged, and no deed of trust recorded.

UNTENANTABLE Not fit for occupancy.

UPC Identification number for a specific property; also called assessor's tax parcel number, account number or folio number.

URBAN LAND INSTITUTE (ULI) A nonprofit organization founded in 1936 to improve the quality of land-use planning and development.

URBAN PROPERTY City property; closely settled property.

URBAN RENEWAL Renovation, rehabilitation and redevelopment of substandard urban residential properties.

USABLE SPACE Floor area of an office building that can be used for tenant office space.

USE VARIANCE SEE: *Variance, Use*.

USPAP Stands for Uniform standards of Professional Appraisal.

USURY OR USURIOUS INTEREST Claiming a rate of interest greater than permitted by law. Charging a greater rate of interest on loans than the rate allowed by law (10 percent in many cases).

UNTENABLE PROPERTY The penalty for any landlord who collects or demands rent when his property has become untenable is; actual damages up to \$10,000, the tenant's court

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costs and fees, and possible punitive damages imposed by a judge.

UTILITIES Refers to services rendered by public utility companies, such as --- water, gas, electricity or telephone.

UTILITY The ability to give satisfaction and/or excite a desire for possession. An element of value.

UTILITY VALUE The usefulness of property.

V

VA Veterans Administration.

VACANCY AND COLLECTION LOSSES A deduction from potential gross income for (1) current or future space not rented due to tenant turnover and (2) loss from uncollected rent due from delinquent tenants.

VACANCY RATE The percentage of rental units that are not occupied.

VACATE To set aside, cancel, or annul; to leave empty.

VALID The legal classification of a contract that is binding and enforceable in a court of law.

VALUABLE CONSIDERATION SEE: Consideration.

VALID CONTRACT (1) Legally sufficient and authorized by law. (2) Having force or binding force. Fully effective at law; legally sufficient.

VALID DEED All legal essential legal elements are present. One that is binding and enforceable in a court of law.

VALID ESCROW It is a necessary requirement in a valid escrow for the transfer of title to real property for: a binding contract for the sale of real property and a conditional delivery of instructions to escrow

V A LOAN A loan made to qualified veterans for the purchase of real property wherein the Department of Veterans Affairs guarantees the lender payment of the mortgage.

VALLEY The internal angle formed by the junction of two sloping sides of a roof.

VALUATION (1) Estimated worth or price. (2) The act of valuing by appraisal.

VALUATION SEE: Appraisal.

VALUE Present worth of future benefits arising out of ownership to typical users/investors. The monetary worth of property, goods or services to buyers. When net operating income is divided by the capitalization rate you get value.

VALUE, BASE Under Proposition 13, the initial assessed value of a piece of property, used in calculating a particular owner's property taxes; this figure is later adjusted to reflect inflation and improvements.

VALUE, FULL CASH Under Proposition 13, the assessed value of newly transferred property; it's the purchase price of the property, unless it can be shown that the property wouldn't have been sold at that price on the open market.

VARIABLE COSTS RATIO A method of expressing variable costs for a property as a percentage of total rental income.

VARIABLE EXPENSE An expense item in a property's operating budget that increases or decreases with the occupancy level of the building.

VARIABLE INTEREST RATE An interest rate that fluctuates in a set proportion to changes in an economic index, such as the cost of money. Extensive regulations cover use of VIRs in loans on residential property.

VARIABLE SCALE PERCENTAGE LEASE A type of percentage lease in which the percentage rental rate increases or decreases according to the volume of business done by the tenant.

VARIANCE An exception or departure from the general rule. An exception granted to a property owner, relieving him from obeying certain aspects of a zoning ordinance. Its granting is discretionary with the zoning authorities and is based on undue hardship suffered by the property owner because of unique circumstances affecting his property.

VARIANCE, USE A variance that permits an owner to use the property in a way that isn't ordinarily allowed in that zone; for example, a commercial use in a residential zone.

VENDEE Purchaser or buyer of real property.

VENDOR Seller of real property.

VENDOR S LIEN A claim against property giving the seller

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the right to hold the property as security for any unpaid purchase money.

