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## **Real Estate Glossary of Terms**

NOTE: The list of terms below is neither exhaustive nor technical, and is intended to give the user of this glossary a very basic understanding of some of the commonly used terms associated with a real estate transaction.

**Adjustable Rate Mortgage (ARM)** – A mortgage that allows the lender to adjust the mortgage's interest rate based on changes to a pre-selected index. When rates change, the mortgage's monthly payments will increase or decrease, but are usually subject to a cap.

**Agency** – A relationship in which a real estate broker or associated licensee represents a client in a real property transaction. The relationship can be express (evidenced by a written agreement) or implied (no written agreement). In Illinois, a real estate agent will owe the client certain statutory duties that are similar to fiduciary duties (see agency duties below).

**Agency Duties** – A licensee has a duty to perform according to the terms of the agency or brokerage agreement and to promote the client's best interests by:

- Seeking a transaction that meets the terms of the agency agreement or that is otherwise acceptable to the client;
- To present all offers to the client unless the client directs otherwise; and
- To disclose material facts about the transaction that the agent actually knows and that are not confidential to the client.

**Americans with Disabilities Act (ADA)** – A 1992 federal law designed to eliminate discrimination against individuals with disabilities.

**Amortization** – Gradual debt reduction. Normally, the reduction is made according to a predetermined schedule for installment payments.

**Annual Percentage Rate** – A term used in the Truth in Lending Act to represent the full cost of a loan including interest and loan fees.

**Appraisal** – An estimate of a property's fair market value based upon an analysis by a disinterested, qualified, licensed person.

**Appraiser** – The appraiser decides the market value of a home based on its condition and the selling prices of comparable homes recently sold in the area. His or her job is to compute a fair estimate of market value that might help the lender decide a reasonable loan amount, for one example.

**Appreciation** – An increase in value of an asset; the opposite of depreciation.

**Arbitration** – A means of settling a dispute between parties through an impartial party; the decision is final and binding.

**Assessed Valuation** – The value that a taxing authority places upon personal or real property for the purpose of computing a taxation amount.

**Assessor** – An elected public official who appraises property for tax purposes. He determines only the assessed value, not the tax rate.

**Borrower** – A person who receives funds in the form of a loan from a lender and who will be obligated to repay the loan in full, usually with interest, to the lender.

**Brokerage Agreement** – A written or oral agreement between a sponsoring broker and a consumer for acting as a broker/agent on behalf of the consumer in return for the right to be paid for those services. Any exclusive brokerage agreement must be in writing and contain certain minimum services that must be provided by the broker to the consumer.

**Broker, Real Estate** – A person or entity who will engage in the following activities for another person and in exchange for payment:

- Sell, exchange, purchase, rent or lease real estate
- Offer to sell, exchange, purchase, rent or lease real estate
- Negotiate, offer, attempt or agree to negotiate the sale, exchange, purchase, rental or leasing of real estate
- Lists, offers, attempts or agrees to list real estate for sale, lease or exchange

- Buys, sells, offers to buy or sell, otherwise deals in options on real estate or improvements on real estate
- Supervises the collection, offer, attempt, or agreement to collect rent for the use of real estate
- Advertises himself or herself as being in the business of buying, selling, exchanging, renting or leasing real estate
- Assists or directs in the procuring or referring of real estate prospects
- Assists or directs in the negotiations of any real estate transaction
- Markets real estate to the public by means of an open house
- Auctions real estate

**Building Code** – The local regulations that affect design, construction, and materials used in construction. Building codes can be based on safety and health standards.

**Chattel** – Personal property.

**Client** – A person who is represented by a licensee/agent.

**Closing** – The conclusion of a transaction. In real estate, the closing can include the delivery of a deed, payment of the purchase price and expenses associated with the transaction, the signing of any documents such as notes and mortgages, and the disbursement of funds necessary to the sale or loan transaction.

