

The Language of Florida Real Estate



Copyright © 2017 Reicon Publishing, LLC. All Rights Reserved.

ISBN 978-0-9984395-5-6

This material may not be reproduced in any form or by any means, electronic or mechanical, including photocopying, recording, or by any information storage and retrieval system or used for teaching purposes without the express, written permission of Reicon Publishing, LLC.

Printed in the United States of America

The Language of Florida Real Estate

Table of Contents

Definitions of Real Estate Terminology.....	1
Websites for Research and Information.....	65
Terms Frequently Used by the Department of Business and Professional Regulation (DBPR).....	67
Abbreviations and Acronyms	69

This page intentionally left blank

- A -**abandonment**

The voluntary surrender or relinquishment of all right, title, possession, or claim of property, with the intention of not reclaiming it; failure to perform.

absentee owner

A property owner who does not reside on the property and who usually contracts with a property manager to oversee the investment.

abstract continuation

The extension of a title search from the date of the last abstract to the current date.

abstract of title

A condensed history of title to real property. It includes copies of all material documents placed in the public record that affect title to a specific parcel of real estate in any manner (e.g., deeds and other conveyances, mortgages, liens, easements, encumbrances, marriages, divorces, deaths, and wills).

acceleration clause

A mortgage clause in which the time for payment of the balance of the debt is advanced, and becomes due and payable upon the occurrence of a specified event (e.g., failure to make payments of interest and principal when due, sale of the property, or the placing of an encumbrance [a lien] on the property).

acceptance

The act of a person to take and receive a thing offered or tendered by another person (e.g., acceptance of a mortgage loan commitment from a lender).

accretion

The process of gradual growth in the amount of land due to natural causes, such as additions in soil to the real property. The new deposits of land are termed alluvium deposits.

accrued depreciation

The total loss in building (or improvement) value that has occurred during its life up to the "as of" date of the appraisal.

acknowledgement (of an instrument)

A formal declaration before an authorized official, such as a notary public, by a person who has signed a document that it is his free act.

acquiesce

To give implied consent to an act or transaction by silence or without one's express approval.

acquisition indebtedness

The debt incurred in acquiring, constructing, or substantially improving a principal or secondary residence.

acre

A quantity or measure of land area containing 43,560 square feet.

active income

For U.S. federal income tax purposes, this income includes commissions, wages, tips, salaries, and any activity in which the taxpayer materially participates.

active status

The status of a broker or sales associate who maintains a current, valid license for the purpose of actively engaging in the real estate business.

actual notice

Notice of fact or information actually given to a party. For example, actual notice is served to the public when the owner of real property acquires physical possession of the property.

addendum

Something that is added. For example, an addendum to a real estate contract consists of a list or section of added or deleted material.

adjudication withheld

When court action is withheld. When a person is not convicted of the crime but is still found guilty. An applicant for a Florida real estate license must disclose any convictions, guilty or nolo contendere pleas even when adjudication is withheld.

adjustable rate mortgage (ARM)

A mortgage loan that permits an increase or decrease in the interest rate due to changes in the index.

2 adjusted basis - agency disclosure

adjusted basis

The cost to initially purchase investment property plus closing costs plus any capital improvement.

adjusted sales price (adjusted market price)

The dollar value of the comparable sale after it has gone through the adjustment process to make it the same as the subject property.

administrative (or formal) complaint

An outline of formal charges filed with the Florida Real Estate Commission (FREC) (also called the Commission) against a licensee for violating the law or rule of the Commission or Department of Business and Professional Regulation (DBPR).

Administrative Law Judge (ALJ)

A full time employee of the Division of Administrative Hearings (DOAH) that has been a member in good standing of the Florida Bar for the preceding five years who conducts formal hearings under Chapter 120 F.S. The ALJ must submit their findings, conclusions, and recommended order to all interested parties including the Department of Business and Professional Regulation within 90 days.

administrative penalties

Refers to the power of the FREC to penalize a licensee by license fines, suspension, revocation, and other methods.

Administrative Procedures Act

(APA) – Florida Chapter 120, F.S. establishes the procedures that governmental agencies, such as the Florida Real Estate Commission and Department of Business and Professional Regulation must follow when exercising certain powers.

adopt

To accept, consent to, and put into effective operation. For example, the Florida Real Estate Commission adopts rules that implement its powers and duties prescribed by law.

ad valorem

A term meaning according to value. For example, ad valorem taxes on Florida real estate are based upon the assessed value of the property.

adverse interest

The interest of a party that is opposed to or opposite from the interest of another party to the same transaction (e.g., the adverse interest of a buyer and seller, or landlord and tenant).

adverse possession

Acquisition of title to another person's real property by a person who enters into open, adverse, hostile, notorious, exclusive, and continuous possession of the property for a statutory period of time without the consent of the owner. In Florida, possession must continue for seven or more consecutive years with the real estate property taxes paid during all the years of possession. Always consult an attorney when acquiring real property through this process.

affidavit

A voluntary, written declaration or statement that is confirmed by oath or affirmation of the party making it, and taken before a person having authority to administer such oath.

after tax cash flow (ATCF)

The cash return after considering income taxes; the amount remaining after paying all expenses, debt service, and income taxes. NOI – annual depreciation – tax liability – capital improvements = ATCF.

agency (or agency relationship)

A relationship in which one person delegates authority to another person to act for or represent him (e.g., the relationship between a principal and agent, or an employer or proprietor and independent contractor). The general law of agency and the Florida Real Estate License Law (Chapter 475, F.S.) directly affect the relationships between real estate licensees and their principals (i.e., employers or clients).

agency disclosure

Before any contractual agreement is signed, a real estate licensee is required to make written disclosure to all parties for whom he is not an agent that he is the agent of another party in the transaction. The requirement applies to those residential real estate transactions that involve the

sale, exchange, purchase, or lease of real property.

agent

A person authorized by another person to act for or represent him. For example, a real estate broker is the agent of his principal.

agricultural

As defined in Chapter 475 F.S., property that is more than 10 acres. An example is a farm.

air rights

The right to use all or a portion of the air space above a parcel of real estate that is vested by a grant (e.g., fee simple, leasehold agreement, or other conveyance).

alienation clause

Also referred to as due-on-sale clause; mortgage clause that requires the loan to be paid off upon sale of the property; prevents an assumption of the mortgage.

allodial system

The basis of modern real estate practice in this country today wherein the private ownership of land is free and absolute. It is subject only to governmental and voluntary private restrictions.

alluvion deposits

See accretion.

amendment

A modification or change in an enacted law or rule, or in a legislative bill prior to its passage.

amenities

As applied to real estate, tangible or intangible features that enhance the desirability of property, contribute to the enjoyment of the property, or increase the property value. Tangible features include a swimming pool, extensive landscaping, or a tennis court; however, property location, view, or access to a body of water are intangible features.

Americans With Disabilities Act of 1990

(ADA) Prohibits discrimination on the basis of disability in employment, state and local government, and public accommodations (e.g., hotels, theaters, government buildings, schools, commercial facilities, and transportation).

amortize

To gradually reduce and thus repay the principal balance of a mortgage loan.

amortized mortgage

A mortgage loan that is repaid in periodic installments of principal and interest over a specified time period or loan term.

amperage (amps)

The measure of electricity to appliances, switches, plugs, and fixture boxes. Amps = Watts/Volts

annexation

As applied to real estate, the act of joining, attaching, or uniting one thing to another, which may involve either land or fixtures.

See fixture.

annual debt service

The amount of principal and interest paid each year. *See debt service.*

annual percentage rate (APR)

Required by the Truth-in-Lending Act. Creditors must disclose the annual cost of credit that includes finance charges.

answer

The formal written statement by a respondent/subject named in an administrative complaint that sets forth the grounds of his defense.

appeal

A formal request to a superior body or court to review the decision of an inferior body or court for the purpose of reversing, revising, or correcting the action taken by the inferior body or court.

appellant

The party who takes an appeal from an inferior body or court to a superior body or court.

appellee

The party against whom an appeal is taken. The party who has an adverse interest to setting aside or reversing the action of a lower body or court.

appraisal

An estimate of the value of a specific parcel of real property and/or items(s) of personal property as of a given date.

Appraisal Institute (AI)

An institute whose membership is comprised of persons who specialize in appraising real property.

appraisal management company (AMC)

As defined in Chapter 475 F.S., Part II, means the coordination or management of appraisal services for compensation by (1) employing, contracting with, or otherwise retaining one or more appraisers to perform appraisal services for a client; or (2) acting as a broker or intermediary between a client and one or more appraisers to facilitate the client's employing, contracting with, or otherwise retaining the appraisers. House Bill 303 requires the Department of

Business and Professional Regulation to create a new license type for the regulation of AMCs effective July 1, 2011.

appraisal report

Generally, a written document that presents the appraiser's analysis, estimate, or conclusion of the subject property's value as of a given date. It can be written or oral but in order to be recognized for a federally related transaction, it must be written. The three types of reports are letter, form, and narrative reports. See *certified appraisal report*.

appraiser

A person who acts for others in an expert capacity to estimate the value of real and/or personal property. See *certified general appraiser* and *certified residential appraiser*.

appreciation

The increased value of property over time.

appurtenance

That which belongs to and is annexed to another thing (e.g., a right of way, an easement, a barn, an orchard or a garden which passes or is conveyed with the real property).

appurtenant easement

A right a property owner has to use the adjoining property of another.

arbitration

An arrangement for taking a dispute to an impartial (third) party (i.e., an arbitrator).

