

GLOSSARY

A

Abstract Plant – A geographically arranged abstract plant, currently kept to date, that is adequate for use in insuring titles, so as to provide for the safety and protection of the policyholders. An abstract plant as further defined in Rule P-12 and as further provided for in the Insurance Code, Chapter 2501.003 and Chapter 2502, must include an abstract plant for each county in which a title insurance agent or direct operation maintains an office.

Abstract of Title - A compilation of all the recorded documents relating to a parcel of land. Usually kept by the land owner and used as the basis for an attorney as to the condition of title. Still in use in some states, and in some areas of Texas, but mostly replaced by issuance of title insurance.

Abstract of Judgment – A lien created by a statutory filing of a court judgment in the real property records. This lien, commonly referred to as an AJ (in Texas), attaches to all non-exempt real property of the person or entity that the judgment was against.

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

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

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

Acknowledgment – A formal declaration before an authorized officer (usually a notary public) by a person who has executed an instrument that such execution is the individual's act.

Acre – A tract of land 208.71 feet square and containing 43,560 square feet of land.

Adjustable-Rate Mortgage (ARM) – A mortgage in which the interest changes periodically, according to corresponding fluctuations in an index. All ARMS are tied to indexes.

Adjustment Date – The date the interest rate changes on an adjustable rate mortgage.

Administrator – A person appointed by a probate court to settle the estate of an individual that has died. The term is "administratrix" if such person is a woman.

Adverse Possession – A claim made against the lands of another by virtue of open and notorious possession of said lands by the claimant.

Affiant – One who swears to or affirms the statement in an affidavit.

Affidavit – A statement in writing sworn or affirmed to before an official (usually a notary public) who has the authority to administer an oath or affirmation.

Affirmative Coverage – Provisions in policies by which the insurer affirmatively insures against loss due to specific risks generally not covered by policies.

Agent – A person or company that has the power to act on behalf of another or to transact business for another.

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

All Inclusive Rate – The system of quoting rates for insurance where the stated rate includes the cost of title search, title examination, closing the transaction and the policy. This system is in contrast with the system which quotes the rate charged for the policy only. The cost of search and examination in this latter system is extra.

ALTA – American Land Title Association, a national association of title insurance companies and title abstract organizations. This term is used most frequently as part of the identification of standard policy forms adopted by that association.

Amortize – To reduce debt by means of regular periodic payments that include amounts applicable to both principal and interest.

Appraisal – An estimate of value of property from analysis of facts about the property; an opinion of value.

Approved Attorney – An attorney approved by a title insurance company as one whose opinions of title will be accepted by the company and relied upon for the issuance of title insurance policies.

Appurtenances – Rights which pass with the title to the land itself. These rights may affect other lands; e.g., an appropriate access easement over adjoining land.

APR – Annual Percentage Rate. The annual cost of borrowing expressed as a percentage rate.

ARM – Adjustable Rate Mortgage. See "Variable Rate Mortgage."

Assessed Valuation – The valuation placed upon land for purposes of taxation. This valuation does not necessarily correspond to the market valuation.

Assessment – The imposition of a tax, charge or levy, usually according to established rates by a taxing authority or a unit or subdivision governing authority.

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

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

Assignment – A transfer of (or the document transferring) a right and/or interest in land. Used often in transferring interests of a mortgagee or lessee.

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

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

Assumption of Mortgage – An obligation undertaken by the purchaser of land to be personally liable for payment of an existing note secured by a mortgage. As between the lender and the original borrower, the original borrower remains liable on the mortgage note.

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

Attorney – (A) a person who is licensed to practice law and is a member of the State Bar of Texas; or (B) a Texas professional corporation organized to provide professional legal services.

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

Attorney's Opinion - The written statement of an attorney setting forth what he believes to be the condition of a real estate title.

B

Balloon Mortgage – A mortgage that is amortized over a specific period of years but requires a lump sum payment in full at an earlier date.

Balloon Payment – The final lump sum payment that is due at the termination of a balloon mortgage.

Bankruptcy – A federal court proceeding in which debtors may be relieved of liability for their debts after surrender of their assets to a court appointed trustee.

Base Title or **Basic Title** – Title to an area or tract out of which parts are subsequently conveyed or from which a subdivision or development is made. Thus the title to farm acreage which has been subdivided would be the base title to the entire subdivision.

Basic Rate - When referring to title insurance, the basic rate is the rate charged to a consumer who does not qualify for a reduced rate.

Beneficiary (of a Trust) – A person designated to receive some benefit from the trust estate.

Bill of Sale – A written document that transfers title to personal property.

Binder – An enforceable agreement that upon satisfaction of the requirements which are stated in the binder the insurer will issue the specified title insurance policy subject only to the exceptions stated in the binder.

Biweekly Mortgage – A mortgage in which you make payments every two weeks instead of once a month.

Bond – (1) An insurance agreement under which one party becomes surety to pay, within stated limits, financial loss caused to another by specified acts or defaults of a third party. (2) An interest bearing security evidencing a long-term debt, issued by a government or corporation, and sometimes secured by a lien on property.

Bridge Loan – A loan obtained by those who have not yet sold their previous property, but must closing on a purchase property as a source of funds for down payment.

Broker – Real Estate: One who acts as an agent for another in negotiating sales or purchases in return for a fee or commission. Mortgage: Refers to a company or individual that does not lend the money for the loans themselves, but broker loans to larger lenders or investors.

Brokerage - A fee or commission paid to a broker.

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

Buydown – Usually refers to a fixed rate mortgage where the interest rate is “bought down” for a temporary period, usually one to three years. After that time and for the remainder of the term, the borrower’s payment is calculated at the note rate.

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

C

CC&Rs – Covenants, Conditions and Restrictions. See "Conditions and Restrictions."

CFPB - Consumer Financial Protection Bureau

Cap – Adjustable Rate Mortgages have fluctuating interesting rates, but those fluctuations are usually limited to a certain amount. Those limitations may apply to how much the loan may adjust over a six month period, an annual period and over the life of the loan, and are referred to as “caps.”

Cash-Out Refinance – When a borrower refinances his mortgage at a higher amount than the current loan balance with the intention of pulling out money for personal use, it is referred to as a “cash out refinance.”

Certificate of Eligibility – A document issued by the Veterans Administration that certifies a veteran’s eligibility for a VA loan.

