

Title Insurance Terms and Concepts

ALT: American Land Title Association, the national trade association for the title insurance industry. ALTA is made up of title firms that conduct your closing and issue you an Owner's or Lender's Policy of Title Insurance.

Arbitration: is a private process where disputing parties agree that one or several individuals can make a decision about the dispute after receiving evidence and hearing arguments.

Adverse Possession: is a doctrine under which a person in possession of land owned by someone else may acquire valid title to it, so long as certain common law requirements are met, and the adverse possessor is in possession for a sufficient period of time, as defined by a statute of limitation.

Chain of Title: The chronological order of conveyance of a parcel of land, from the original owner to the present owner.

Closing: The process of completing a real estate transaction during which deeds, mortgages, leases, and other required instruments are signed and/or delivered, and accounting between parties is made, and the money is disbursed.

Closing Protection Letters: A document issued by a title insurance company in connection with an about-to-be-issued title insurance policy. It protects a mortgagee who is forwarding funds to a title insurance company's agent or attorney against an embezzlement of funds or a failure to follow specific closing instructions.

Commitment: The preliminary report or binder issued prior to the issuance of a title insurance policy containing the terms, conditions, exceptions, and any other matters under which the title insurer is willing to issue its title insurance policy.

Encroachment: The extension of a structure from the real estate to which it belongs across a boundary line and onto adjoining property.

Encumbrances: A claim, lien charge, or liability attached to and binding real property.

Endorsement: The act, of the holder of a negotiable instrument, of transferring said instrument by signing the back of said instrument with or without qualifications.

Escrow: Any transaction wherein one person for the purpose of affecting the sale, transfer, encumbering, or leasing of real or personal property to another person, delivers any written instrument, money evidence of title to real or personal property or any other thing of value to a third person to be held by such third person until the happening of a specified event or the performance of a prescribed condition, then it is then to be delivered by such third person to a

grantee, grantor, promisee, promisor, obligee, obligor, bailee, bailor or any agent or employee or any of the latter.

Exception: Any item specifically excluded.

Foreclosure: A proceeding in and out of court, to extinguish all rights, title, and interest, of owners of property in order to sell the property to satisfy a lien against it.

Gap Coverage: Title insurance is generally a two-step procedure, and the period of time between those two steps is the gap period. A title insurance gap policy provides insurance coverage to the policyholder for title defects that may arise during the gap period.

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 with at least three days of applying for a mortgage loan.

Insurance: A contract under which, for consideration, one party agrees to indemnify another for a possible loss under certain conditions.

Lender's Policy: When a mortgage is granted, the lender seeks protection for their investment and requires a policy be issued to protect against losses resulting from claims made by others against the property.

Loan Closing: The time agreed upon by a borrower and a lender when the execution of the loan documents by the borrower occurs.

Owner's Policy: A policy of title insurance usually insuring an owner of real estate against loss occasioned by defects in, liens against, or un-marketability of the owner's title.

Partition: A division of concurrent interest in land. Such types of concurrent ownerships are usually either joint tenancies in common. If the property cannot equitably be partitioned in kind, it will be sold by judicial process, and the proceeds paid out accordingly.

Policy: A contract insuring or indemnifying owners of, or other persons lawfully interested in, real or personal property or an interest in real or personal property against loss or damage.

Premium Rates: Price for a unit of insurance.

Probate: Originally, the proving that a will is valid

Real Property: Lands and anything permanently affixed to the land, such as buildings affixed.

Requirements: That which is imposed by an authority.

Search and Examination: A review of all recorded documents affecting a specific piece of property to determine the present condition of title.

Settlement: The time when the settlement agent has received a duly executed deed, loan funds, loan documents, and other documents and certified funds required to carry out the terms of a contract between the parties, and the settlement agent can reasonably determine that pre-recording condition of the contract have been satisfied.

Simultaneous Issue: When an Owner's and Lender's title insurance policy is issued at the same time. Such issuances usually allow for a reduced premium.

Subrogation: The substitution of one person to another, so that the former may exercise certain rights or claims of the latter.

Title Defect: Title to real property which lacks some of the elements necessary to transfer good title.

Title Insurance: Indemnity against loss resulting from defects in or liens upon a title

Title Insurer: An entity that underwrites title insurance coverage.

Title Producer: Means a person who is authorized to perform, on behalf of a title insurer, the following acts in conjunction with the issuance of a title insurance commitment or policy covering real or personal property situated in the District of Columbia.

The **HUD-1 Settlement Statement** is a standard form I use in the United States of America which is used to itemize services and fees charged to the borrower by the lender or broker when applying for a loan for the purpose of purchasing or refinancing real estate.

The borrower has the right to inspect the HUD-1 one day prior to day of settlement. The form is filled out by the settlement agent who will conduct the settlement.

Since 2010, the HUD-1 settlement statement also contains what is referred to as a Good Faith Estimate or GFE. This additional set of figures specifies estimated settlement figures provided by the lender upon application of the loan.

Borrowers may compare their Good Faith Estimate to the HUD-1 Settlement Statement and ask their lender or broker about any changes.

Effective July 21, 2011, the Real Estate Settlement Procedures Act (RESPA) will be administered and enforced by the Consumer Financial Protection Bureau (CFPB).

Section 8: kickbacks, fee-splitting, unearned fees

Section 8 of RESPA prohibits anyone from giving or accepting a fee, kickback, or anything of value in exchange for referrals of settlement service business involving a federally related mortgage loan. In addition, RESPA prohibits fee splitting and receiving unearned fees for services not actually performed.

Violations of Section 8's anti-kickback, referral fees and unearned fees provisions of RESPA are subject to criminal and civil penalties. In a criminal case a person who violates Section 8 may be fined up to \$10,000 and imprisoned up to one year. In a private lawsuit a person who violates Section 8 may be liable to the person charged for the settlement service an amount equal to three times the amount of the charge paid for the service.

Section 9: Seller required title insurance

Section 9 of RESPA prohibits a seller from requiring the home buyer to use a particular title insurance company, either directly or indirectly, as a condition of sale. Buyers may sue a seller who violates this provision for an amount equal to three times all charges made for the title insurance.

Section 10: Limits on escrow accounts

Section 10 of RESPA sets limits on the amounts that a lender may require a borrower to put into an escrow account for purposes of paying taxes, hazard insurance and other charges related to the property. RESPA does not require lenders to impose an escrow account on borrowers; however, certain government loan programs or lenders may require escrow accounts as a condition of the loan.

During the course of the loan, RESPA prohibits a lender from charging excessive amounts for the escrow account. Each month the lender may require a borrower to pay into the escrow account no more than $\frac{1}{12}$ of the total of all disbursements payable during the year, plus an amount necessary to pay for any shortage in the account. In addition, the lender may require a cushion, not to exceed an amount equal to $\frac{1}{6}$ of the total disbursements for the year.

The lender must perform an escrow account analysis once during the year and notify borrowers of any shortage. Any excess of \$50 or more may be returned to the borrower.