The parties to the dispute agree in advance to abide by the arbitrator's decision that is

rendered after a hearing at which both parties have an opportunity to be heard.

arm's length transaction (relationship)

The opposite of a fiduciary relationship; dealing at arm's length means the parties have adverse interests.

arrears

An item unpaid, overdue, or past due (e.g., real estate property taxes and mortgage payments are paid in arrears).

asbestos

A strong, flexible material used for fire resistance, insulation, and soundproofing. Asbestos will not burn and is corrosion resistant.

assemblage

The combining of two or more adjoining parcels of real estate under one ownership.

assessed value (or assessment)

The value of a specific parcel of real estate as determined by the County Property Appraiser that serves as the basis for computing property taxes. The Florida Supreme Court has ruled that all assessments are to be made on the basis of just valuation, which is considered to be fair market value. See *special assessment*.

assessment

As defined in Chapter 718, F.S., a share of the funds which are required for the payment of common expenses which from time to time are assessed against a unit owner. See *Chapter 718 F.S.*

assessor's parcel number

A number found in real property records which is assigned by a county to identify and track a particular piece of property. It is used to aid in the assessment of property for tax collection.

asset

The real or personal property of a person or business entity that could be used for the payment of debts; anything of value.

assignee

A party to whom an assignment (i.e., transfer) is made of a contract, lease, mortgage, or other document or obligation.

assignment

A transfer by one party to another of all rights to some kind of property, which is usually intangible property such as a contract, lease, or mortgage.

assignor

A party who assigns (i.e., transfers) to another all rights to some kind of property.

assumption of mortgage

The taking of a mortgage originated by another person. For example, the buyer of mortgaged property often assumes the seller's existing mortgage loan and thus becomes personally liable for repayment of the mortgage loan on the property.

at first contact

Refers to timing of appropriate notice by Florida licensees regarding their relationship to consumers. At first contact means before, or at the time of, entering into a listing agreement or an agreement for representation or before the showing of property, whichever occurs first.

attachment

The process of taking or seizing a party's real and personal property by judicial order in the event a judgment is awarded to another.

attorney-at-law (attorney or lawyer)

A person admitted and authorized to practice law in one or more states, which could include defending and prosecuting civil and criminal actions in a court of law, giving of legal advice, drafting legal documents, and so on.

attorney-in-fact

A person authorized by another to act in his place, either for some specific purpose or to transact business in general. This authority must be conferred by a written document, which is commonly referred to as a power of attorney.

auction

The public sale of real and/or personal property to the highest bidder by a person authorized to do so. To auction real property in the State of Florida, the person conducting the auction (i.e., the auctioneer) must be currently licensed as a real estate broker or sales associate.

automated underwriting

A lender's analysis of a loan application using a computer program to review the applicant's credit history, the property value, and the borrower's ability to repay the loan. Fannie Mae's version is called Desktop Underwriter® and Freddie Mac's version is called Loan Prospector ®. The main advantage is quicker turnaround times for loans sold in the secondary mortgage market. See *Fannie Mae, Freddie Mac, secondary mortgage market*.

automated valuation model (AVM)

A computer generated estimate of residential property value using recent sales and computer software models. It is not an appraisal. See *appraisal*.

avoid

To annul, cancel, make void.

- B -**bad faith**

Generally, conduct implying or involving fraud, or a scheme to mislead or deceive another, or a neglect or refusal to perform some duty or contractual obligation. The term implies the conscious doing of a wrong based upon a dishonest purpose and not an honest mistake, for example, if a licensee takes copies of listings, records, or other confidential information of the broker, when the licensee leaves the employ of the broker. Also called breach of trust.

balloon payment

A final payment on a partially amortized mortgage loan that is much larger than the series of periodic payments made to repay the loan.

bargain and sale deed

A type of deed in which the grantor assures the grantees that he is the lawful owner of the real property, but does not agree to warrant (i.e., guarantee) the title. See *grantor and grantees*.

base line(s)

In the government rectangular survey system of describing real property, imaginary survey lines running east and west crossing a principal meridian. Used to

establish township lines and as boundaries for land areas called townships or tiers. See *government survey system*.

base rent

Usually a fixed amount of minimum rent required to be paid to the landlord.

basis

See adjusted basis.

before-tax cash flow (cash throw-off or pretax cash flow) (BTCF)

A pretax measurement of cash generated by the property. Annual debt service – NOI = BTCF

benchmarks

Used to measure elevations; fixed or permanent reference points.

beneficiary

A person receiving personal property in a will.

bequest

The gift of personal property in a will.

Bert J. Harris, Jr., Private Property

Rights Act Provides a landowner with relief from government regulation or payment of compensation if a state law, rule, regulation, ordinance, or state agency limits, restricts, or unfairly affects the landowner's use of his or her private property, or causes the property to be devalued.

biennium

A period of two years.

biweekly mortgage

A mortgage loan that takes a monthly payment and splits it in half. The borrower makes this half payment every two weeks; thereby making 13 full mortgage payments per year instead of 12. This allows the borrower to pay less interest over the life of the loan and allows a 30 year mortgage to be paid off in approximately 22 years.

bilateral contract

A contract in which all parties have made promises and are bound to perform in accordance with the terms of the agreement (e.g., in a contract for the sale of real property, where the seller is bound to convey his property and the buyer is bound to pay the agreed price for it).

binder contract

Can serve as a basic agreement until all parties can draw a more complete contract. Depending on the wording, this may be no more than a letter of intent between the parties.

binder deposit

A deposit of earnest money given by the buyer to the seller of real property; it serves to indicate the buyer's good faith intent to complete the transaction.

blanket mortgage

A single mortgage that pledges multiple parcels of land as security for a debt. It usually contains a release clause, which allows individual parcels to be released from the mortgage as they are sold and upon payment of a specified amount to the lender.

blind ad

A deceptive or misleading advertisement which does not properly identify the licensed name of the brokerage firm who placed the ad and merely gives a telephone number, street address, or post office box number. Real estate brokers and brokerage firms are prohibited by law and Florida Real Estate Commission rule from using blind ads.

blockbusting

The illegal and discriminatory practice of inducing or attempting to induce a person to sell or rent his real property by representing that people of a certain race, color, religion, or ethnic background are, or likely will be, moving into the neighborhood.

Board of REALTORS®

The local trade organization of the Florida Association of REALTORS® that is affiliated with the National Association of REALTORS®. *bona fide Actual, real, or honest; in or with good faith.*

bond (note)

The written obligation to repay a loan under specific terms that is given by a borrower to a lender. It is usually accompanied by a mortgage that pledges real property as security for the debt. *See promissory note.*

boot

Money or other property that is given to make up the difference in value between exchanged properties. *See like-kind exchange.*

borrower

See mortgagor.

branch office

Any office maintained by a broker in addition to his principal office is considered to be a branch office, and all such offices must be separately registered with the Department of Business and Professional Regulation.

breach of contract

Failure, without legal excuse, to perform in accordance with the terms or conditions of a contract.

bribery

The offering, giving, receiving, or soliciting of anything of value to influence a public official in discharge of his legal or public duty.

broker associate

A person qualified to be issued a license as a broker, but who operates as a sales associate in the employ of a licensed broker or owner/employer. For all practical purposes, a broker associate must operate as a sales associate. *See sales associate and real estate.*

broker price opinion (BPO)

Used to obtain the probable sales price and marketing time of a residential property, based on a qualitative analysis of competitive listings and closed sales. The BPO may be utilized for transactions less than \$250,000 that do not require completion by a state licensed or certified appraiser. It is not an appraisal and cannot be called an appraisal. *See appraisal.*

broker, real estate

A licensed person who, for another, and for compensation, or with the intent to receive compensation, acts as an agent for others in the performance of one or more services of real estate; this includes transactions involving business enterprises or opportunities. As set forth in Chapter 475, F.S., the term broker also includes 1) any

person who advertises rental property information or lists; 2) any person who is a general partner of a brokerage partnership, or an officer or director of a brokerage corporation; and 3) any person or entity who lists, advertises for sale, promotes or sells by any means whatsoever one or more time-share periods per year on behalf of others, except as otherwise provided by law.

brokerage, real estate

A business registered with the Department of Business and Professional Regulation that buys, sells, rents, leases, exchanges, auctions, or appraises the real property of others for compensation, or advertises rental property information or lists, or that lists, advertises for sale, promotes or sells by any means whatsoever one or more time-share periods per year on behalf of others. A brokerage business may be registered and operated as a sole proprietorship, corporation, or general or limited partnership. *See sole proprietorship, corporation for profit, general partnership, and limited partnership.*

Brokerage Relationship Disclosure Act (BRDA)

Florida's law regarding relationships between licensees and consumers. A licensee may enter into a brokerage relationship as either a single agent, as a transaction broker, or as a designated sales associate. Licensees may also engage in a no brokerage relationship.

budget mortgage

An amortizing permanent long-term loan in which the monthly payment includes principal and interest and one-twelfth of the estimated cost of the annual real estate taxes and hazard insurance on the mortgaged property. *See PITI.*

buffer zone

A strip of land that separates one land use from another.

building codes

Construction materials and practices which are regulated through governmental ordinances that protect the public. The State of Florida has a state building code

and different municipalities have their own codes which cannot be less strict than the state code.

building inspection

Normally conducted by a local city or municipality to enforce minimum standards pursuant to the Florida Building Code.

building permit

Issued by a city or municipality in relation to building, electrical, plumbing, roofing, or mechanical work and installations.

business day

Any day other than Saturday, Sunday, or a legal holiday.

business enterprises brokerage

A real estate firm that specializes in businesses with values in excess of \$200,000.

business opportunity brokerage

A real estate firm that specializes in businesses with values less than \$200,000.

business risk

See operating business risk.

business trust, real estate

A business entity formed for the purpose of purchasing and developing real estate, which is funded by persons who make investments at a stipulated amount per unit or share. Generally, a board of trustees is elected by the shareholders to manage the business affairs of the trust. A business trust also may be called a Massachusetts trust, common law trust, real estate investment trust, or syndication.

buyer's market

A market where there are more sellers relative to the number of buyers. *See seller's market.*