Certificate of Title – A written opinion by an attorney that ownership of the particular parcel of land is as stated in the certificate.

Chain of Title – A term applied to the past series of transactions and documents affecting the title to a particular parcel of land.

Claim - A right to assert, or the assertion of, a demand for payment of money due; or the surrender or delivery of possession of property or the recognition or some right. A demand for something as one's rightful due.

Closing – (1) Process by which all the parties to a real estate transaction conclude the details of 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. **Texas Definition:** The investigation made on behalf of a title insurance company, title insurance agent or direct operation before the actual issuance of the title policy to determine proper execution, acknowledgment and delivery of all conveyances, mortgage papers, and other title instruments which may be necessary to the consummation of the transaction and includes the determination that all delinquent taxes are paid, all current taxes, based on the latest available information, have been properly prorated between the purchaser and seller in the case of an Owner’s Policy, the consideration has been passed, all proceeds have been properly disbursed, a final search of the title has been made, and all necessary papers have been filed for record.

Closing Costs – Miscellaneous expenses involved in closing a real estate transaction over and above the price of the land.

Closing Disclosure – Combines and replaces current HUD-1 Settlement Statement and final TIL (Truth-in-Lending) Disclosure. This form is a statement of final loan terms and closings costs and is required for use in certain types of loan transactions.

Cloud on Title – An outstanding claim or encumbrance which adversely affects the marketability of title.

Co-Borrower – An additional individual who is both obligated on the loan and is on title to the property.

Coinsurance - Insurance in which more than one insurer shares a part of a single risk. Insurance with another of a risk. Coinsurance is usually effected by separate contracts of insurance by separate companies, each of which undertakes a fractional part of the whole risk.

Collateral – Marketable real or personal property which a borrower pledges as security for a loan. In mortgage transactions, specific land is the collateral.

Commission - The amount due a real estate broker, mortgage loan broker, or real estate professional for services performed in such capacity.

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

Common Areas – Ownership characterized by mutual ownership of common areas, either jointly or through membership in an association, e.g., condominiums, planned unit developments, and townhomes.

Common Law – An unwritten body of law based on general custom in England and used to an extent in some states.

Community Property – A category of property, existing in some states, in which all property (except property specifically acquired by husband or wife a separate property) acquired by a husband and wife, or either, during marriage, is owned in common by the husband and wife.

Company Loan – Loan by employer to facilitate relocation of employee. Usually short term.

Comparable Sales – Recent sales of similar properties in nearby areas and used to help determine the market value of a property. Also referred to as “comps.”

Condemnation – (1) The lawful taking of private land for public use by a government under its right of eminent domain. (2) A declaration by a governmental agency that a building is unfit for use.

Condition or Conditions – A proviso in a deed or will that, upon the happening or failure to happen of a certain event, limits, enlarges, changes or terminates the title of the purchaser or devisee.

Conditions and Restrictions – Set of rules, limitations and restrictions established by a developer or homeowners’ association that governs the use of real estate. Includes penalties for failure to comply.

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

Condominium Conversion – Changing the ownership of an existing building (usually a rental project) to the condominium form of ownership.

Condominium Declaration – The document which establishes a condominium and describes the most important property rights of the unit owners. Special statutes in each state prescribe the contents of this document, known in some states as a "master deed."

Conservator – See "Guardian."

Construction Loan – A loan which is made to finance the actual construction or improvement on land. It is often the practice to make disbursements in increments as the construction progresses.

Contingency – A condition that must be met before a contract is legally binding.

Contract - Same as "agreement," but usually more formal.

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

Contract of Sale – Agreement by one person to buy and another person to sell a specified parcel of land at a specified price.

Conventional Loan – A mortgage loan neither insured by FHA nor guaranteed by VA.

Convertible ARM – An adjustable-rate mortgage that allows the borrower to change the ARM to a fixed-rate mortgage within a specific time.

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

Conveyance – (1) A document which transfers an interest in real property from one person to another; e.g., a deed. (2) The act of executing and delivering a deed or mortgage.

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

Co tenancy – Ownership of the same interest in a particular parcel of land by more than one person; e.g., tenancy in common, joint tenancy, tenancy by the entireties.

Covenant – An agreement written into deeds and other instruments promising performance or non-performance of certain acts, or stipulating certain uses or non-uses of the property.

Credit – An agreement in which a borrower receives something of value in exchange for a promise to repay the lender at a later date.

Credit Repository – An organization that gathers, records, updates, and stores financial and public records information about the payment records of individuals who are being considered for credit.

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

Curtesy – A husband's life estate in the property of his deceased wife. By statute in most states, it is a life estate in one third of the land she owned during their marriage. Curtesy has been abolished by statute in some states.

D

Debt – An amount owed to another.

Dedication – The granting of land by the owner for some public use and its acceptance for such use by authorized public officials.

Deed – A written instrument duly executed and delivered by which the title to land is transferred from one person to another.

Deed in Lieu – Short for Deed in Lieu of Foreclosure, this conveys title to the lender when the borrower is in default and wants to avoid foreclosure.

Deed of Trust – A conveyance of a land title by a maker of a note (the debtor) to a third party, a trustee, as collateral security for the payment of the note with the condition that the trustee shall reconvey the title to the debtor upon payment of the note, and with power in the trustee to sell the land and pay the note in the event of a default on the part of the debtor.

Default - Failure to perform a promised task or to pay an obligation when due.

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

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

Delinquency – Failure to make mortgage payments when mortgage payments are due.

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

Devise – The disposition of property by will

Devisee – The person to whom property is given by a will.

Direct Operation - the operations of a title insurance company under a license issued to the company under Subchapter B, Chapter 2651. A reference in this title to a title insurance agent shall be construed to include a direct operation unless the context indicates otherwise.

Discount Points – The amount of money the borrower or seller must pay the lender to get a mortgage at a stated interest rate. This amount is equal to the difference between the principal balance on the note and the lesser amount which a purchaser of the note would pay the original lender for it under market conditions. A point equals one percent of the loan.

Down Payment – The part of the purchase price of a property that the buyer pays in cash and does not finance with a mortgage.

Dower – An estate for life to which a married woman by statute is entitled on the death of her husband. In most states it is a life estate of one third of the value of all land which the husband owned during their marriage. Dower has been abolished by statute in some states. The reason for requiring a wife's joining in the deed of any land by her husband is the release of her dower right.