**Closing Agent/Attorney** – A closing agent or attorney assures that all documentation related to the sale of a house has been completed properly, including the title search and title insurance. The closing agent explains all closing documents to the buyer and the seller, obtains their signatures where necessary and records the documents.

**Closing Costs** – All of the costs to the buyer and seller individually that are associated with the purchase, sale, or financing of real property. They include, but are not limited to, prorating of agreed items such as taxes and rents, the cost of title insurance policies, and the cost of credit reports, recording fees and escrow fees. Synonym: settlement costs.

**Closing Statement** – A financial disclosure form that summarizes and outlines all funds received and expected at the closing, including but not limited to the escrow deposits for taxes, hazard insurance, and mortgage insurance.

**Collateral** – Property pledged as security for a debt, such as the real estate as security for a loan.

**Commission** – (real estate brokerage) A real estate broker's fee for negotiating a real estate transaction, often expressed as a percentage of the sales price.

**Commitment** – An agreement, often in writing, between a lender and a borrower to loan money at a future date subject to compliance with stated conditions.

**Condominium** – A form of ownership of real property. The purchaser receives title to a particular unit and a proportionate interest in certain common areas.

**Condominium Declarations** – The basic condominium document that must be registered by the developer before the first unit is sold. The declaration thoroughly describes the entire condominium entity, including each unit and all common areas.

**Confidential Information** – Information learned by the licensee from a client during the term of a brokerage agreement where:

- The client gave written instruction that it be kept confidential;
- It deals with the client's negotiating position;
- It is information that could materially harm the negotiating position of the client.
- Confidential information can't be disclosed by the licensee:

Confidential information does not include material information about the physical condition of the property.

**Consideration** – The cause, motive, price or impelling force that induces a party to enter into a contract.

**Consumer** – A person or entity seeking or receiving brokerage services.

**Contingency** – A condition that must be met before a contract is fulfilled. For example, the sale of a house might be contingent upon the seller paying for certain repairs.

**Contract For Deed** – (1) A contract between a buyer and a seller of real estate where the buyer pays for the property in installments, has possession of the property and holds equitable title. Actual title is held by seller until the final payment. (2) Also called a Land Contract, an Installment Contract, or Bond for Deed.

**Contract To Purchase** – A document that can be legally binding in which the purchaser agrees to buy certain real estate (or personal property) and the seller agrees to sell under stated terms and conditions.

**Conventional Loan** – A loan for the purchase of real estate not insured or guaranteed by any governmental agency.

**Counteroffer** – An offer made in response to an offer (instead of acceptance) and having the effect of rejecting the original offer. For example: A offers to buy B's house for X dollars. B does not accept the offer, but responds by offering to sell to A at a higher price. B's offer to A is a counteroffer.

**Credit Rating** – A rating assigned to a person to help establish ability to pay obligations based upon one's past history of timely payment.

**Credit Report** – A report to a prospective lender on the credit standing of a prospective borrower, used to help determine credit-worthiness.

**Customer** – A consumer who is not being represented by a licensee but for whom a licensee is performing ministerial acts (see definition for ministerial acts).

**Debt-To-Income Ratio** – Long-term debt expenses as a percentage of monthly income. Lenders use this ratio to qualify borrowers for loans, typically setting a maximum debt-to-income ratio of 36 percent.

**Deed** – A written instrument when duly executed and delivered conveys title to or an interest in real estate.

**Deposit** – (1) Can be called "earnest money" and is generally an amount of money given by buyer to seller to indicate an intention to purchase or lease.

**Designated Agency** – One or more agents from a company are appointed by the sponsoring broker to be the legal/designated agent for the client:

- Presumed to be representing the person with whom the agent is working unless there is a written agreement otherwise;
- Other agents in a sponsoring broker's firm might be designated agents for other buyers and sellers and may be the legal agent for the opposite party in the client's transaction;
- The brokerage agreement will be a contract with the brokerage company but the designated agent will be the only legal agent for the client.