- C -

canceled

A license that is void. Cancellation of a license is effective on the date that it is approved by the Florida Real Estate Commission. Cancellation does not involve disciplinary action. A licensee who no longer wants to practice real estate can voluntarily cancel being licensed. *See void.*

capital asset

Real or personal property not held for sale to a taxpayer's customers in the normal course of business.

capital gain (loss)

The gain or loss realized from the sale or exchange of a capital asset (e.g., real property) as defined by the Internal Revenue Code.

capitalization

A mathematical process used by appraisers in the income capitalization approach to convert the annual net income of an income-producing property into an indication of value.

caption

The title, heading, or clause in an abstract where the legal description of the property appears.

casement

A type of window that moves outward by the use of pivots or hinges.

cash flow

See after-tax cash flow.

caveat emptor

Literally translated, the term means, "let the buyer beware." It emphasizes that a purchaser must examine, judge, and test for himself before purchasing goods or services. Since Chapter 475, F.S., Florida Real Estate Commission rules and other laws protect the consumer-buyer. Real estate licensees are prohibited from dealing with the buying public on the basis of *caveat emptor*.

cease and desist order

An order or notice which may be issued by the Department of Business and Professional Regulation when it has probable cause to believe that an unlicensed person has violated any provision of Chapters 475 or 455, F.S., or any lawful rule of the Florida Real Estate Commission or Department of Business and Professional Regulation.

cease to be in force

A licensee cannot conduct any business while the license is in this status (e.g., a broker's license will expire and cease to be in force until he or she notifies the

commission when changing the business address). License law requires the notification no later than 10 days after the change in address.

certificate

A written document intended to relate the facts concerning proceedings, records, and acts of the Florida Real Estate Commission. Certificates are signed by the chairman or vice-chairman, authenticated by the seal of the Commission, and considered as *prima facie* evidence in all courts of the state.

certificate of deposit

A written acknowledgement by a commercial bank, savings association, or other type of savings institution with a promise to pay to the depositor, or to some other person, or to his order, the funds deposited with accrued interest, if any, upon maturity or demand.

certificate of occupancy

An occupancy permit issued by a city or county government when construction has been completed and a final inspection is approved.

certificate of reasonable value

A certificate establishing the current market value of a property based upon an approved Department of Veterans Affairs (VA) appraisal. Issued by the VA, such a certificate places a limit on the amount of a VA-guaranteed mortgage loan.

certified appraisal report

A written document issued by a state-certified appraiser that presents the appraiser's analysis, estimate, or conclusion of the subject property's value as of a given date.

certified general appraiser

An individual certified by the Department of Business and Professional Regulation to issue certified appraisal reports for all types of real property.

certified residential appraiser

An individual certified by the Department of Business and Professional Regulation to issue certified appraisal reports for residential real property of one to four units.

certiorari proceeding

A suit for a court review filed by the taxpayer who pays the taxes under protest.

chain of title

A list of all recorded documents such as deeds, conveyances, mortgages, liens, or other instruments affecting title to a particular parcel of real property. It has been called the basic tool of the title search, for the chain of title begins from the government or original source of title and continues down to the present titleholder.

channeling (or steering)

The illegal and discriminatory practice of directing, channeling, or steering prospective real estate buyers into or out of certain neighborhoods based upon minority status, or into or out of racially transitional neighborhoods. Chapter 475, F.S., Part I

The numerical identification of the Real Estate License Law contained within the Florida statutes.

Chapter 475, F.S., Part II

The numerical identification of Appraiser License Law contained within the Florida statutes.

Chapter 718, F.S.

The numerical identification of the Condominium Act contained within the Florida statutes.

Chapter 719, F.S.

The numerical identification of the Cooperative Act contained within the Florida statutes.

Chapter 720, F.S.

The numerical identification of the Homeowners Association Act contained within the Florida statutes.

chattel (personal property)

All valuable property other than real property. Personal property usually consists of items having a limited life that are easily movable from one place to another (e.g., cars, boats, stocks, bonds, and mortgages).

chattel (real)

An interest in real property that is less than freehold (e.g., a leasehold estate).

chattel mortgage

A mortgage that is secured by personal property.

check

In the government rectangular survey system of describing real property, the land area contained within the intersection of any two adjacent standard parallels or correction lines and any two adjacent guide meridians. A check is 24 miles square and contains 16 townships.

chief administrator

The person who is responsible for the overall policies and practices of a real estate proprietary school or state institution teaching Florida Real Estate Commission prescribed educational courses.

circuit breakers

A safety device designed to interrupt the flow of electric power when a dangerous situation develops.

citation

Administrative penalty issued to real estate licensees, permit holders, and DRE registrants. It comes as a result of an audit or investigation and involves fines from \$100 to \$500. Investigators are authorized to issue citations to licensees when an offense poses no substantial threat to the public health, safety, or welfare, or if the offense poses a substantial threat to the public health, safety, or welfare but the potential for harm has been removed prior to issuance of the citation; or it is a first offense. Examples of some citable offenses include failure to properly reconcile an escrow account when the account

balances; guaranteeing a pupil will pass an exam; and failure to maintain the required office. A licensee has 30 days after receiving a citation to accept or reject it. If the licensee does not dispute it, then it becomes a final order and the case is closed. If the licensee disputes the alleged violations, then the licensee must file a written objection. Also, the licensee must pay the fine on time; otherwise, the Florida Real Estate Commission will file an administrative complaint.

Civil Rights Act of 1866

Prohibits discrimination on the basis of race in any rental or sale of real estate.

Civil Rights Act of 1968

Known as Title VIII - Fair Housing Act, prohibits discrimination on the basis of race, color, religion, sex, or national origin 1) in the sale or rental of residential housing or lots; 2) when advertising the sale or rental of a dwelling; 3) in the origination of residential real estate loans; or 4) when providing any real estate brokerage service.

clause

A subdivision, single paragraph, a sentence, or part of a sentence of a legal document (e.g., a contract, deed, will, or statute).

Clean Air Act of 1970

Requires the Environmental Protection Agency (EPA) to develop and enforce regulations to protect the general public from exposure to airborne contaminants that are known to be hazardous to human health.

clerk of the circuit court

An officer of the court who is responsible for filing pleadings, motions, judgments, and so on, issuing processes, and maintaining records of court proceedings.

client (principal or employer)

A person who delegates authority to another person to act for or represent him as his agent. In real estate brokerage, the client or principal employs the broker as his agent to perform one or more services of real estate on his behalf. *See principal.*

closing

The termination of a real estate transaction when title to the seller's property is conveyed to the buyer in return for the purchase price as stated in the sales contract. Although it concludes the broker's legal responsibilities, good business practice dictates that closing does not terminate his ethical responsibilities to the parties to the transaction.

closing costs

Expenses incurred by the seller and buyer on the sale of real property. The Real Estate Settlement Procedures Act (RESPA), which is a federal statute, regulates the full disclosure of such costs to

borrowers. See *Real Estate Settlement Procedures Act*.

closing date

The date on which the final legal documents pertaining to the sale of real property are completed, and title to the seller's property is conveyed to the buyer in return for the purchase price as stated in the sales contract.

closing statement

A detailed financial accounting of a real estate sales transaction. Some transactions involve three statements 1) the seller's statement; 2) the buyer's statement; and 3) the broker's statement. Also called HUD-1.

cloud on title

Any valid claim or encumbrance on real property that, if valid, affects or impairs the owner's title in the property. If a properly executed quitclaim deed does not clear a cloud or defect on title, it is necessary to file a suit (or action) to quiet title. See *quitclaim deed and suit to quiet title*.

code of ethics

Written standards of ethical conduct, such as the Code of Ethics of the National Association of REALTORS®.

coercion

Compelled to compliance by force of arms or threat.

cognovit clause

A harsh clause that provides that a judgment of default and a lien against all real property owned by the mortgagor can be obtained by simply filing an affidavit in court.

collateral

Real or personal property that is pledged as security for the satisfaction of a debt (e.g., stocks, bonds, or the real property that the borrower pledges as security on a loan).

collusion

When two or more parties get together to defraud a third party.

commercial bank

A federal or state chartered financial institution that acts as a depository and lender for various commercial businesses and activities.

commercial property

A classification of real property used for business purposes or to produce income for the owner. Examples include restaurants, shopping centers, and office buildings.

commingle/commingling

The act of a broker mixing or intermingling his own personal funds with the funds of a client or customer.

commission

The compensation that a broker receives for performing one or more services of real estate in accordance with his employment contract; the Florida Real Estate Commission (FREC).

commitment

An agreement, promise, or pledge to do something (e.g., a loan commitment by a lender that a loan will be made under certain terms if the potential borrower accepts the commitment on or before a certain date).

commitment fee

A fee charged by a lender for issuing a loan commitment.

committee's deed

A deed used to convey title to the real property of a person who is declared legally incompetent. Because a competent grantor must sign the deed, a committee is appointed by the court to administer the incompetent person's affairs and all members of the committee must sign the deed.

common elements

Parts of the condominium association property that are necessary or convenient to the existence, maintenance, and safety of the condominium property and the unit owners. Also called common areas. As defined in Chapter 718 F.S., the portion of the condominium property not included in the units.

common law

The common law consists of principles and rules of action that relate to the government, and security of persons and property. The authority for such laws is derived solely from usages and customs, or from the judgments and decrees of courts

that recognize, affirm, and enforce such usages and customs.

common law of agency

The body of law applicable to consensual relationships in which one person consents to act on behalf of another person and subject to that person's control.

common law trust

See business trust.

community association management (CAM)

A manager of a residential community association. A CAM license is required when the association has more than 10 units or a budget of \$100,000 or more per year.

community property

Under the community property system, property is owned in common by a husband and wife (each having an undivided one-half interest) by reason of their marital status. Florida operates under the common law system and not the community property system.

comparative market analysis (CMA)

A report provided to a real estate agent's customers that provides information helpful in establishing a list price for sellers or offering price for buyers. It is not an appraisal. *See appraisal.*

compensation

Anything or any service of value paid, received, or expected to be paid or received.