Draw – Disbursement of a portion of the mortgage loan. Usually applies to construction loans when partial advances are made as improvements to the property progress.

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

E

Earnest Money – Advance payment of part of the purchase price made by a purchaser as evidence of good faith.

Easement – A privilege or right of use or enjoyment which one person may have in the lands of another; for example, a right of way to install, operate, and maintain utility lines.

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

Eminent Domain – The power of the state to take private property for public use upon payment of just compensation.

Encroachment – The intrusion of any improvement partly or entirely on the land of another or into an easement or setback area.

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

Encumbrance – Any right or interest in land held by persons other than the fee owner which right or interest lessens the value of the fee title. Examples are judgment liens, easements, mortgages, restrictions.

Endorsement – A form issued by the insurer at the request of the insured which changes term(s) or item(s) in an issued policy or commitment.

Equal Credit Opportunity Act (ECOA) – A federal law that requires lenders and other creditors to make credit equally available without discrimination based on race, color, religion, national origin, age, sex, marital status, or receipt of income from public assistance programs.

Equity – (1) The interest or value which an owner has in real estate over and above the debts against it. (2) A type of court of record.

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

Escheat – The transfer of title of property to the state if the owner dies intestate and without heirs, or if the owner is unknown or fails to claim property within a set amount of time.

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

Escrow Account – Title Agent: _____; Lender: also called Impound Account where money is held for payment of items like property taxes and homeowner's insurance when they become due.

Escrow Agreement - A written agreement usually made between buyer, seller, and escrow agent, but sometimes only between one person and the escrow agent. It sets forth the conditions to be performed incident to the object deposited in escrow, and gives the escrow agent instructions with respect to the disposition of the object so deposited.

Escrow Officer – An attorney, a bona fide employee of an attorney licensed as an escrow officer, a bona fide employee of a direct operation, or a bona fide employee of a title insurance agent whose responsibilities include: (A) countersigning title insurance forms; (B) supervising the preparation and delivery of title insurance forms; (C) signing escrow checks; or (D) closing the transaction, as described by Section 2501.006.

Estate – A person's possessions. The extent of a person's interest in real property.

Et Al – And others.

Et Ux – And wife.

Examination of Title – The investigation and interpretation of the record title to real property based on the title search or abstract.

Examiner - Usually referred to, in title industry terms, as title examiner. One who examines and determines the condition and status of real estate titles.

Exceptions – Those matters affecting title to the particular parcel of realty which matters are excluded from coverage of the particular title insurance policy.

Exclusions – Those general matters affecting title to real property excluded from coverage of a title insurance policy.

Executor – A person named in a will to administer the estate. Executrix is the feminine form.

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

F

Fannie Mae – Federal National Mortgage Association (also FNMA) is a private corporation, federally chartered to provide financial products and services that increase the availability and affordability of housing by purchasing mortgage loans.

Fair Credit Reporting Act – A consumer protection law that regulates the disclosure of consumer credit reports by consumer/credit reporting agencies and establishes procedures for correcting mistakes on one's credit record.

Fair Market Value – The highest price that a price, willing but not compelled to buy, would buy, and the lowest a Seller, willing but not compelled to sell, would accept.

Fannie Mae (FNMA) – The Federal National Mortgage Association, which is a congressionally chartered, shareholder-owned company that is the nation's largest supplier of home mortgage funds.

Fee Simple Estate – The greatest interest in a parcel of land that is possible to own. Sometimes designated simply as "fee."

FHA – Federal Housing Administration, an agency of the federal government which insures private loans for financing of new and existing housing and for home repairs under government approved programs.

Financing Statement – A document filed in the Real Property Records or with the Secretary of State to create a security interest in the title to personal property.

First Mortgage - A mortgage having priority as a lien over any other mortgage or lien on the same property.

Fixed-Rate Mortgage – A mortgage in which the interest rate does not change during the entire term of the loan.

Fixtures – Any item of property so attached to real property that it becomes a part of the real property.

Flood Certification – A common term for a Federal Emergency Management Agency (FEMA) Standard Flood Hazard Determination Form (SFHDF). This determines whether land or a

building is located within a Special Flood Hazard Area for purposes of flood insurance requirements under the National Flood Insurance Program.

Flood Insurance – Insurance that compensates for physical property damage resulting from flooding. It is required for properties located in federally designated flood areas.

Foreclosure – Legal process by which a mortgagor of real property is deprived of interest in that property due to failure to pay the loan or comply with terms and conditions of the mortgage.

Foreign Title Insurance Company - A title insurance company organized under the laws of a jurisdiction other than this state.

Forfeiture of Title – Provision in a deed creating a condition which will cause title to be passed to another should certain circumstances occur.

Freddie Mac – Federal Home Loan Mortgage Corporation (also FHLMC) is a stockholder owned corporation chartered by Congress that purchases mortgage loans.

G

General Warranty Deed – A deed containing a covenant whereby the seller agrees to protect the buyer against being dispossessed because of any adverse claim against the land.

Good Faith Estimate (GFE) - An estimate of closing costs the lender is required (under the federal Real Estate Settlement Procedures Act) to give to the buyer within at least three days of applying for a mortgage loan. This is the lender's estimate - it must be completely accurate regarding the lender's own charges and is supposed to be reasonably close to the charges third-party providers such as title insurers/agents, attorneys, surveyors, etc., may charge. You should check with those third-party providers, however, regarding how much they will charge if you have any questions or concerns prior to settlement.

Government Loan (Mortgage) – A mortgage that is insured by the Federal Housing Administration (FHA) or guaranteed by the Department of Veterans Affairs (VA) or the Rural Housing Service (RHS). Mortgages that are not government loans are classified as conventional loans.

GNMA (Ginnie May) – Government National Mortgage Association, a government corporation which provides a secondary market for housing mortgages and special assistance to mortgagee financing housing under special FHA mortgage insurance programs.

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

Grantee – A person who acquires an interest in land by deed, grant, or other written instrument.

Grantor – A person, who, by a written instrument, transfers to another an interest in land.

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

H

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

Hazard Insurance - Real estate insurance protecting against fire, some natural causes, vandalism, etc., depending upon the policy. The buyer often adds liability insurance and extended coverage for personal property.