**Designated Agent** – The agent(s) designated by the sponsoring broker to act as the legal agent of the client.

**Down Payment** – The part of the purchase price paid by a buyer from his/her own funds to make up the difference between the purchase price and the loan amount.

**Dual Agency** – Where one designated agent is the agent for both buyer and seller or landlord and tenant in the same transaction. This is not allowed without substantial written disclosure as to the limited role of the agent and informed consent in writing signed by both buyer and seller or landlord and tenant.

**Earnest Money** – A sum of money given by a buyer to a seller of real estate to show his intent to buy the property and to help demonstrate his ability to do so.

**Easement** – A license to use another's land entitling the easement holder to a specific limited use, privilege, or benefit such as laying a sewer, putting up electric power lines or ingress/egress to or from the property.

**Eminent Domain** – The right of a governmental body to acquire private property for public use upon paying just compensation (fair market value) through the legal process of condemnation.

**Encroachment** – An improvement (a wall, a fence, a building, landscaping) partly or entirely upon the property of another illegally.

**Equity** – The homeowner's ownership interest in real property. Simply put, it is the difference between fair market value and the current amount the owner owes on any loan on the property.

**Escrow Account** – An account set up by a lender into which the borrower makes periodic payments, usually monthly, for taxes, hazard insurance, assessments, and any mortgage insurance premiums. The funds are held in trust by the lender who pays the sums as they become due.

**Exclusive Agency Listing (Exclusive Representation Agreement)** – A written listing contract between a property owner and a real estate broker whereby the owner appoints the broker as his/her agent for a specific period of time and promises to pay a fee or commission to the real estate broker if the owner's property is sold during the listing period. However, the owner reserves the right to sell the property and not pay a commission to the broker if the buyer has not been introduced to the property by any broker.

**Exclusive Right To Sell Listing** – A written listing contract between a property owner and a real estate broker whereby the owner appoints the broker as his/her agent for a specific period of time and promises to pay a fee or commission to the broker if the real property is sold during the listing period, whether or not the broker is the cause of the sale.

**Fair Housing Act** – Title VIII of the Civil Rights Act of 1968, as amended, which prohibits discrimination in the sale or rental of residential property based on race, color, sex, religion, national origin, handicap and familial status.

**Fair Market Value** – The price at which property is transferred between a willing buyer and a willing seller who have reasonable knowledge of all pertinent facts and neither being under any extraordinary compulsion to buy or sell.

**Financing Costs** – The cost of interest and other charges involved in borrowing money to build or purchase real estate.

**First Mortgage** – A security interest in real estate that creates a primary lien in favor of the lender against real property.

**Fixed-Rate Loan** – A loan with the same rate of interest for the life of the loan.

**Foreclosure** – A legal procedure through which a borrower in default is deprived of his/her interest in mortgaged property. There is foreclosure by sale and strict foreclosure. In foreclosure by sale, the mortgaged property is sold to satisfy the loan and title to the property passes to the lender or to a third party that purchases the property at foreclosure sale. Strict foreclosure is a judicial process through the courts.

**Gross Monthly Income** – The amount of consistent and stable income that an individual receives each month, averaged over a period of time. This amount includes overtime pay, bonuses, commissions and income from dividends or interest, provided that the individual can show a consistent history of receiving such income and does not take out taxes and withholdings.

**Guaranty** – A promise by one party to pay a debt or to perform an obligation contracted by another if the original party fails to pay or perform pursuant to a contract.

**Hazard Insurance** – An insurance contract where the insurer contract pays for loss on a home from certain hazards, such as fire, in exchange for the purchaser's regular payment of premiums (or the cost of insurance).

**Homeowners' Association** – An organization of homeowners residing within a particular development formed for the purpose of maintaining and providing community facilities and services for the common enjoyment of the residents.