compensatory damages

Compensation to an injured party that merely makes good or replaces the loss caused by the wrong or injury. It is obtained by filing suit in a court. It is a remedy for breach of contract. *See breach of contract.*

competent

Duly or legally qualified, able, adequate, suitable, and capable.

complainant

A person who files a complaint with the Department of Business and Professional Regulation. *See respondent.*

complaint

Generally, a written statement that charges or accuses the person named therein of having committed a specified offense.

comprehensive plan

A plan consisting of written and graphic materials that describe principles, guidelines, and standards for the orderly and balanced future economic, social, physical, environmental, and fiscal development of the area served. The plan must be flexible, economically feasible, and meet the goals of the area to be effective.

concealment

The intentional withholding of something that one knows and is duty bound to reveal a form of fraud.

concurrency

A provision of the Florida Growth Management Act that requires growth, zoning, and building permits are kept in line with existing infrastructure.

condemnation

A judicial process of taking private property for public use through the power of eminent domain. The owner must receive just compensation for his property. *See eminent domain.*

condominium

A concept of property ownership consisting of an undivided interest in a parcel of real property (common areas) together with a separate fee simple interest in a single residential or commercial unit in a building located on the property (e.g., an apartment, office, or store).

conflicting demands

A real estate broker who maintains an escrow account receives different claims from the parties to a contract. Florida law requires the broker to provide written notification to FREC within 15 business days of the last party's demand. The broker must institute one of the settlement procedures within 30 business days after the last demand (e.g., if the broker waits until the 10th business day to notify FREC, then the broker has 20 business days to institute one of the settlements procedures). *See business day.*

conforming loan

A conventional mortgage loan that conforms to Fannie Mae and Freddie Mac standards (e.g., borrowers who qualify, can finance up to \$417,000 for a one-unit property).

consent to transition

A principal must give written authorization to the agent prior to changing the representation from single agent to transaction broker.

consideration

The promise, cause, motive, price, or compelling influence that induces a party to enter into a contract. Consideration is one of the essential elements of a valid and enforceable contract. Consideration can be good or valuable. Good is love and affection and valuable is monetary.

conspiracy to defraud

A confederacy between two or more persons formed to commit an unlawful civil or criminal act, or to perform a lawful act in an unlawful manner.

construction

A court's interpretation of the terms of an agreement.

construction lien

(mechanic's lien, material-man's lien) A lien filed with the Clerk of the Circuit Court no later than 90 days after the last labor is performed or last supplies are delivered. It is based on the principle of unjust enrichment and a property owner cannot use materials and labor to improve their property without paying the appropriate party. Once filed, the lien is retroactive to the first day of work. Once filed, the lien is valid for only one year.

construction mortgage

A loan originated to pay the costs of constructing or making improvements to a building, or for development of real property. It is usually a short-term loan and the proceeds are paid in installments as various stages of construction, improvement, or development are completed.

constructive notice

Notice served to the public by recording all instruments which convey or affect the title to real property in the office of the Clerk of the Circuit Court of the county in which the property is located (e.g., deeds and other conveyances, mortgages and assignment of mortgages, liens, and leases for a term of one year or more). When such documents are recorded as prescribed by law, subsequent purchasers and creditors are held to have both knowledge of the documents and their contents.

consumer member

A person appointed to serve on a board who is not, and has never been, a member or practitioner of the profession regulated by such board (e.g., the Florida Real Estate Commission has two consumer members).

Consumer Credit Protection Act

(Truth-in-Lending Act) (Reg Z) Federal law that ensures borrowers and customers in need of consumer credit receive meaningful disclosure of information regarding the cost of consumer credit and terms so that they can compare those terms, shop wisely, and thus avoid the uninformed use of credit.

Consumer Price Index (CPI)

The most used measure of consumer price changes over time for goods and services. The Save Our Homes caps increases in property tax assessments to 3% or the CPI, whichever is lower for a homesteaded property. See *homestead and Save Our Homes*.

contempt

A willful disregard or disobedience of a public authority.

contiguous

In close proximity; adjoining; in actual contact at a point or along a boundary.

contingency clause

A contract clause that provides that a certain act must be completed or that some future event must take place for the contract to become binding on the parties.

contingent

Possible, but doubtful or uncertain; dependent upon the occurrence of some future event or happening.

continuing education

All brokers and sales associates (active and inactive) must satisfactorily complete a minimum of 14 hours of instruction of 50 minutes each of the Commission prescribed or approved education during each renewal period except their first renewal period. The 14 hours are composed of a mandatory three-hour core law course and 11 hours of specialty courses on real estate practices. Note that an involuntarily inactive licensee who is more than 12 months but less than 24 months involuntarily inactive must complete a 28 hour reactivation course instead. See *involuntarily inactive*.

contract

A legally binding agreement between two or more persons that creates an obligation to do or not to do a particular thing. A real estate contract must be in writing and signed to be enforceable in court.

contract for deed

An agreement in which the buyer is contracting for a deed to the seller's real property that will be delivered after payment of a specified sum of money (i.e., principal and interest), often by periodic monthly payments. This document also may be called an installment contract, land sales contract, or agreement for deed.

contract for sale and purchase

A contract in which the owner of a parcel of real property agrees to convey title to the property to the buyer in the future, and the buyer agrees to purchase the property for a specified price, and under certain terms and conditions, on the same date. This document also may be called a sales contract, purchase agreement, or contract for purchase.

contract rent

Also called scheduled rent; the rental amount designated in a lease contract.

conventional mortgage loan

A mortgage loan originated with an institutional lender such as a commercial bank, savings and loan association, or a private lender, which pledges real property as security for the debt. The federal

government is not involved in guaranteeing or insuring such loans.

conversion

The act of receiving the money or property of another party and fraudulently converting, withholding, or applying it to one's own use and benefit—a form of fraud.

conveyance

A written instrument that transfers some estate or interest in land from one party to another (e.g., a deed, mortgage, or will).

cooperative or cooperative association

In the cooperative concept of ownership, the real property (i.e., the land and improvements) is acquired and owned by a corporation or other entity. The purchase of shares in the corporation entitles the tenant-shareholder to occupy a specific unit in the building under a proprietary lease.

corner lot

A lot on the end of the block that is bounded by streets on two sides.

corporate veil

The theoretical protection provided by a corporate structure that applies to its officers, directors, and stockholders. For example, debts of a corporation can usually be enforced against the corporation only, and not against the officers, directors, and shareholders. However, if the Florida Real Estate Commission or a court of law has reason to believe that a real estate brokerage corporation has committed an unlawful act, it may be allowed to pierce or lift the corporate veil and take appropriate action against the offending natural (i.e., living) persons, such as the officers, directors, or shareholders of the corporation.

corporation for profit (corporation)

A type of business organization formed by one or more natural (i.e., living) persons, that is considered by law to be an artificial or fictitious person. A corporation is a legal entity separate from its owners and, as such, may contract, own property, engage in any lawful business, and sue or be sued in its own name. In accordance with Chapter 475, F.S., a domestic or foreign corporation for profit can be registered to

broker real estate in Florida. See *domestic corporation and foreign corporation*.

corporation sole

An ecclesiastical or church organization that is recognized by Florida law. It cannot be organized for commercial business ventures or registered to broker real estate.

correction lines

Imaginary lines located every 24 miles north and south of the base line. These lines are used in the government land survey system of legal description. See *guide meridians and check*.

cost

The amount of funds expended to create a product or good.

cost-depreciation approach

An approach used to appraise real property that is often applied to estimate the market value of special purpose buildings (e.g., churches, schools, government buildings). The approach involves estimating the reproduction cost of the improvements, subtracting all elements of accrued depreciation, and adding to that result the value of the land as estimated separately.

counseling

A specialized real estate service which involves providing professional, competent, independent advice and guidance to a client on a specific real estate problem.

counteroffer

Another offer made in response to an offer previously received but not accepted.

county property appraiser

An elected county official who determines the assessed value of real property, which serves as the basis for computing property taxes.

court

A part of the judicial department of the government where a judge and/or jury administers justice by applying the laws to controversies brought before it.

covenant (in a deed)

A written promise in a deed by which a party, usually the grantor, binds himself to do or not to do a certain act.

coverture

The condition or state of a married woman.

credit

The ability of a person to borrow money or pay for goods over a period of time based upon his past credit history, reliability, and solvency. On a closing statement, funds that are to be received by the seller or buyer.

creditor (lender)

A party to whom a debt or obligation is owed by another party (i.e., the debtor or borrower).

credit unions

Nonprofit cooperative associations, such as teacher or labor unions, whose members place money in savings accounts, which is then loaned out to members.

cul-de-sac

On a U-shaped block.

culpable negligence

Unintentional and careless (or negligent) acts that are censurable, or the failure to do something that a reasonable, prudent, and honest person would have done.

curable

Depreciation is curable when the cost to repair equals the added value.

curable functional obsolescence

A functional deficiency that is economical to correct.

curable physical deterioration

Results from failure to properly maintain the property. Curable problems will return the cost of the repair such as painting or cleaning the building.

custom building

An improvement constructed by the developer, contractor, or builder at the customer's (property owner's) request and to his specifications.

customer (prospect)

The party with whom the broker hopes to be successful in accomplishing the object of his employment. A buyer or seller of real property that may or may not be represented by a real estate licensee in an authorized brokerage relationship. See *transaction broker*.

- D -**data bank (appraisal plant)**

An up-to-date library of statistical information compiled by appraisers, such as real estate sales data, governmental and trade publications, maps, zoning information, land use, and economic studies.

datum

A point of reference for measuring elevations, such as the mean (average) sea level in New York Harbor.

debit

In accounting, an increase in assets or a decrease in liabilities. On a closing statement, funds that are to be paid by the seller or buyer. To charge with a debt.

debt coverage ratio

The ratio of net operating income to annual debt service = NOI/ADS

debt service

Synonymous with mortgage payments. Principal and interest payments.

debtor (borrower)

The party who owes a debt and is responsible for its repayment. See *mortgagor*.

