

REAL ESTATE TERMS AND DEFINITIONS

[A]

- ABSTRACT – An abbreviation of the cardinal aspects of all recorded deeds, mortgages, leases and other instruments affecting the title to a particular piece of land
- ABTRACTOR – The person or company engaged in making abstracts
- AMORTIZATION – This term has developed through French and Old English from the Latin words “mors” or “mort,” meaning “death” or “dead.” It is the “killing off” of an existing debt by regular partial payments. The word “mortgage” is also derived from the same Latin root.
- APR – Annual Percentage Rate — the yearly interest percentage of a loan as expressed by the actual rate of interest paid. This rate will rarely be the same as the borrower’s interest rate.
- APPRAISAL – An estimate of property value from an analysis of facts about the property

[B]

- BROKER – One who acts as an agent for another in negotiating sales or purchases in return for a fee or commission. Can also be used to refer to a mortgage broker.
- BROKERAGE – A fee or commission paid to a broker.

[C]

- CHAIN OF TITLE – Beginning with a conveyance out of an original source of title, such as a government, each succeeding conveyance, will or other medium that conveys and transfers the title to succeeding owners constitutes a link in the chain of title. The chain of title is the composite of all such links.
- 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 – In some areas called a “settlement.” The process of completing a real estate transaction during which deeds, mortgages, leases and other required instruments are signed and/or delivered, an accounting between the parties is made, money is disbursed, the papers are recorded and all other details such as payment of outstanding liens and transfer of hazard insurance policies are attended to.
- CLOUD ON TITLE – An irregularity, possible claim, or encumbrance which, if valid, would adversely affect or impair the title.
- COMMISSION - The amount due a real estate broker, mortgage loan broker, or real estate professional for services performed in such capacity.

[D]

- DEED – A term used by other states to refer to a written document by which title to real estate is conveyed from one party to another or by which a lender takes the borrowers property as collateral. In Louisiana, a warranty deed is referred to as a cash sale and a deed of trust is referred to as a mortgage.
- 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.

[E]

- EARNEST MONEY – Down payment or a small part of the purchase price made by a purchaser as evidence of good faith
- ENCROACHMENT – The extension of a structure from the real estate to which it belongs across a boundary line and onto an adjoining property
- ENCUMBRANCE – A claim, right or lien upon the title to real estate, held by someone other than the real estate owner
- ENDORSEMENT – Addition to or modification of a title insurance policy, which expands or changes coverage of the policy, fulfilling specific requirements of the insured
- ESCROW – Technically, this term strictly refers to a deed delivered to a third person to be held by him until the fulfillment or performance of some act or condition by the grantee. In title industry parlance, it means the depositing with an impartial third party called the escrow agent (usually the title company) of anything pertaining to a real estate transaction including money and documents of all kinds which are to be disbursed and delivered to the rightful parties by the escrow agent when all conditions of the transaction have been met.
- 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.
- EXAMINATION – In title industry terms, to peruse and study the instruments in a chain of title and to determine their effect and condition in order to reach a conclusion as to the status of the title
- EXAMINER – Usually referred to, in title industry terms, as title examiner. One who examines and determines the condition and status of real estate titles.

[F]

- FIRST MORTGAGE – A mortgage having priority as a lien over any other mortgage or lien on the same property
- FORECLOSURE – A legal proceeding for the collection of real estate mortgages and other types of liens on real estate, which results in cutting off the right to redeem the mortgaged property and usually involves a judicial sale of the property to pay the mortgage debt.

[G]

- GOOD FAITH ESTIMATE – 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 costs 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.

[H]

- 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 – A person who inherits or who is entitled to inherit real estate by provisions of law or under the provisions of a will.

[I]

- INGRESS – The right or permission to enter; also the means or place of entry such as a right-of-way across adjoining land
- INTESTATE – Dying without leaving a legal will

[L]

- LEASE – An agreement granting the use or occupancy of land during a specified period in exchange for rent
- LIEN – The liability of real estate as security for payment of a debt. Such liability may be created by contract, such as a mortgage, or by operation of law, such as a mechanic’s lien.
- LIS PENDENS – A pending lawsuit. A *lis pendens* notice is legal notice to the world that a lawsuit is pending.
- LOAN POLICY – A policy of title insurance issued to the mortgage lender insuring against loss by defects in, liens against, or unmarketability of title

[M]

- MARKETABLE TITLE - A title that a court of equity considers to be so free of material defects and liens that it will force the title’s acceptance by questioning purchaser. Also known as a merchantable title.

- MARKET VALUE – An average between the highest price that a buyer, willing but not compelled to buy, would pay and the lowest price a seller, willing but not compelled to sell, would accept
- MECHANIC'S LIEN – A lien on real estate, created by operation of law, which secures the payment of debts due to persons who perform labor or services or furnish materials incident to the construction of buildings and improvements on the real estate
- MORTGAGE – A temporary conditional pledge of property to a creditor as security for the payment of a debt that may be cancelled by payment.

[O]

- OPINION – In title industry terms, referred to as title opinion. The conclusion and judgment of a skilled person as to the status of a title, based upon a title examination.
- OWNER'S POLICY – A policy of title insurance usually insuring an owner of real estate against loss occasioned by defects in, liens against, or unmarketability of the owner's title

[P]

- POWER OF ATTORNEY – A legal instrument authorizing one to act as another's agent or attorney
- PREMIUM – (1) The amount payable for an insurance policy (2) A sum of money or bonus paid in addition to the regular price.
- 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.
- PUBLIC RECORDS – The transcriptions in a recorder's office of instruments that have been recorded, including the indexes pertaining to them

[Q]

- QUIT CLAIM DEED – A deed that does not imply that the grantor holds title, but which surrenders and gives to the grantee any possible interest or rights which the grantor may have in the property.

[R]

- REALTOR – A copyrighted trade name that can be legally used only by those persons belonging to the National Association of Realtors
- RECORD TITLE – The aspects of a title that appear in the public records as distinguished from unrecorded title aspects and interests

- RIGHT OF WAY – (1) The right to pass over property owned by another, usually based upon an easement (2) A path or thoroughfare over which passage is made (3) A strip of land over which facilities such as highways, railroads or power lines are built

[S]

- 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 mortgage ranking in priority immediately below a first mortgage
- SIMULTANEOUS ISSUE RATE – When referring to title insurance, the simultaneous issue rate is the reduced rate for a loan policy or owner’s policy of title insurance issued on the same property or loan at the same time as another policy. The term usually refers to a loan policy issued at the same time as an owner’s policy when a property is purchased.
- SURVEY – (1) To determine the location, boundaries, area or the elevations of land and structures upon the earth's surface by means of courses in relation to the North Star, and the measuring of angles and distances by using the techniques of geometry and trigonometry (2) The map or plat drawn by a surveyor, which represents the property surveyed and shows the results of a survey

[T]

- TAX LIEN - The lien imposed upon real estate by operation of law which secures the payment of real estate taxes
- TITLE DEFECT – (1) Any possible or patent claim or right outstanding in a chain of title that is adverse to the claim of ownership (2) Any material irregularity in the execution or effect of an instrument in the chain of title
- TITLE INSURANCE – Indemnity against loss resulting from defects in or liens upon a title
- TITLE SEARCH - A search and perusal of the public records for recorded instruments that affect the title to a particular piece of land

[U]

- UNDERWRITER - An insurance company that issues insurance policies either to the public or to another insurer