VENEER _____ Thin sheets of wood placed over another material.

VENT _____ A pipe installed to provide a flow of air to or from a drainage system or to provide a circulation of air within such system to protect trap seals from siphon age and back pressure.

VENUE _____ The location in which a cause of action occurs; it determines the court having jurisdiction to hear and decide the case. For real estate, the court having proper venue is one in the county in which the property is located.

VERIFICATION _____ A sworn statement before a duly qualified officer as to the correctness of the contents of an instrument. Written certification under oath and/or penalty of perjury, confirming the truth of the facts in a document.

VERSUS _____ Against (abbreviated v. or vs.). Used in case names, with the plaintiff's name given first.

VEST _____ To confer or bestow upon, as in the expression, Title shall vest in.....

VESTED _____ Bestowed upon someone, such as title to property. Absolute, not contingent or subject to being defeated.

VESTEE _____ Current recorded owner.

VESTING _____ The manner in which title is held.

VETERANS ADMINISTRATION _____ Federal agency succeeded as of March 15' 1989 by the Department of Veterans Affairs.

VETERAN'S EXEMPTION _____ A deduction from the annual property tax allowed to a qualified veteran residing on residential property. Since July 1978, it has amounted to \$40 off the normal tax bill.

VETO _____ When the president or governor formally rejects a bill that Congress or the legislature has passed. The bill won't become law unless the legislative body votes to override the veto.

VOD _____ Verification of Deposit form sent to borrower's financial institutions to verify funds for the down payment and closing costs.

VOE _____ Verification of employment form sent to prospective borrower's employer to verify employment

status, salary, and length of employment.

VOID _____ Having no legal force or effect.

VOID CONTRACT _____ To have no legal force or effect; that which is unenforceable. Unenforceable, null, having no legal effect.

VOIDABLE CONTRACT _____ An instrument that appears to be valid and enforceable on its face but is, in fact, lacking some essential requirement. May be declared void, but is valid unless and until declared void.

VOIDABLE CONTRACT _____ A title that is valid until voided by the party who has a right to nullify it.

VOLUME BUYING _____ See *Bulk Purchasing*

VOLUNTARILY INACTIVE _____ The license status that results when a licensee has met all the requirements for licensure, yet the licensee chooses not to engage in the real estate business, and has requested his or her license be placed in this status.

VOLUNTARY LIEN _____ Any lien placed on property with the consent of the owner or as a result of the voluntary act of the owner.

VRM _____ Variable Rate Mortgages. See *Adjustable-Rate Mortgages*

W

WAINSCOTING _____ Wood lining of an interior wall, lower section of a wall when finished differently from the upper part.

WAIVE _____ To give up a right.

WAIVER _____ Giving up of certain rights or privileges. The relinquishment may be voluntary and knowing, or it may occur involuntarily through action of the parties. The action resulting in the waiver is unilateral, and requires no action or reliance by the other party.

WALK-UP _____ An apartment building with two or more floors without an elevator.

WAREHOUSES _____ Rent is usually established after surveying similar spaces to determine market rents.

WAREHOUSING _____ Temporary retention of loans pending

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sales to investors.

WARRANT A guarantee or covenant, as in a warranty deed.

WARRANTY An absolute undertaking or promise that certain facts are as represented. Occasionally used interchangeably with guarantee.

WARRANTY DEED A deed that is used to convey real property and that contains warranties of title and quiet possession; the grantor thus agrees to defend the premises against the lawful claims of third persons. It is commonly used in other states, but in California the grant deed has replaced it. Used predominantly in states that do not have title insurance companies. This deed contains six full warranties of protection to the buyer, including warranties that the seller owns the property, that it is unencumbered, and that the seller will defend title against any defects.

WARRANTY OF AUTHORITY A representation by an agent to third persons that the agent is acting within the scope of authority conferred by his or her principal.

WARRANTY FOREVER A provision in a deed guaranteeing that the seller will for all time defend title and possession for the buyer.

WARRANTY, IMPLIED In the sale of property, a guarantee created by operation of law, whether or not the seller intended to offer it.