Declaration of Condominium

The instrument or instruments by which a condominium is created, as they are amended from time to time.

declaratory judgment

As applied to contracts, a legal action that permits the contracting parties to settle a controversy pertaining to 1) the meaning of certain words in the contract; or 2) the rights granted to the parties by the words.

dedication

A transfer of land by its owner for public use and accepted for such use by the public (e.g., streets, playgrounds, parks, and recreational areas).

deed

A written instrument, signed by the grantor and witnessed by two persons, which transfers title to real property and declares or creates legal rights and obligations.

deed in lieu of foreclosure

A borrower may want to voluntarily deed the mortgaged property to the lender when he or she anticipates foreclosure. The borrower should obtain cancellation of the unpaid debt. The lender avoids the costs and time associated with foreclosure and the wait involved in redemption periods.

deed of trust

Used to convey title or an interest in property to a third-party trustee to be held as security for a debt or obligation owned by the trustor (borrower) to the beneficiary (lender). A deed of trust is similar to a mortgage and is used in states other than Florida, such as California and Texas.

deed restriction

A clause in a deed that limits the use of land or prohibits certain uses (e.g., the use, type, style, design, or size of a structure that may be constructed on the land). The restrictions cannot be discriminatory against any of the protected classes established by the Federal Fair Housing Act. The restrictions only apply to a specific property whereas restrictive covenants apply to an entire subdivision. See *Federal Fair Housing Act and restrictive covenants*.

default

The failure or omission to perform or fulfill a legal duty, obligation, or promise.

defeasance clause

A clause in a mortgage contract that defeats conveyance of the borrower's property to the lender so long as the borrower repays the debt as agreed, and complies with the terms and conditions of the mortgage contract.

defect

The absence of some legal requisite. A deficiency or imperfection in something essential to completeness (e.g., a defect in title to real property).

defendant

The party who is sued in a court action, either civil or criminal, or summoned to answer a charge or complaint at a trial or hearing.

deficiency judgment

As applied to mortgage law, a judgment rendered by a court that imposes personal liability on the borrower because the foreclosure or short sale did not net enough money to satisfy the lien(s). See *foreclosure and short sale*.

delivery

The actual transfer of a properly executed deed to the grantee by the grantor, with the intention that the deed is to take effect as a conveyance from the date of delivery.

demand

A characteristic of value. Demand is a need or desire for the use or amenity of a property, coupled with the financial capability or purchasing power to fill it. See *supply*.

density

The number of units per acre. Residential zoning is usually based on density. Various subcategories allow for a number of different types of residential uses including single-family homes, condominiums, apartments, and residential estates.

Department of Business and Professional Regulation (DBPR)

An agency of state government (Florida) that functions as a consumer protection agency for the purpose of regulating the professions outlined in Chapter 20, F.S. The Department is governed and regulated in accordance with Chapter 455, F.S.

Department of Housing and Urban Development (HUD)

A department of the federal government that participates in national housing programs, such as urban renewal, public housing, rehabilitation loans, FHA subsidy programs, and water and sewer grants.

Department of Veterans Affairs (VA)

Succeeded the Veterans Administration in 1989. The VA does not lend money directly (with one exception); it partially guarantees permanent long-term loans by VA-approved lenders for owner-occupied residences including condominiums and mobile homes that meet VA standards, and it is available to most veterans of military service based

on entitlement according to the duration and period of military service.

deposit

As applied to real estate, a sum of money or its equivalent given by a potential buyer to a broker or sales associate as earnest money or security for the performance of a contract. It is often forfeited if the depositor (i.e., the buyer) fails to perform in accordance with the contract. See *liquidated damages*.

Deposit Insurance Fund (DIF)

The Federal Deposit Insurance Reform Act of 2005 merged the Bank Insurance Fund and the Savings Association Insurance Fund into a new fund called the Deposit Insurance Fund effective March 31, 2006. The fund insures banks and savings associations.

deposition

The sworn, oral testimony of a witness, which has been reduced to writing and duly authenticated for use in court or a legal hearing.

depreciation

As used in appraising, a loss in building (or improvement) value from all causes, such as physical deterioration, or functional or external obsolescence.

descent and distribution

The transfer or passing of title to property by inheritance upon the death of the property owner who died without leaving a will (i.e., intestate).

designated sales associate

When real estate licensees are involved in a transaction where both the buyers and sellers are working with the same real estate brokerage, a broker may allow different sales associates of the same firm to be designated sales associates to represent the buyer and seller as single agents. Designated sales associate relationships are not permitted in residential sales transactions.

development

The construction of improvements on land (e.g., roads, utilities, and buildings).

devise

A written document that disposes of real and personal property, but which does not take effect until after the death of the person making it (e.g., a last will and testament).

direct participation program

A group investment that provides for 1) a flowthrough of all tax benefits and obligations to its investors; and 2) third party management.

disability

A physical or mental impairment that substantially limits one or more major life activities, a history or record of such impairment, or a person perceived by others as having such impairment.

discount points

A fee or charge made by lenders for services related to originating a mortgage loan in which each discount point equals 1% of the loan amount.

discount rate

The interest rate the Fed charges for its loan of money to member institutions. The Fed may lower or raise the discount rate. When the discount rate is raised, the institutions borrow less from the Fed, their supply of money decreases, and they usually raise their interest rates which tends to reduce demand. This is the least effective technique the Fed has for controlling the money market.

discrimination

A failure to treat all persons equally or fairly.
disintermediation

The process that occurs when individuals withdraw their funds being held in savings accounts and time accounts at financial institutions for direct investment in stocks or other securities.

District Court of Appeal

A court that hears appeals from lower courts or administrative bodies, such as the Florida Real Estate Commission. Decisions of such courts are subject to review by the Florida Supreme Court.

divest (devest)

To make clear one's exact position or ownership interest. For example, a real

estate broker or sales associate is required to divest himself of his identity as such when buying or selling real estate in which he plans to acquire an interest or in which he has an interest.

Division of Administrative Hearings

(DOAH) When an administrative complaint against a licensee results in a formal hearing, it is heard by this governmental entity.

Division of Real Estate (DRE)

A division established within the Department of Business and Professional Regulation that provides recordkeeping services, examination services, legal services, investigative services, plus any other services required to implement Chapter 475 and 455, F.S. The DRE is funded by fees and assessments of the FREC. Funds collected by the FREC are only used to fund real estate regulation.

document

A written instrument on which is recorded the official, legal, or original form of something used to prove a fact (e.g., contracts, agreements, deeds, mortgages, notes, receipts).

documentary stamp tax

A Florida state tax on deeds, conveyances, and written promises to repay money (e.g., notes and mortgages), which is collected when the document is recorded into the public record. Documentary stamp tax on the deed is based on the total sales price and documentary stamp tax on the note is based on the total amount of the notes (new and assumed).

domestic corporation

A corporation (for profit) formed under the laws of the State of Florida, which may be registered to broker real estate.

domicile

The established, principal, and legal residence of a person, as distinguished from a temporary or transient place of residence.

dominant estate

The property that benefits from an easement. See also *servient estate*.

dormer

A window that projects out of a sloping roof.

double-hung

A type of window design where only one half of the window can be open at one time, either sliding the top half down or the bottom half up.

down payment

The amount of money or percentage of sales price or appraised value the lender requires the borrower to provide.

draws

Installment payments made to builders in a construction loan.

dual agency

An agency relationship in which the broker represents both parties as a fiduciary in a real estate transaction, with the knowledge and consent of each. Dual agency is prohibited in Florida. *See also Brokerage Relationship Disclosure Act.*

due diligence

The process of inspecting a commercial property to determine if actual conditions reflect the presented information in order to reduce risk.

due-on-sale clause

A type of acceleration clause contained in a mortgage contract that permits the lender to require immediate, full payment of all funds due upon sale or transfer of the real property if done without the lender's written consent.

duress

The unlawful act of forcing or otherwise coercing a person to act against his free will.

dynamic capital risk

The risk that actual construction costs will exceed estimates.

- E -

earnest money

See deposit.

easement

The legal right of a person to trespass or use the land of another for a specific purpose, which is considered to be an interest in real property.

easement appurtenant

An easement interest that attaches to the land and passes with it from owner to owner.

easement by necessity

An interest in real property that permits an owner of a landlocked parcel to cross a portion of land retained by a grantor (both parcels must have been part of a single unit of land at one time).

easement by prescription

An interest in real property created by the wrongful use and long-continued enjoyment of another's property (e.g., the unauthorized use of a road or walkway) for a statutory period of time—20 years in Florida.

easement in gross

A personal interest in and right to use the land of another (e.g., rights-of-way for water or sewer lines, or power lines).

economic base study

A study that analyzes the employment in an area.

economic life

The period of time during which an income-producing property (e.g., an apartment or an office building, or a motel) yields a competitive return on investment.

effective age

The number of years old that a building appears to be based on observed depreciation.

effective date

The date licensure is granted; usually the date applicants are officially notified in writing of passing the state exam. The date specified in a contract when the last party has signed or initialed an offer or final counter-offer.

effective gross income (EGI)

The total gross income minus the predicted vacancy and collection loss.

elective share

An amount equal to 30% of a decedent's net distributable estate to which the surviving spouse is entitled if he or she files for an elective share as required by law. It does not apply to the decedent's homestead or any property held in a

tenancy by the entirety. See *homestead and tenancy (estate) by the entireties*.
eminent domain

The power of the local, state, or federal government to obtain title to private property for public use and without the consent of the owner. This governmental right must be exercised through condemnation proceedings and a fair price must be paid. It is often done for the purpose of acquiring a right-of-way for road construction, land for public buildings or projects, and so on.

employee

A person who is in the service of another under any type of employment agreement, wherein the employer has the right to control and direct the result of that person's work and the means by which the result is to be accomplished. When used in real estate, the relationship between a broker and a sales associate include an independent contractor relationship when such relationship is intended by and established between broker and a sales associate. The existence of such relationship shall not relieve either the broker or the sales associate of her or his duties, obligations, or responsibilities. See *independent contractor*.

employer

One who employs the services of others. For example, an owner of real property may employ a broker to sell, lease, or exchange his property. See *client (principal or employer)* and *principal*.

encroachment

The unlawful physical intrusion or trespass upon the real property of another (e.g., part of a building, driveway, or fence belonging to one person extending onto an adjacent parcel of land). Generally, an encroachment can be revealed only by a current survey of the properties involved.

encumbrance

Any claim, lien, mortgage, lease, encroachment, easement or right-of-way, unpaid taxes, and so on, attached to and binding real property, which may cause the

title to be clouded and thus affect the property's value.

enforceable contract

A contract that is recognized by law. Also known as a valid contract.

environmental impact statement

A document that summarizes the effect proposed development will have on the surroundings.