Heir – The person who, at the death of the owner of land, is entitled to the land if the owner has died without a will or if part or all of a will is ineffective.

Hiatus – A gap or space unintentionally left, when attempting to describe adjoining parcels of land. The same as a vacancy.

Home Equity Conversion Mortgage (HECM) – Usually referred to as a reverse annuity mortgage, what makes this type of mortgage unique is that instead of making payments to a lender, the lender makes payments to you. It enables older home owners to convert the equity they have in their homes into cash, usually in the form of monthly payments. Unlike traditional home equity loans, a borrower does not qualify on the basis of income but on the value of his or her home. In addition, the loan does not have to be repaid until the borrower no longer occupies the property.

Home Equity Line of Credit – A mortgage loan, usually in second position, that allows the borrower to obtain cash drawn against the equity of his home, up to a predetermined amount.

Home Inspection – A thorough inspection by a professional that evaluates the structural and mechanical condition of a property.

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

Homeowners' Association – A nonprofit association that manages the common areas of a planned unit development (PUD) or condominium project. In a condominium project, it has no ownership interest in the common elements. In a PUD project, it holds title to the common elements.

Homeowner's Insurance – An insurance policy that combines personal liability insurance and hazard insurance coverage for a dwelling and its contents.

Homeowner's Warranty – A type of insurance often purchased by homebuyers that will cover repairs to certain items, such as heating or air conditioning, should they break down within the coverage period. The buyer often requests the seller to pay for this coverage as a condition of the sale, but either party can pay.

Homestead (Exemption) – A person's dwelling and that part of the land which is contiguous to the dwelling. Many states by statute give special privileges to such lands, such as exemptions from remedies of creditors.

HUD Median Income – Median family income for a particular county or metropolitan statistical area (MSA), as estimated by the Department of Housing and Urban Development (HUD).

HUD-1/Settlement Statement – A form settlement (closing) statement required by the U.S. Department of Housing and Urban Development (HUD) where federally related mortgages are being made on residential properties. It is a balance sheet showing the source of funds and the distribution of funds in connection with the purchase and/or mortgaging of residential property.

I

Improvements – Those additions to raw lands tending to increase value, such as buildings, streets, sewer, etc.

Inchoate Dower – The imperfect interest which the law gives a wife in the lands of her husband. This is an interest which upon the death of the husband may ripen into possession and use. Most states have abolished dower rights.

Inchoate Curtesy – The imperfect interest which the law gives a husband in the lands of his wife. This is an interest which upon the death of the wife may ripen into possession and use. Most states have abolished curtesy rights.

Indemnify – To make payment for a loss.

Indemnity Agreement – An agreement by the maker of the document to pay up to the limit stated for any loss due to the contingency stated in the agreement.

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

Insurable Title – A land title which a title insurance company is willing to insure.

Insurance – A contract of indemnity against specified perils.

Insured Closing Service – An agreement by the insurer to indemnify the insured for any loss in settlement funds caused by (1) the failure of the company's policy issuing agents to conform to closing instructions of the insured, or (2) fraud or dishonesty of the issuing agent.

Insuring Around - The willful issuance of a title binder or title insurance policy showing no outstanding enforceable recorded liens while the Title Insurance Company knows that in fact a lien or liens are of record against the real property, and shall be prohibited, except under circumstances as the commissioner under his or her rulemaking powers shall approve. A title insurance company knows that an outstanding enforceable recorded matter exists if it determines that the matter is valid and enforceable based on the examination of the title pursuant to which the title binder or title insurance policy is issued. In its discretion, the title insurance company may determine the insurability of title and those matters which it considers to be insurable under the title binder or title insurance policy; provided, however, that insuring around enforceable recorded liens shall be prohibited except as allowed by regulation.

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

Interval Ownership – A form of time share ownership. See Time share ownership.

Intestate – Without having made a valid will or one who dies without having made a will.

J

Joint Abstract Plant Operation – A joint abstract plant operation as defined by the department under Section 2501.004.

Joint Tenancy – An estate where two or more persons hold real estate jointly for life, the survivors to take the interest of the one who dies.

Judgment – A decree of a court.

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

Judgment Lien – See "Abstract of Judgment."

Judicial Foreclosure – A type of foreclosure proceeding used in some states that is handled as a civil lawsuit and conducted entirely under the auspices of a Court. Other states use non-judicial foreclosure.

Junior Mortgage – A lien which is subordinate or inferior to that of another lien.

L

Land – The land described, specifically or by reference, and improvements affixed thereto which by law constitute real property.

Land Contract – See "Contract for Deed."

Landmark – Any conspicuous object that helps establish land boundaries.

Late Charge – The penalty a borrower must pay when a payment is made a stated number of days. On a first trust deed or mortgage, this is usually fifteen days.

Lease – a written agreement between the property owner and a tenant that stipulates the payment and conditions under which the tenant may possess the real estate for a specified period of time.

Leasehold – The right to possession and use of land for a fixed period of time. The lease is the agreement which creates the right. The person who has the leasehold is the tenant or lessee. The person who grants the leasehold is the lessor or landlord.

Lease Option – An alternative financing option that allows home buyers to lease a home with an option to buy.

Legal Description – A property description which by law is sufficient to locate and identify the parcel of real property on the ground.

Lender – A term which can refer to the institution making the loan or to the individual representing the firm.

Lender's Policy – See "Loan Policy of Title Insurance".

Liabilities – A person's financial obligations. Liabilities include long-term and short-term debt, as well as any other amounts that are owed to others.

Liability Insurance – Insurance coverage that offers protection against claims alleging that a property owner's negligence or inappropriate action resulted in bodily injury or property damage to another party. It is usually part of a homeowner's insurance policy

Lien – A claim or charge on property of another for payment of some debt, obligation, or duty.

Lien Waiver or **Waiver of Liens** – A document signed by the general contractor, each subcontractor, and each materialman of a construction project whereby the signatories waive their right to mechanics' liens on the land involved in that particular project.

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

Line of Credit – An agreement by a commercial bank or other financial institution to extend credit up to a certain amount for a certain time to a specified borrower.

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

Lis Pendens – A recorded legal notice that there is litigation pending relating to the land and a warning that anyone obtaining an interest subsequent to the date of the notice may be bound by the judgment.