**Homeowner's Policy** – A multiple peril insurance policy commonly called "package policy." Owners of private dwellings might purchase this insurance to cover them against risk of loss of the dwelling and contents in the case of fire or wind damage, theft, liability for property damage, and personal liability, to name a few.

**Housing Expense Ratio** – A homeowner's monthly expenses as a percentage of his or her monthly income.

**Impact Fee** – A municipal assessment against new residential, industrial or commercial development projects to compensate for the added costs of public services generated by the new construction.

**Improvements** – Generally, buildings, but may include any permanent structure or other development, such as a street, utilities, landscaping, etc.

**Independent Contractor** – One who agrees to perform a certain act or acts according to his/her own methods subject to the control and/or direction of another regarding the end result. An independent contractor typically pays his/her own expenses, receives no employee benefits and pays his/her own income and social security taxes.

**Inspector** – The property/mechanical inspector examines a home to evaluate such things as its plumbing systems, electrical systems, appliances, heating and cooling systems, roof and structural stability.

**Interest** – An amount paid for the use of money– that is, the cost of securing a loan.

**Interest Rate** – A fee charged by a lender for the borrowing of money for a specified time, usually expressed as an annual percentage.

**Interest Rate Cap** – The maximum interest rate charge allowed on an adjustable-rate loan for any one adjustment period during the life of the loan.

**Joint Tenancy with Right of Survivorship** – An interest in property held by two or more people or entities. Upon the death of a joint tenant, that joint tenant's interest passes to the surviving joint tenants, not to the heirs of the deceased joint tenant.

**Lease** – An agreement between a landlord (lessor) and a tenant (lessee) by which a landlord gives the right of possession to a tenant for a specified period of time (term) for a specified consideration (rent).

**Lease with Option to Purchase** – A lease under which the lessee has the right to purchase the property. For an option to purchase to be valid, the price and terms of the purchase must be set forth in the agreement. The option period may run for the length of the lease or only for a portion of the lease period.

**Lessee** – The party to whom a lease (the right to possession) is given in return for consideration (rent).

**Lessor** – The party who gives the lease in return for consideration (rent).

**Licensee** – A licensed broker, salesperson or leasing agent.

**Lien** – (1) An encumbrance, either voluntary or involuntary, against property for money. (2) A legal claim on the property of another as security for a debt or obligation. Note: All liens are encumbrances, but all encumbrances are not liens.

**Listing Agreement** – An agreement (a contract) between an owner of real property and a real estate agency whereby an agent agrees to find a buyer or tenant for a specific property for a fee.

**Loan** – Borrowed money (principal) typically repaid with interest.

**Loan-To-Value Ratio** – The relationship between the amount of a home loan and the total value of the property. For example, if you receive a loan of \$33,250 on a home that costs \$35,000 the loan-to-value ratio is 95 percent (33,250 divided by 35,000).

**Market Value** – The highest price that a willing buyer would pay and the lowest price a willing seller would accept, in an arm's-length transaction.

**Mechanic's Lien** – A statutory lien created in favor of contractors, laborers and materialmen, surveyors, engineers and architects who have performed work or supplied materials for construction or repair of improvements to a property.

**Ministerial Acts** – Acts performed by a licensee for a consumer that are clerical in nature and do not rise to the level of agency representation. They include but are not limited to:

- Talking to a consumer who is asking about availability and pricing of brokerage services;
- Responding to phone calls from a consumer about price or location of a property
- Setting an appointment to view a property; and
- Completing business or factual information on a contract for the consumer (not the client) on behalf of the agent's own client.

**Misrepresentation** – To give a false idea regarding a property. May be by omission or by concealment of a material fact.

**Mortgage** – A security interest in real property given by a borrower in exchange for a loan from the lender to enable the borrower to purchase real estate, for example. The lender will hold a

security interest (mortgage) in the property and the borrower will make regular payments, including interest, to reduce the loan amount until paid in full.