Environmental Protection Agency (EPA)

An agency of the federal government that administers various federal laws and regulations pertaining to environmental concerns, which include air and water pollution, noise pollution, solid waste management, radiation, pesticides, and so on.

environmental risk

The risk that substantial costs may be required to conform to new environmental protections that were not known when the investment was made.

Equal Credit Opportunity Act (ECOA)

Regulation B Federal law that stipulates every applicant must be judged on the basis of his or her own credit rating and income unless the applicant specifically requests in the application for a mortgage loan the consideration of another's income or credit history. The extension of credit should not be discriminatory towards race, color, religion, national origin, sex, marital status, age, or receipt of income from public assistance programs.

equitable title

The legal interest in real property acquired by the buyer when a sales contract is executed (i.e., signed) by the seller and buyer. The buyer becomes the equitable owner of the property while the seller retains legal title as security for payment of the purchase price by the buyer.

equity

The surplus value or remaining interest belonging to an owner of real property over and above any mortgage indebtedness or other liens against the property.

equity of redemption

The right of a mortgagor (i.e., a borrower) in default on a mortgage to redeem his

interest in the mortgaged property by curing the reason for default (e.g., paying the sum of money required by the lender, interest, costs). This right to redeem is a matter of law, and not negotiation in Florida, but it must be exercised by the borrower prior to the entry of a foreclosure judgment.

erosion

The loss of land due to natural causes and is very common along Florida's coast.

escalator clause

A clause in a contract, mortgage, or lease providing for an increase of a price, rental amount, or interest rate when an event or contingency occurs.

escheat

The right of the government to obtain title to the real and personal property of a person who died intestate (i.e., without a will) and with no known heirs.

escrow

A system of transfer in which money, documents, or real or personal property are delivered to a disinterested third party and held in trust for others until all conditions in a contract or agreement are fulfilled (e.g., delivery of a deed to an escrow agent until full payment under a contract for deed is made).

escrow account

A trust account maintained by a neutral third party in which the funds of others are deposited until the terms of an agreement or contract are fulfilled by the parties; for example, a separate account maintained by a broker where binder and earnest money deposits are held before closing. Florida real estate license law requires brokers escrow accounts to be in a Florida bank, savings association or credit union.

escrow clause

A clause in a mortgage on real property that requires the borrower to include approximately one-twelfth of the estimated cost of annual property taxes and insurance with each monthly mortgage loan payment.

escrow disbursement order (EDO)

An order issued by the FREC regarding the disbursement of disputed escrow monies.

estate

The degree, quantity, nature, and extent of interest that one has in real and personal property. The extent of interest being held in real property will determine whether one has a freehold or leasehold estate. See *freehold estate* and *leasehold estate*.

estate at will (or tenancy at will)

Is legally known as a period-to-period tenancy with rights that run from week-to-week, month-to-month, quarter-to-quarter, or even year-to-year. The period for which rights exist is typically measured by the frequency of the rental payments. This agreement continues "at the will" of both the landlord and tenant with no specified time or duration for the rights to continue. A nonfreehold estate that either party can terminate with proper notice.

estate for years (or tenancy for years)

A type of nonfreehold estate with a definite beginning date and a definite ending date. This estate may not be terminated except by mutual agreement to terminate, by breach (which could result in a lawsuit), or by expiration of the agreed upon time period.

estate in expectancy

An estate whose title has not yet been received by the party entitled to receive it (e.g., a remainder estate or reversion estate). An estate in expectancy can be either vested or contingent.

estate in possession

Refers to an estate whose titleholder is in possession of the rights to which he or she is entitled. This estate is vested.

estate in severalty

Ownership vested in one owner; also referred to as ownership in severalty, tenancy in severalty, or sole ownership.

estoppel

A principle by which a person is forbidden by law to speak against or deny his own act or deed because of his previous words, acts, or deeds.

estoppel certificate (or letter)

A signed statement by an association or lender certifying for the benefit of another party that certain facts are correct as of that

date (e.g., the current mortgage loan balance, the current interest rate, the date to which interest has been paid, the terms and conditions of the mortgage, and the assessments or special assessments due the association). Delivery of the statement will prevent the party making it from later claiming a different set of facts.

exclusive agency

A listing contract in which the owner agrees to list his property with only one broker. However, the owner can sell the property without obligating himself to the payment of a fee or commission to the broker.

exclusive right to sell

A listing contract in which the owner agrees to list his property with only one broker, and to pay that broker a fee or commission even if the property is sold by another broker or the owner during the term of the listing contract.

exculpatory clause

A nonrecourse clause in a mortgage contract that prevents the lender from obtaining a deficiency judgment against the borrower when the proceeds from a foreclosure sale are insufficient to satisfy the unpaid balance on the mortgage loan.

execute

To perform all required formalities, such as making, signing, and delivering a contract, mortgage, or note.

executed (execution)

Fully performed or completed (e.g., an executed contract) is one in which both parties have fully performed as required and nothing remains to be done by either party.

executive powers

The Florida Real Estate Commission's power to publish materials to inform and advise licensees, to foster licensee education, and to enforce the license law.

executory

That which is yet to be fully performed or completed (e.g., an executory contract) is one in which some additional act must be performed by one or more parties to satisfy all terms and conditions of the contract.

exempt property

Property that is taxed by the property appraiser but has been made exempt and the owner is released from the obligation to pay.

express

Clear, definite, or unmistakable; set forth in words, although not necessarily written (e.g., an express contract) is one in which both parties have agreed, either orally or in writing, to all terms and conditions of the contract.

external obsolescence

In appraising, a loss in real property value caused by adverse factors that are external to or exist outside of the property's boundary (e.g., unpleasant environmental conditions in the immediate area); may also be economic or locational obsolescence.

- F -

facsimile

An exact copy that preserves all marks of the original document.

failure to account

A type of conversion, that occurs when a broker collects a commission and fails to divide or account for any share due his or her sales associate as required by their agreement.

false advertising

Advertising by any means or through any media that is false, misleading, or deceptive. Such advertising by a broker or sales associate for the purpose of selling, purchasing, leasing, or renting real estate located in Florida is a violation of Chapter 475, F.S.

familial status

Refers to families with children including women who are pregnant and people with children under the age of 18.

farm

A parcel of land used for agricultural purposes (e.g., raising crops, livestock, poultry).

Farmers Home Administration (FmHA)

An agency of the U.S. Department of Agriculture that assists farmers and families

living in rural areas obtain high loan-to-value ratio financing. See *loan-to-value ratio*.

farming

A type of marketing method that solicits business from a targeted property type or client.

feasibility study

A report that estimates whether a project is economically feasible.

Federal Deposit Insurance Corporation (FDIC)

A federally chartered corporation that insures the accounts of depositors in its member banks up to \$250,000, if an insured bank becomes insolvent and cannot pay its depositors. Deposit accounts are insured up to \$250,000 per depositor for each institution that the account holder has an account. Formerly the limit was \$100,000 and is set to revert back on January 1, 2014.

Federal Fair Housing Act

The Federal Fair Housing Act, which is contained in Title VIII of the Civil Rights Act of 1968, makes it illegal for real estate brokers or sales associates to discriminate against any person because of race, color, religion, sex, or national origin 1) when selling, leasing, or advertising residential housing or building sites; or 2) when providing any real estate brokerage service.

Federal Home Loan Mortgage Corporation (FHLMC or FREDDIE MAC)

An agency of the federal government that develops the secondary mortgage market by buying and selling conventional, FHA insured, and VA guaranteed mortgages. It deals primarily with federally insured savings and loan associations or from commercial banks that have insured deposits. FHLMC acquires funds by selling mortgages from its portfolio, by selling mortgage backed bonds or guaranteed securities, by selling participation certificates in a pool of mortgages, and from interest earned on mortgages in its portfolio.

Federal Housing Administration (FHA)

An agency of the federal government that operates within the Department of Housing and Urban Development (HUD). It insures mortgage loans on real property made by approved lenders, which protects the participating lenders against loss when a mortgage is in default and foreclosure occurs. The FHA does not construct homes or make mortgage loans.

federal income tax lien

May be filed against real and personal property for nonpayment of federal income taxes.

Federal National Mortgage Association (FNMA or FANNIE MAE)

A private corporation whose operations are regulated by the federal government. It develops the secondary mortgage market by buying and selling conventional, FHA insured, and VA guaranteed mortgages from lenders in the primary mortgage market. The secondary mortgage market provides a source of liquidity to these lenders since they have the option of selling mortgage loans for cash should the need arise. The FNMA acquires funds to purchase mortgages by selling its own government guaranteed debentures at market interest rates, by selling mortgages from its portfolio, and from interest earned on mortgages in its portfolio.

Federal Reserve Board (FRB)

An agency of the federal government that has general overall responsibility for and supervision of the Federal Reserve System (FRS). Its operations are administered by a seven member Board of Governors who are appointed by the president and confirmed by the U.S. Senate.