Loan – A sum of borrowed money (principal) that is generally repaid with interest.

Loan Application – The form used to apply for a mortgage loan, containing information about a borrower's income, savings, assets, debts and more.

Loan Estimate – “**LE**” – New form for use as of October 3, 2015. This form replaces the current Good Faith Estimate (GFE) and initial Truth in Lending (TIL) forms. It is an initial disclosure to the consumer of the estimated costs and terms of their contemplated loan transaction.

Loan Officer – Also referred to by a variety of other terms, such as lender, loan representative, loan “rep,” account executive, and others. The loan officer serves several functions and has various responsibilities: they solicit loans, they are representative of the lending institution, and they represent the borrower to the lending institution.

Loan Origination – How a lender refers to the process of obtaining new loans.

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

Loan Servicer – a licensed public or private entity that handles the following tasks: collecting, monitoring and reporting loan payments; handling property tax; handling insurance escrows; foreclosing defaulted loans; handling late payments and other delinquencies; remitting payments; and, may also assist in loan origination.

Loan-to-Value (LTV) – The percentage relationship between the amount of the loan and the appraised value or sales price (whichever is lower).

Lock-In – An agreement in which the lender guarantees a specified interest rate for a certain amount of time at a certain cost.

Lock-In Period – The time period during which the lender has guaranteed an interest rate to a borrower.

Lot – A part of a subdivision or block having fixed boundaries ascertainable by reference to a plat or survey.

M

M.E.R.S – Mortgage Electronic Registration System

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

Margin – The difference between the interest rate and the index on an adjustable rate mortgage.

Marketable Title – A title which a reasonable purchaser, well informed as to the facts and their legal meaning, would be willing to accept.

Market Value - An average between the highest price which a buyer, willing but not compelled to buy, would pay and the lowest price a seller, willing, but not compelled to sell, would accept.

Maturity – The date on which the principal balance of a loan, bond, or other financial instrument becomes due and payable.

Mechanic's Lien – A lien or claim of lien allowed by statute to contractors, laborers and material suppliers on buildings or other structures upon which work has been performed or materials supplied.

Metes and Bounds – A description of a parcel of land by describing the boundary lines in length and direction.

Minimum Basic Rate - The lowest promulgated rate as shown on the Texas Title Insurance Premium Rates chart as determined by the Texas Department of Insurance.

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

MISMO – Mortgage Industry Standards Maintenance Organization – Sets standards of how to format data sent to another party for both residential and commercial property transactions in US Markets.

Modification – Occasionally, a lender will agree to modify the terms of your mortgage without requiring you to refinance. If any changes are made, it is called a modification.

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

Mortgage – An instrument used to encumber land as security for a debt.

Mortgage Banker – A mortgage banker is generally assumed to originate and fund their own loans, which are then sold on the secondary market, usually to Fannie Mae, Freddie Mac, or

Ginnie Mae. However, firms rather loosely apply this term to themselves, whether they are true mortgage bankers or simply mortgage brokers or correspondents.

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

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

Mortgage Fraud – a term used to describe a broad variety of criminal actions where the intent is to materially misrepresent or omit information on a mortgage loan application in order to obtain a loan or to obtain a larger loan than would have been obtained had the lender known the truth. In federal courts, mortgage fraud is prosecuted as wire fraud, bank fraud, mail fraud and money laundering, with penalties of up to thirty years imprisonment.

Mortgage Policy – See "Loan Policy of Title Insurance".

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

Mortgagee – The lender who provides the money for the mortgage and to whom the mortgage is given.

Mortgagee's Policy – See "Loan Policy of Title Insurance".

Mortgage Insurance (MI) – Insurance that covers the lender against some of the losses incurred as a result of a default on a home loan.

Mortgage Insurance Premium (MIP) - The amount paid by a mortgagor for mortgage insurance, either to a government agency such as the Federal Housing Administration (FHA) or to a private mortgage insurance (MI) company.

Mortgagor – The person who borrows the money from the mortgagee, and who signs the mortgage as security.

N

N.I.N.J.A – No Income – No Job or Assets. Reference to Predatory Lending product.

Negative Amortization – Occurs where monthly installment payments are insufficient to pay the interest accruing on the principal balance, so the unpaid interest must be added to the principal due.

No Cash-Out Refinance – A refinance transaction which is not intended to put cash in the hand of the borrower. Instead, the new balance is calculated to cover the balance due on the current

loan and any costs associated with obtaining the new mortgage. Often referred to as a "rate and term refinance."

No-Cost Loan – Many lenders offer loans that you can obtain at "no cost." You should inquire whether this means there are no "lender" costs associated with the loan, or if it also covers the other costs you would normally have in a purchase or refinance transactions, such as title insurance, escrow fees, settlement fees, appraisal, recording fees, notary fees, and others. These are fees and costs which may be associated with buying a home or obtaining a loan, but not charged directly by the lender. Keep in mind that, like a "no-point" loan, the interest rate will be higher than if you obtain a loan that has costs associated with it.

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

Note – A written promise to pay a certain amount of money, plus interest at a specified rate, at a certain time, and in a certain number of installments.

Notice of Default - A formal written notice to a borrower that a default has occurred and that legal action may be taken.

O

Open-End Mortgage – A mortgage or deed of trust written so as to secure and permit advancing of funds in addition to the amount originally loaned.

Option – The right, acquired for a consideration, to buy, sell or lease land at a fixed price within a specified time.

Original Principal Balance - The total amount of principal owed on a mortgage before any payments are made.

Origination Fee - On a government loan the loan origination fee is one percent of the loan amount, but additional points may be charged which are called "discount points." One point equals one percent of the loan amount. On a conventional loan, the loan origination fee refers to the total number of points a borrower pays.

Oversize Policies – Policies in which the amount (limit of risk) exceeds that which the agent is authorized to write without specific approval.

Owner Financing - A property purchase transaction in which the property seller provides all or part of the financing.

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

Owner's Policy – A title insurance policy insuring the owner against loss due to any covered defect of title not excepted to or excluded from the policy.

P

Partial Payment - A payment that is not sufficient to cover the scheduled monthly payment on a mortgage loan. Normally, a lender will not accept a partial payment, but in times of hardship you can make this request of the loan servicing collection department.