WARRANTY OF HABITABILITY Implied warranty in residential leases. The landlord covenants by implication that the premises are suitable for human occupancy. The implied warranties are found in the statutes and implied by common law.

WASTE The destruction, or material alteration of or injury to premises by a tenant-for-life, or tenant, or tenant-for-years. Example: a tenant cutting down trees or mining coal. The destruction, injury, material alteration, or abusive use of property by a person rightfully in possession, but who does not own the fee or entire estate (for example, by a lessee or life tenant).

WATER RIGHTS SEE: Prior Appropriation; Riparian Rights

WATER TABLE Distance from the surface of the ground to a depth at which natural ground water is found.

WEAR AND TEAR Deprecation of an asset due to ordinary usage.

WELFARE OR SOCIAL SECURITY A lender may not legally deny a loan application based on the applicant's receipt of income from a public assistance program such as Welfare or Social Security.

WILD DEED A deed that will not be discovered using the grantor-grantee indexes, because of a break in the chain of title. A deed of trust or other document can be wild.

WILL A written, legal document that directs the disposition of one's property after death.

WILL, NUNCUPATIVE An oral will made on the testator or testatrix's death bed. No longer recognized in California.

WILL, STATUTORY A formal will prepared on the statutory will form provided in California's Probate Code.

WIRELESS COMMUNICATION Electronic communication that is sent via satellite, thus eliminating the need to use telephone lines.

WITNESS A person who gives testimony; one who observes and attests to the signing or executing of a document.

WITNESSED WILL A formal will, signed by the testator in the presence of two or more witnesses, each of whom must also sign the will.

WORK WEEK (REGULAR) This type of may include holidays, Sundays and weekdays.

WORKERS COMPENSATION INSURANCE Provides coverage for employees injured or killed in the course of the job.

WRAP AROUND MORTGAGE (DEED OF TRUST) (See All-Inclusive Deed of Trust.)

WRAP-AROUND DEED OF TRUST A sophisticated financing package that permits the seller to sell his property without paying off the outstanding deed of trust. The buyer's larger loan, which is used to purchase the property, includes provisions for paying off the seller's existing loan.

WRAPAROUND LOAN A loan that is really a combination of loans, the existing loan(s) and a new second loan.

WRIT A court order directing a party to do a specific act, usually to appear in or report to a court of law.

WRIT OF POSSESSION A process of the court under which property may be seized. An order from the court to the sheriff or other law enforcement officer directing and authorizing a specific act.

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WRIT OF ATTACHMENT _____ A writ authorizing and directing the physical attachment (seizure) of property.

WRIT OF EXECUTION An order directing the sheriff to seize property to satisfy a judgment.

WRIT OF IMMEDIATE POSSESSION An order authorizing a landlord to obtain immediate possession of a tenant's premises, pending the outcome of an unlawful detainer action or other court proceeding.

WRIT OF POSSESSION A court order issued after an unlawful detainer action, informing a tenant that he or she must vacate the landlord's property within a specified period or be forcibly removed by the sheriff.

X

X An individual who cannot write may execute a legal document by affixing an X (his/her mark) where the signature normally goes. Beneath the mark a witness then writes the person's name and signs his or her name as the witness.

WRITTEN OFFER Submitting all written offers is a beneficial practice.

Y

YARD A unit of measurement 3 feet long.

YIELD The interest earned by an investor on an investment (or by a bank on the money it has loaned). Also, called return.

YIELD RATE The yield expressed as a percentage of the total investment. Also called the rate of return.

Z

ZONE The area set off by the proper authorities in which the real property can be used for only specific purposes.

ZONING ORDINANCES _____ Act of city or county authorities specifying the type of use to which property may be put in specific areas. A government's division of a city or other geographic area into districts, and the

regulation of property uses within each district. A use that is legally nonconforming is allowed to continue in this zone.

ZONING AMENDMENT SEE: Rezone.

ZONING, EXCLUSIONARY A zoning law that has the effect of preventing certain groups (such as minorities or poor people) from living in a community.

ZONING, SPOT An illegal rezone that favors (or restricts) a particular property owner (or a small group of owners) without justification.

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