Federal Reserve System (FRS or the Fed)

A federal system consisting of twelve federal reserve districts, with each having a Federal Reserve Bank. The FRS is the central banking organization in the U.S. whose primary function is to control and regulate the economy with several tools that directly or indirectly affect interest rates. The tools used by the FRS to control the monetary system include its open

market operations, changing the reserve requirements of member banks, and changing the discount rate.

federal savings association

A federally chartered savings association that is privately owned by either stockholders or depositors. These institutions are regulated by the Office of Thrift Supervision and have the word federal in their name. Individually owned accounts in all federal savings associations are insured up to a maximum of \$250,000 by the Deposit Insurance Fund, which is administered by the FDIC. See *Deposit Insurance Fund and savings association*.

Federal Trade Commission (FTC)

An agency of the federal government whose principle functions are to promote free and fair competition in interstate commerce through prevention and elimination of general trade restraints and unfair competition, dissemination of false or deceptive advertisements of consumer products, and unfair and deceptive trade practices.

federally chartered banks

1) have the word national in their name; 2) are chartered by and subject to the control of the Comptroller of Currency; and 3) are members of and regulated by the Federal Reserve Banking System. The Deposit Insurance Fund insures individually owned accounts up to a maximum of \$250,000. See *Deposit Insurance Fund*.

federally related transaction

Any real estate related financial transaction in which a federal financial institution regulatory agency or the Resolution Trust Corporation engages in, contracts for, or regulates and that requires the services of an appraiser. Only licensed or certified appraisers may perform appraisals for these transactions.

fee (compensation or commission)

Payment or remuneration for services rendered or acts performed.

fee simple (fee or fee simple absolute)

An estate in real property that confers absolute ownership of real property to the titleholder with the unconditional power of

disposition during his life or which will descend to his heirs upon his death intestate. It is the highest estate or most comprehensive interest one can have in real property, which is subject only to certain restrictions imposed by law. See *intestate*.

fee simple defeasible

See *qualified fee estate*.

feudal system

A political and social system that dominated Europe from the eleventh through the thirteenth centuries, which was the entire basis for real property law. Under this system, a person was granted possession of land as a tenant on the condition that certain duties and services are performed for a king or overlord.

FHA mortgage

A type of mortgage loan originated by an FHA approved lending institution that insures the lender against loss when the mortgage is in default and foreclosure occurs.

fiat

A short order or warrant of a judge or authorized official directing some act to be done.

fictitious names statute

A Florida statute requiring any person or entity who desires to engage in business under a fictitious or trade name to advertise his or its intention to register the fictitious name in a local newspaper as prescribed by law; and upon receiving proof of publication, register the name with the clerk of the circuit court of the county where his or its principal place of business is located. Real estate brokers who are sole proprietors are exempt from these requirements. Individual brokers or brokerage entities may use a fictitious name after it is registered with the DBPR. The DBPR will only allow registration of a fictitious name if it is not being used by any other licensee.

fiduciary

A broker in a relationship of trust and confidence between that broker as agent and the seller or buyer as principal. The

duties of the broker as a fiduciary are loyalty, confidentiality, obedience, full disclosure, and accounting and the duty to use skill, care, and diligence.

fiduciary relationship

A relationship that exists whenever one person trusts and relies upon the judgment and advice of another.

fiduciary warrant

An assurance to the grantee by someone in a fiduciary capacity that he or she has done nothing that would in any way injure the title while he or she had control of the property.

final order

The Florida Real Estate Commission's final decision as to the guilt or innocence of a licensee and the appropriate penalty. It is issued at the conclusion of an informal hearing or after reviewing the ALJ's recommended order at the conclusion of a formal hearing.

final order panel

Consists of all FREC members except those who served on the probable cause panel in the same action. The final order panel may accept the ALJ's recommended order or reduce the recommended penalty without a review of the record. They may increase the penalty or reject or modify the findings of fact in the recommended order only after a complete review of the record.

Financial Institutions Reform, Recovery, and Enforcement Act (FIRREA)

Known as the savings and loan bailout legislation. This Act requires all states to establish laws for the licensing and certification of real estate appraisers.

financial risk

See *operating financial risk*.

finder's fee (referral fee)

Compensation paid to a party for either locating a seller to list his real property for sale or procuring a buyer to purchase property. A Florida real estate broker may pay a finder's fee to or share a commission with a broker licensed by another state if that broker does not violate any Florida law. However, a broker cannot legally pay a finder's fee to or share a commission with an unlicensed person unless they are a

party to the contract and full disclosure is made.

fixed expenses

Recurring operating expenses that must be paid regardless of whether or not the property is occupied or producing income.

fixed-rate mortgage

An amortizing loan that has the same (fixed) rate of interest for the term (life) of the loan. Either a term loan or an amortized loan could be a fixed rate loan.

fixed window

Fixed windows do not open. They do not provide any ventilation.

fixture

An article of personal property that has been so attached to real property, in a more or less permanent manner, that it is considered to be a part of the property (e.g., plumbing and light fixtures, heating and air conditioning equipment, or a sprinkler system installed in a building).

flag lot

An interior lot located to the rear of another lot but with a narrow portion of the lot (flagpole) extending to a public street to provide access.

flat lease (fixed lease or straight lease)

Requires equal rental payments over the term of the lease to be paid by the lessee to the lessor monthly, quarterly, or annually as stipulated in the lease.

flat roof

A flat roof has barely any slope at all or just enough to allow water runoff.

flip/flop

Associated with a buyer purchasing a short sale at a discount and immediately reselling for a profit without any improvement to the property to justify the difference in price. See *short sale*.

flood plain insurance

Insurance coverage for damage from floods or tidal waves offered by private insurance companies that are subsidized by the federal government. Generally, lending institutions require such insurance on mortgaged properties located in designated flood or tidal wave zones.

Florida Association of REALTORS® (FAR)

A state trade organization affiliated with the National Association of REALTORS®.

Florida Building Energy-Efficiency Rating Act

Provides a statewide uniform system for rating the energy-efficiency of buildings and ensures ratings are disclosed to prospective purchasers who request the ratings. The rating system applies to all public, commercial, and residential buildings in Florida.

Florida Department of State

This department consists of the Office of the Secretary and the Divisions of Administrative Services, Corporations, Cultural Affairs, Elections, Historical Resources, and Library and Information Services.

Florida Land Use and Environmental Dispute Resolution Act

Allows owners who request development permits (e.g., building permits, zoning permits) to use a simplified request for relief if the owner's property has been unreasonably or unfairly burdened by government action.

Florida Real Estate Appraisal Board (FREAB)

An appointed board within the Department of Business and Professional Regulation whose purpose is to regulate certified, licensed, and registered appraisers within the State of Florida and thus protect the public from potential economic loss.

Florida Real Estate Commission (FREC)

An appointed commission within the Department of Business and Professional Regulation whose purpose is to regulate real estate brokers, sales associates, and schools within the State of Florida and thus protect the public from potential economic loss.

Florida Real Estate Recovery Fund

Created to provide financial reimbursement to persons who have suffered a loss as the result of actions of a real estate licensee.

Florida resident

A person who has resided in Florida continuously for a period of four calendar months or more within the preceding one year or a person who presently resides in Florida with the intention to reside continuously in Florida for a period of four months or more commencing on the date that the person began the current period of residence in Florida. It does not matter if the place of residence is a hotel, recreational vehicle, or other temporary or permanent residence. Once a person becomes a Florida resident, they can no longer qualify for licensure under mutual recognition even if they maintain licensure in a state that has mutual recognition with the FREC. *See mutual recognition.*

Florida Statutes (F.S.)

The written laws that have been enacted over a number of years by the Florida legislature. For example, Chapter 475, F.S. Part I, which is the Real Estate License Law. *See Statutes.*

follow-up

Returning client and customer calls; what a licensee does for buyers and sellers after the sale.

foreclosure

A legal action that enforces the terms and conditions of a mortgage contract, and terminates the borrower's equity of redemption and legal rights in the mortgaged property.

foreign corporation

A corporation formed under the laws of another state (i.e., not Florida) which may be registered to broker real estate in Florida provided that it has been authorized by the Department of State (Florida) to transact business within the state; and has fully complied with Chapter 475, F.S.

forfeiture

Loss of a right, money, property, or anything of value as a consequence of some illegal act, or nonperformance of an act, obligation, or condition. For example, a buyer may forfeit his earnest money deposit if he defaults on a real estate sales contract.

formal complaint

See *administrative complaint*.

formal contract (or special or specialty contract)

A contract that is wholly written and under seal.

formal hearing

A hearing required whenever the substantial interests of a licensee are to be determined by an agency, such as the Florida Real Estate Commission, and a disputed issue of material fact exists between the parties. It is conducted as an adversary proceeding before a hearing officer assigned from the Division of Administrative Hearings pursuant to Chapter 120, F.S., the Administrative Procedures Act.

frame

Skeleton of a house to which the exterior and interior finish is applied.

fraud

A term embracing all of the various means by which one person or entity can intentionally gain advantage over another by false suggestions, suppression of truth, trick, cunning, surprise, or any unfair way by which another is cheated. Any type of fraud may be grounds for a possible civil suit for damages. If committed by a broker or sales associate, fraud may be grounds for disciplinary action against the licensee by the Florida Real Estate Commission.

free enterprise system

An economic system that operates to produce and allocate (distribute) goods (products) and services by the free application of the four factors of production.

freehold estate

A right of title to land or other real property for an indefinite period of time. Involves estates of ownership. See *nonfreehold estate*.

friable asbestos

Dry, crumbling asbestos, a condition more likely to release fibers than if it is nonfriable.

functional obsolescence

In appraising, a loss in building value as a result of some deficiency or excess that is inherent within the structure. Generally, it is

caused by changes over the years that have made a building, a component of the building, or its design obsolete by current standards (e.g., one bathroom in a four-bedroom home, or lack of some essential items such as heating and air conditioning).

further assurance

In a general warranty deed, one of the covenants given by the grantor to the grantees that the grantees shall enjoy the possession of the property in peace and without disturbance by hostile claimants. See *warranty deed, grantees, and grantor*.