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

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

Payment Change Date - The date when a new monthly payment amount takes effect on an adjustable-rate mortgage (ARM) or a graduated-payment mortgage (GPM). Generally, the payment change date occurs in the month immediately after the interest rate adjustment date.

Periodic Payment Cap - For an adjustable-rate mortgage where the interest rate and the minimum payment amount fluctuate independently of one another, this is a limit on the amount that payments can increase or decrease during any one adjustment period.

Periodic Rate Cap - For an adjustable-rate mortgage, a limit on the amount that the interest rate can increase or decrease during any one adjustment period, regardless of how high or low the index might be.

Permanent Financing – A loan secured by land after improvements have been completed.

Person - Includes an individual, corporation, association, partnership, or trust.

Personal Property - Any property that is not real property

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

PITI - This stands for principal, interest, taxes and insurance. If you have an "impounded" loan, then your monthly payment to the lender includes all of these and probably includes mortgage insurance as well. If you do not have an impounded account, then the lender still calculates this amount and uses it as part of determining your debt-to-income ratio.

Planned Unit Development (PUD) – A project consisting of individually owned parcels of land together with common areas and facilities that are owned by an association of which the owners of all the parcels are members.

Plat (of Subdivision) – A map representing a piece of land subdivided into lots with streets and other matters affecting the subdivision.

Plat (of Survey) – A map of land made by a surveyor showing boundary lines, buildings, and other improvements on the land.

PMI – Private Mortgage Insurance. An insurance contract which insures that the named lender will recover a specified percentage of the loan amount from the insurer in the event the loan goes bad. Many lenders require this on higher percentage loans.

Points – See “Discount Points.”

Policy – A written contract of title insurance.

Policy owner – The insured on a title insurance policy.

Power of Attorney – An instrument in writing by which one person, the principal, authorizes another, the attorney-in-fact, to act in the specific actions described in the instrument.

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

Predatory Lending – is a pejorative term used to describe practices of some lenders. The “practice of a lender deceptively convincing borrowers to agree to unfair and abusive loan terms, or systematically violating those terms in ways that make it difficult for the borrower to defend against.”

Premium - (1) The amount payable for an insurance policy. (2) A sum of money or bonus paid in addition to the regular price. **Texas Title Insurance:** The premium rates promulgated by the commissioner under Subchapters D and E, Chapter 2703, and includes a charge for: (A) title examination and closing the transaction, regardless of whether the examination or closing is performed by an attorney; and (B) issuing the policy.

Prepayment - Any amount paid to reduce the principal balance of a loan before the due date. Payment in full on a mortgage that may result from a sale of the property, the owner's decision to pay off the loan in full, or a foreclosure. In each case, prepayment means payment occurs before the loan has been fully amortized.

Prepayment Penalty – Penalty to the mortgagor for payment of the mortgage debt before it becomes due.

Prescription – The doctrine by which easements are acquired by long, continuous, and exclusive use and possession of property.

Prime rate - The interest rate that banks charge to their preferred customers. Changes in the prime rate are widely publicized in the news media and are used as the indexes in some adjustable rate mortgages, especially home equity lines of credit. Changes in the prime rate do not directly affect other types of mortgages, but the same factors that influence the prime rate also affect the interest rates of mortgage loans.

Principal - The amount borrowed or remaining unpaid. The part of the monthly payment that reduces the remaining balance of a mortgage.

Principal Balance - The outstanding balance of principal on a mortgage. The principal balance does not include interest or any other charges.

Principal, Interest, Taxes, and Insurance (PITI) - The four components of a monthly mortgage payment on impounded loans. Principal refers to the part of the monthly payment that reduces the remaining balance of the mortgage. Interest is the fee charged for borrowing money. Taxes and insurance refer to the amounts that are paid into an escrow account each month for property taxes and mortgage and hazard insurance.

Private Mortgage Insurance (MI) - Mortgage insurance that is provided by a private mortgage insurance company to protect lenders against loss if a borrower defaults. Most lenders generally require MI for a loan with a loan-to-value (LTV) percentage in excess of 80 percent.

Probate - A legal procedure in which the validity and probity of a document, such as a will, is proven.

Promissory Note - A written promise to pay or repay a specified sum of money at a stated time, or on demand, to a named person. In addition to the payment of principal, a promissory note usually provides for the payment of interest.

Promulgate – (1) To publish; (2) To put into effect by publishing its terms; to establish or decree as the official version. In the title insurance industry in Texas, usually used in reference to the policy forms and other rules established by the Department of Insurance.

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

Public Records – Records which by law impart constructive notice of matters relating to land.

Purchase Agreement - A written contract signed by the buyer and seller stating the terms and conditions under which a property will be sold.

Purchase Money Mortgage – A mortgage given by the purchaser to the seller simultaneously with the purchase of real estate to secure the unpaid balance of the purchase price.

Q

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

Quitclaim – A deed which transfers whatever interest the maker of the deed may have in the particular parcel of land.

R

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

Rate Lock - A commitment issued by a lender to a borrower or other mortgage originator guaranteeing a specified interest rate for a specified period of time at a specific cost.

Real Estate Agent - A person licensed to negotiate and transact the sale of real estate.

Real Property – Land, together with fixtures, improvements and appurtenances.

Realtor[®] – A federally registered collective membership mark which identifies a real estate professional who is a member of the National Association of Realtors[®] and subscribes to its strict Code of Ethics.

Realty – A brief term for real property.

Record Title - The aspects of a title which appear in the public records as distinguished from unrecorded title aspects and interests.

Recorder - The public official who keeps records of transactions that affect real property in the area. Sometimes known as a "Registrar of Deeds" or "County Clerk."

Recording – The noting in the designated public office of the details of a properly executed legal document such as a deed or mortgage, thereby making it a part of the public record, and thus by law imparting constructive notice of that document to the public.

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

Refinance Transaction - The process of paying off one loan with the proceeds from a new loan using the same property as security.

Refinance Rate - When referring to title insurance, the refinance rate is the reduced rate for a Loan Policy issued on the new loan in a refinance transaction, in which the original loan was previously insured within some period of years.

Reinsurance – The act of an insurer transferring a portion of the risk to other insurers. The original insurer is the sole insurer for a portion of the risk and shares the risk in the excess amount with the reinsurers. The first portion of the loss risk retained by the ceding company as its sole liability is called the “primary liability.”