**Mortgage Banker** – One who originates mortgages exclusively for resale on the secondary mortgage market.

**Mortgage Broker** – One who charges a service fee for bringing together a borrower and lender for the purpose of a loan origination.

**Mortgagee** – A lender to whom a security interest in property is conveyed in exchange for the loan.

**Mortgage Life Insurance** – A type of term life insurance. The amount of coverage decreases as the mortgage balance declines. In the event that the borrower dies while the policy is in force, the debt is automatically paid by insurance proceeds.

**Mortgagor** – One who borrows money, giving as security a mortgage or deed of trust on real property.

**Multifamily Dwelling** – A building designed as a dwelling for more than one family at the same time.

**Multiple Listing Service (MLS)** – An information exchange that publishes property listings for its members so that each member may have an opportunity to sell the properties, usually for compensation.

**Non-Conforming Use** – A use of property that does not conform to the zoning of the area but is permitted to continue. Usually the property was used in conformity with zoning and then the zoning was changed.

**Non-Exclusive Listing** – A listing under which the real estate broker/agency has an exclusive listing as opposed to other brokers/agencies, but the owner may sell the property without using an agent and not be liable to pay a commission.

**Notice of No Agency Relationship** – A disclosure document given to a customer who is not a client so the customer is put on notice that the customer should not tell the agent anything he would not want the opposing party to know. (This is because the agent is representing the opposing party).

**Offer** – A proposal for acceptance. An offer should be definite as to price and terms.

**Open Listing** – A written authorization to a real estate broker/agency by a property owner, stating that a commission will be paid to that broker/agency upon closing if that broker/agency procures the buyer.

**Origination Fee** – A one-time fee (points) charged by a lender for making a real estate loan. The fee (usually a percentage of the amount loaned) may include the costs of loan document preparation, a credit check and an appraisal.

**Owner's Policy** – Title insurance for the owner of property.

**PITI** – Principal, Interest, Taxes, and Insurance are the components of a mortgage payment, on a mortgaged loan.

**Point** – A dollar amount paid to a lender for making a loan. A point is one percent of the loan amount. Also called discount points.

**Power of Attorney** – A legal document authorizing someone to act on behalf of another. The authority can be complete or limited to a specific act or acts. Sometimes referred to as Attorney in fact.

**Prepayment Clause** – The clause in a mortgage or note allowing a borrower to pay off the loan prior to the date of maturity.

**Prepayment Penalty** – An amount that may be charged to the borrower by the lender for the early repayment of a debt. The prepayment penalty compensates the lender for the interest on the loan it would now not be earning.

**Principal** – The original balance of money loaned, excluding interest. Also, the remaining balance of a loan excluding interest.

**Private Mortgage Insurance (PMI)** – Insurance generally required by a lender when the borrower's down payment is less than 20 percent of the purchase price, enabling a lender to

make a conventional loan of a higher percentage of the property value. The cost of private mortgage insurance is usually included in the borrower's monthly mortgage payment.

**Property Tax** – A tax levied on real property, the amount of which is dependent upon the property's value.

**Purchase and Sale Agreement** – An agreement between a buyer and seller of real property setting forth the price and terms of the sale.

**Quitclaim Deed** – A deed that transfers whatever interest the grantor/seller has in a property without warranties, guarantees or obligations.

**Radon** – A radioactive gas sometimes found in homes that can cause health problems.

**Real Estate** – Any interest or estate in land.

**Real Estate Broker** – A licensed person who is hired to market a seller's home to potential buyers and who helps negotiate the contract between the seller and the buyer. The broker can also identify available properties for buyers and show them homes that meet their criteria.

**REALTOR®** – A real estate professional who is a member of the National Association of REALTORS®, who subscribes to a strict code of ethics.

**Rescission** – Cancellation.

**Recording** – The act of filing or recording documents affecting interests in real property as a matter of public record, giving notice to future purchasers, creditors, and other interested parties.