REIT – Real Estate Investment Trust, a business trust which deals principally with interest in land. REITs generally are strictly organized to conform to the requirements of provisions of the Internal Revenue Code which give tax advantages to conforming REITs.

Release – A document from the mortgagee or trustee of a deed of trust which releases specific property from the lien of the mortgage or deed of trust.

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

Remaining Term - The original amortization term minus the number of payments that have been applied.

Renegotiable Rate Mortgage – A loan secured by a long-term mortgage of up to 30 years, which provides for renegotiation at equal stated intervals of the interest rate for a maximum variation of 5 percent over the life of the mortgage.

Repayment Plan - An arrangement made to repay delinquent installments or advances.

Reserve – The portion of the title insurance company’s retained earnings set aside for some specific purpose.

Liability Reserve – A segregated or earmarked portion of retained earnings established to show the estimated amount of a known or potential future liability.

Reserve for Undetermined Title Losses – The liability reserve established and maintained against unpaid losses and expenses related to every specific claim presented to the title insurance company by a policyholder. The amount of reserve is established by careful estimates of probable liability. It is reviewed periodically and changed when warranted.

Statutory Reserve – The reserve requirement established by state statutes as the minimum which must be maintained by a title insurance company, either (1) by a company incorporated under the laws of that state or (2) as a qualification for a company incorporated in another state to do business in the state.

RESPA – The Real Estate Settlement Procedures Act (12 U.S.C. 2601) which, together with Regulation X promulgated pursuant to the Act, regulate real estate transfers involving a “federally related mortgage loan by requiring, among other things, certain disclosures to borrowers.

Residential Real Property - Real property that is improved and is designed principally for occupancy by one to four families. The term includes an individual unit of a condominium or cooperative.

Restrictions – Provision in deed or will or in a “Declaration of Condition, Reservations and Restrictions” which limits in some way the right to use land or convey its title. Examples are building setback lines and limitations to residential uses.

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

Reversion – Provision in conveyance by which, upon the happening of an event or contingency, title to the land will return to the grantor or the successor in interest in the land.

Revolving Debt - A credit arrangement, such as a credit card, that allows a customer to borrow against a preapproved line of credit when purchasing goods and services. The borrower is billed for the amount that is actually borrowed plus any interest due.

Right of First Refusal - A provision in an agreement that requires the owner of a property to give another party the first opportunity to purchase or lease the property before he or she offers it for sale or lease to others.

Right of Ingress or Egress - The right to enter or leave designated premises.

Right of Survivorship - In joint tenancy, the right of survivors to acquire the interest of a deceased joint tenant.

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

Riparian – Pertaining to the banks of a watercourse. The owner of land adjacent to a watercourse is called a riparian owner and the rights of the riparian owner related to that watercourse are called riparian rights.

S

Sale and Leaseback – A financial device which an owner of land may employ to raise money and still have the use of the land by selling the land to the financier and immediately leasing it back for the period the owner wishes to use it.

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

Second Mortgage – A second loan on real estate that already has a mortgage. It is subordinate to the first mortgage. Usually of shorter term and often at a higher interest rate.

Secondary Market - The buying and selling of existing mortgages, usually as part of a "pool" of mortgages.

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

Secured Loan - A loan that is backed by collateral.

Security - The property that will be pledged as collateral for a loan.

Seller Carry-Back - An agreement in which the owner of a property provides financing, often in combination with an assumable mortgage.

Separate Property – Property a husband or wife owns independently of the other.

Service Charge – A charge paid by the borrower to the lender for the lender’s expenses in processing the loan.

Servicer - An organization that collects principal and interest payments from borrowers and manages borrowers' escrow accounts. The servicer often services mortgages that have been purchased by an investor in the secondary mortgage market.

Servicing - The collection of mortgage payments from borrowers and related responsibilities of a loan servicer.

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

Settlement – See “closing.”

Settlement Statement – See HUD-1/Settlement Statement

Simultaneous Issue – Simultaneous issuance of an owner’s policy and a mortgagee policy, or an owner’s policy and a leasehold policy, or owner’s policy to different insureds. A reduced premium rate is applicable in such cases.

Special Warranty Deed – A deed containing a covenant whereby the seller agrees to protect the buyer against being dispossessed because of any adverse claims to the land by the seller, or anyone claiming through the seller.

Subprime Lending – (near prime, non-prime, or second chance lending) is a financial term that was popularized by the media during the “credit crunch” of 2007 and involves financial institutions providing credit to borrowers who do not meet prime underwriting guidelines. Also known as C-paper, non-conforming loans or those that do not meet Fannie Mae or Freddie Mac guidelines, including Interest-only payments; “pay option” loans; “hybrid” mortgages; “Ninja” loan or No Income, No Job, (and) no Assets.

Subdivision – A tract of land surveyed and divided into lots for purposes of sale.

Subordinate financing - Any mortgage or other lien that has a priority that is lower than that of the first mortgage.

Subordination – The act of a creditor acknowledging in writing that the lien of the debt due from a debtor shall be inferior to the lien of the debt due another creditor from the same debtor.

Subrogation – The substitution of one person in the place of another with reference to a claim, demand, or right, so that the individual who is substituted succeeds to the rights of the other in relation to the debt or claim and its rights, remedies and securities.

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

Survey – The process of measuring land to determine its size, location and physical description and the resulting drawing or map.

T

Take Out Loan – A permanent mortgage loan which a lender agrees to make to a borrower upon completion of improvements on the borrower’s land. The proceeds of the loan are used principally to pay off the construction loan.

Tax Lien – The lien which is imposed upon real estate by operation of law which secures the payment of real estate taxes.

Tax Deed – The deed given to a purchaser at a public sale of land for non-payment of taxes. It conveys to the purchaser only such title as the defaulting taxpayer had and does not convey insurable title to that extent unless statutory procedures for the sale were strictly followed.

TDI – Texas Department of Insurance – regulates the business of insurance in Texas for consumer protection, licenses title agents and companies. www.tdi.state.tx.us

Tenancy by the Entirety – Ownership by married persons where each owns the entire estate, with the survivor taking the whole upon the other’s death.

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

Tenant – One who has right of possession of land by any kind of title. The word “tenant” used alone in modern times is used almost exclusively in the limited meaning of a tenant of a leasehold estate.