**Redlining** – The discriminatory practice of denying loans or insurance to people trying to buy or live in certain areas.

**Release** – An instrument releasing property from the lien of the mortgage, judgment, etc.

**Rent** – A fixed periodic payment made by a tenant for the occupancy and use of real property.

**Residential Real Property Disclosure Act (Seller Disclosure)** – A consumer protection law designed to give buyers the benefit of the seller's actual knowledge about the condition of the property they are buying.

**RESPA** – Real Estate Settlement Procedures Act. RESPA is a federal law that requires lenders to provide home mortgage borrowers with information about known or estimated settlement costs, and that regulates those who provide settlement services to home sellers and purchasers.

**Right of First Refusal** – A provision in an agreement that requires the owner of a property to give another party the first opportunity to buy or lease that property before it is offered to anyone else.

**Sales Contract** – An agreement between a buyer and seller containing all of the essential terms and conditions for the sale of real estate. Not to be confused with a land contract, contract for deed or installment contract.

**Septic System** – A sewage system, whereby waste is drained through pipes into a septic tank.

**Servicer** – After a mortgage loan closes, the loan servicer collects the payments, manages escrow accounts, pays taxes and insurance bills as they become due, and manages delinquent payments. Lenders often "release" servicing to another business, which means that a homebuyer will not necessarily send house payments to the original lender.

**Setback** – The amount of space required by zoning between a lot line and a building line.

**Settlement** – The closing of a loan or sale transaction.

**Settlement Statement** – A statement, generally provided at closing, giving a complete breakdown of costs involved in a real estate sale. Also known as the HUD-1.

**Simple Interest** – Interest computed only on the principal balance.

**Single-Family** – A term originally used to distinguish a house designed for use by one family from an apartment house. More recently, used to distinguish a house from a planned development or condominium.

**Special Assessment** – A tax or levy imposed against specific parcels of real estate that will benefit from a proposed public improvement such as a street or sewer.

**Sponsoring Broker** – The person or entity who oversees the licensees/agents/brokers that are associated with that firm.

**Tax District** – An area over which a governmental body has authority to levy property taxes.

**Tax Lien** – A charge against property created by operation of law. For example: (1) A lien for non-payment of property taxes, attaching only to the property upon which the taxes are unpaid. (2) A federal income tax lien. This lien may attach to all property of the one owing the taxes.

**Tenancy by the Entirety** – A type of joint tenancy available only to a husband and wife during marriage on their principal residence. Upon the death of one spouse, the survivor becomes the owner of the entire property.

**Tenancy In Common** – A type of joint tenancy by two or more persons in which each owner owns an undivided interest. In the event of the death of one of the tenants in common, that tenant's interest passes to his estate or his heirs.

**Tenant** – A holder of property under a lease or other rental agreement.

**Title** – Ownership in property. In the case of real estate, the documentary evidence of ownership is the deed. Title may be acquired through purchase, inheritance, gift or through foreclosure of a mortgage security interest, to name a few examples.

**Title Insurance** – Insurance which provides for the payment of a specific amount of funds for loss caused by defects in the title to real estate.

**Title Search** – A review of all recorded information to real property to disclose the past and current facts.

**Truth-In-Lending** – A federal law that requires the full, written disclosure of the terms and conditions of a mortgage and the annual percentage rate to a homebuyer. Also known as Regulation Z.

**Variable Interest Rate** – An interest rate that fluctuates as the prevailing rate moves up or down. In mortgages there are usually caps to the frequency and amount of fluctuation.

**Variance** – A change to a zoning requirement without changing the zoning, usually with respect to a certain piece of property under certain circumstances.

**Warranty** – A legally binding promise, given at the time of a sale, whereby the seller gives the buyer certain assurances as to the condition of the property being sold.

**Zoning** – City or county ordinances or regulations that specify how property may be used in specific areas.