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

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

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

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

Thing of Value - Includes any payment, advance, funds, loan, service, or other consideration.

Third Party – A term usually applied to persons who are not principal parties to a contract or other instrument, but who have some right, interest or duty which such contract or instruction affects. For example, where a sale contract between buyer and seller of real estate provides that the money and documents involved in the transaction will be deposited with a title company pending the closing of the deal, the title company becomes a third party to the transaction.

Third-Party Origination - A process by which a lender uses another party to completely or partially originate, process, underwrite, close, fund, or package the mortgages it plans to deliver to the secondary mortgage market.

Time Share Ownership – A technique for dividing the title to a commercial property or a vacation home among many different owners, with each owner acquiring the right to occupy the premises during a specified portion of each year.

Time Share Unit – An interest in a residential or commercial property which by contract or by conveyance of a real property interest allows a purchaser to occupy the unit during a particular week or weeks for a stated number of years. There are two major forms of time share estate:

- (a) Interval Ownership – A time share estate where the unit purchaser is deeded an estate for years, giving a right to occupy the unit for a particular week during a stated number of years with a remainder interest in fee as a tenant in common with all other purchasers of the unit.
- (b) Time Span Ownership – A time share estate where the unit purchaser is deeded an undivided percentage interest in the unit as a tenant in common with all other purchasers and the right to occupy the unit for a particular time period is governed by contractual provisions of the time share declaration.

Title – The evidence of right which a person has to the ownership and possession of land. Commonly considered as a history of rights.

Title Company - A company that specializes in examining and insuring titles to real estate.

Title Defect – Any legal right held by others to claim property or to make demands upon the owner.

Title Examination - The search and examination of a title to determine the conditions of the title to be insured and to evaluate the risk to be undertaken in the issuance of a title insurance policy or other title insurance form.

Title Insurance – Insurance against loss or damage resulting from defects or failure of title to a particular parcel of real property. **Texas Title Insurance:** A) insurance that insures, guarantees, or indemnifies an owner of real property, or another interested in the real property, against loss or damage resulting from: (i) a lien or encumbrance on or defect in the title to the real property; or (ii) the invalidity or impairment of a lien on the real property; (B) personal property title insurance, as defined by Chapter 2751; or (C) any business that is substantially

equivalent to the insurance described by Paragraphs (A) and (B) and is conducted in a manner designed to evade the provisions of this title.

Title Insurance Agent - A person owning or leasing and controlling an abstract plant or as a participant in a bona fide joint abstract plant operation and authorized in writing by a title insurance company to solicit insurance and collect premiums and to issue or countersign policies on the company's behalf.

Title Insurance Company - (A) a domestic company organized under this title to engage in the business of title insurance, as described by Section 2501.005; (B) a foreign title insurance company that: (i) meets the requirements of this title; and (ii) holds a certificate of authority to engage in business in this state; or (C) any other domestic or foreign company that: (i) meets the requirements of this title; and (ii) holds a certificate of authority to insure a title to real property in this state.

Title Plant – The total facilities (records, equipment, fixtures, and personnel) required to function as a title insurance operation. Technically, the organization of official records affecting real property into a system which allows quick and efficient recovery of title information.

Title Policy – Any contract of title insurance, the form for which is prescribed by the Commissioner.

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

TLTA – Texas Land Title Association –a statewide trade association representing the title insurance industry in Texas. Founded in 1908 and serving a membership of over 2700, we provide regulatory and legislative advocacy, continuing education and up-to-date information in keeping with our mission to enhance and protect the industry. www.tlta.com

Torrens System – A governmental title registration system wherein title to land is evidenced by a certificate of title issued by a public official known as the registrar of title.

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

Tract – A particular parcel of land.

Transfer of Ownership - Any means by which the ownership of a property changes hands. Lenders consider all of the following situations to be a transfer of ownership: the purchase of a property "subject to" the mortgage, the assumption of the mortgage debt by the property purchaser, and any exchange of possession of the property under a land sales contract or any other land trust device.

Transfer Tax - State or local tax payable when title passes from one owner to another.

Treasury Index - An index that is used to determine interest rate changes for certain adjustable-rate mortgage (ARM) plans. It is based on the results of auctions that the U.S. Treasury holds for

its Treasury bills and securities or is derived from the U.S. Treasury's daily yield curve, which is based on the closing market bid yields on actively traded Treasury securities in the over-the-counter market.

TRID – TILA/RESPA Integrated Disclosures – A reference to the new forms in use as of October 3, 2015 for certain types of loans. Specifically refers to the Loan Estimate and Closing Disclosure forms.

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

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

Truth-in-Lending - A federal law that requires lenders to fully disclose, in writing, the terms and conditions of a mortgage, including the annual percentage rate (APR) and other charges.

Turnkey Housing – Housing initially financed and built by private sponsors and purchased by housing authorities for use by low-income families under the public housing program.

U

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

V

VA Loan – A loan for purchase of land in which the Veteran's Administration guarantees the lender payment of a home mortgage by a qualified veteran.

Variable Rate Mortgage – A long-term loan having an interest rate which fluctuates with a reference index and generally reflects the current market rate of interest.

Vendee – A purchaser of real property under land contract. (Buyer.)

Vendor – A seller of real property under land contract. (Seller.)

Vest – To become owned by.

Veterans Administration (VA) - An agency of the federal government that guarantees residential mortgages made to eligible veterans of the military services. The guarantee protects the lender against loss and thus encourages lenders to make mortgages to veterans.

W

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

Warranty – A promise by the grantor of real property that he or she is the owner and will be responsible to the buyer if title is other than represented.

Warranty Deed – A deed in which the grantor warrants or guarantees that indefeasible title is being conveyed.

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

Wraparound Mortgage – A mortgage which secures a debt which includes the balance due on an existing senior mortgage and an additional amount advanced by the wraparound mortgagee. The wraparound mortgagee thereafter makes the amortizing payments on the senior mortgage. An example: A landowner has a mortgage securing a debt with an outstanding balance of \$2,000,000. A lender now advances the same mortgagor a new \$1,000,000 and undertakes to make the payments due on the \$2,000,000 debt. A \$3,000,000 wraparound mortgage on the land is taken to secure this new \$3,000,000 wraparound note.

Z

Zoning – The right of a municipality to regulate and determine the compatible character and use of property.

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