- G -

gable roof

A popular roof in the United States. It has two upward sloping sides that meet in the middle at the ridge. The two sides slope at the same angle.

gambrel

A type of roof that is gabled, peaks at the ridgeline, and has a broad upper story. Gambrel roofs are associated with barns.

general agent

An individual authorized to act for the employer on a continuing basis, but with the authority limited to acts related to a specific trade or business. A sales associate is a general agent of their broker.

general partnership

A type of business organization in which two or more persons engage in business together, with either an express or implied agreement to share the profits and losses. In Florida, at least one of the partners must be currently licensed as an active broker in order for the general partnership to be registered to broker real estate.

general power

Authorizes the attorney-in-fact to generally act in a person's behalf.

generative function

Function of businesses (e.g., furniture stores, car dealers) in commercial areas that generate business from shoppers who intend to go there.

going concern value

The value of a business which includes both the tangible assets, including real estate, and the intangible assets, including good will and intellectual property. See *liquidation value approach*.

good consideration

Usually not considered to be valuable consideration, which is only binding when the contract is fully performed by all parties (e.g., love, affection, duty, moral obligation).

good faith

Honesty of purpose, without deceit or fraud, and being faithful to one's duty or obligation.

good faith doubt

A situation where closing has passed and the broker has not received either conflicting or identical instructions from the parties concerning escrow funds; or closing has not passed but one or more of the parties has expressed intentions not to close and makes a claim for the funds.

good faith estimate (GFE)

A disclosure required by the Real Estate Settlement Procedures Act (RESPA) that lenders must give to borrowers within three business days of application. The disclosure is to accurately describe all the costs that the borrower can expect to pay at closing. See *closing and Real Estate Settlement Procedures Act (RESPA)*.

goodwill

An intangible asset of a business such as reputation, expertise, quality, pricing, or dependability that gives the business an advantage in its marketplace.

governance form

A publication provided by the Division of Florida Condominiums, Timeshares, and Mobile Homes that must be provided to a resale condominium buyer. It is an informal educational overview of the rights of unit owners, the finances and association budget, and the role of the board of directors. See *resale condominium*.

government lot

A fractional piece of land in the government survey system that is less than one-quarter

section in area. See *government survey system*.

Government National Mortgage Association (GNMA or Ginnie Mae)

An agency of the federal government that is best known for its special assistance function and cooperation with the FNMA in secondary mortgage market activities. On occasion, the GNMA and FNMA combine their efforts through the tandem plan. This plan is a two-part process in which the FNMA is permitted to purchase high-risk, low-yield mortgage loans at full market rates, and the GNMA guarantees payments and absorbs the difference between the low-yield and current market rates.

government survey system (rectangular survey system)

A method used to legally describe regularly shaped tracts of land. The government survey of Florida starts at the intersection of two main reference lines, which are a north/south line called the Tallahassee principal meridian; and an east/west line called the Tallahassee base line.

graduated lease (step-up lease)

Provides for a fixed rental payment for an initial term and then predetermined increases in the rental payments at specified times during the term of the lease.

grant

The transfer or conveyance of title to real or personal property by deed or writing.

grantee

The person or entity that acquires an interest in real property by receiving a deed or other conveyance of title. For example, the buyer is the grantee when title to real property is conveyed at closing.

granting clause

A clause in a deed that contains the words of conveyance (e.g., grants, bargains, and sells).

grantor

The person or entity that conveys or transfers an interest in real property to another by giving a deed or other conveyance of title. For example, the seller is the grantor when title to real property is conveyed at closing.

greenbelt exemption

Special real property tax break given to owners of agriculture real property, resulting in a lower assessed value and lower taxes even though the millage rate is the same as for other real property.

gross income method

A method of appraising income-producing property that provides a value indication using gross rent per month or gross income per year. This value is called the gross income multiplier (GIM).

gross lease

A lease agreement in which the tenant pays a specified rental amount and the landlord is responsible for paying the operating expenses related to the property (e.g., maintenance, property taxes, and utilities).

gross rent multiplier (GRM)

Used in the gross income method of appraising income-producing property, derived using the sales price and monthly rents of comparable properties to estimate the value of the subject property.

ground lease

A lease agreement wherein the lessor grants use, possession, and occupancy of vacant land to the lessee in return for rental payments. This type of lease is usually on a net basis, and the lessee pays all real estate taxes, insurance, and maintenance and makes improvements (e.g., buildings) to the land.

group licenses

Issued only to active sales associates or active broker associates employed by owner/developers. A group license may be issued if proof is submitted that various properties are held in the names of various individuals, corporations, or partnerships, and all such owners are so connected or affiliated that such ownership, for practical purposes, is substantially in the same ownership entity.

Growth Management Act

Limits and controls Florida's future growth to levels acceptable to natural, environmental, political, social, and human tolerances.

guardian's deed

A deed used to convey title to the real property owned by a ward or minor.

guide meridians

Imaginary lines located every 24 miles east and west of the principal meridian. These lines are used in the government land survey system of legal description. See *correction lines*.

- H -

habendum clause

The "to have and to hold" clause in the deed indicating the legal rights or estate or interest the deed is conveying.

handicapped (status)

Defined under the Fair Housing Act as "a physical or mental impairment which substantially limits one or more major life activities; a record of such impairment; or being regarded as having such an impairment."

hard money (hard equity)

A form of lending based on a low loan-to-value and very short term due between one to three years at a higher than normal interest rate. See *loan-to-value ratio*.

health ordinance

Local codes that regulate the sanitation and maintenance of public areas. See *ordinances*.

hearing officer

A person assigned from the Division of Administrative Hearings who conducts formal hearings involving applicants for licensure or real estate licensees pursuant to Chapter 120, F.S., the Administrative Procedures Act. Anyone employed as a full-time hearing officer must have been a member of the Florida Bar in good standing for the five years preceding his employment.

heir

A person who inherits the real and/or personal property of a decedent who died testate (i.e., with a will) or by laws of descent and distribution of a decedent who died intestate (i.e., without a will).

hiatus

A break, gap, vacancy, or lack of continuity such as 1) breaks or gaps in a chain of title; or 2) a land area between imaginary lines that do not abut one to another, such as range lines in the government survey system of describing real property.

highest and best use (improved property)

The existing or an alternate use of improved property is its highest and best use until demolition and construction of a new improvement becomes economically feasible.

highest and best use (vacant land)

The most likely, profitable, optimum, and efficient use of the land.

hip roof

A type of roof where all four sides come to a point at the roof peak.

home equity indebtedness

Debt incurred on a principal or secondary residence not to exceed the fair market value of the residence.

home equity loan

Allows property owners to tap the equity that has built up in their homes, largely due to appreciation and mortgage balance decline. The interest on home equity loans is tax deductible up to \$100,000 of equity loan. Always check with a tax advisor to make sure the use of the funds will qualify for the deduction.

homestead

The real property owned and occupied by a natural person as his primary residence, which includes the land and buildings surrounding the dwelling.

homestead exemption

An exemption provided in the Florida Constitution which reduces the amount of property taxes owed. Homeowners are entitled to \$25,000 exemption from assessed value of the home for city, county, and school board taxes. Homeowners are entitled to an additional \$25,000 exemption from only city and county taxes on the property's assessed value between \$50,001 and \$75,000. If the assessed value exceeds \$75,000, then the full \$50,000 homestead exemption applies.

homogeneous

Of the same or a similar kind or nature. In appraising, the term describes an area in which property types or uses are comparable, and the social, economic, and cultural backgrounds of the people are similar.

horizontal sliding

Windows that move horizontally on a track.

household

One or more individuals living in one dwelling unit.

hypothecate

The pledging of real or personal property as collateral for the debt without giving up possession of the property.

- I -

illegal commission

Any commission, compensation, or fee paid to a licensee that he is not legally entitled to collect or retain; a form of fraud.

immediately

For sales associates and broker associates, defined as by the end of the next business day following receipt of the item to be deposited. For brokers, defined by the end of the third business day following receipt of the item to be deposited. (Saturdays, Sundays, and legal holidays are not considered business days.)

immobility

Fixed or incapable of being moved (e.g., land).

immune property

Property that is not assessed and cannot be taxed (e.g., governmental real property).

implied

The intention of the parties with regard to the subject matter is not expressly or directly stated in words, but is derived by implication or deduction from the circumstances, the general language used, or conduct of the parties.

implied contract

A contract or agreement in which some of the terms and/or conditions have not been expressly stated, either orally or in writing,

but are inferred from the acts or conduct of the parties.

improvement

A valuable addition made to real or personal property that consists of more than repairs (costing labor or capital) and is intended to enhance the property's value, beauty, or utility or adapt it for a better or alternate use.

inactive license

Voluntarily inactive status pertains to a person who has attained license status with the Commission, either as a broker or sales associate, and has requested, before the end of the license period, that the license be placed on inactive status. A voluntarily inactive license may be renewed at the end of each license period (i.e., indefinitely) or activated at any time by filing a request in proper form. Involuntarily inactive status pertains to the license of any broker or sales associate that is not renewed on or before the end of the license period. Any license that has been involuntarily inactive for more than two years shall automatically expire, and become null and void without any further action of the Commission.

inchoate

Incomplete; begun but not completed. For example, a real estate sales contract that has not been executed (i.e., signed) by all of the parties.

income capitalization approach

An approach used to appraise income-producing real property. In applying the approach, the appraiser estimates the annual net operating income that the property likely will produce and converts it into a value indication by a mathematical process known as capitalization.

incompetent

A lack of mental or physical fitness, or legal qualification to discharge a required duty or conduct business matters. For example, one of the essential elements of a valid and enforceable contract is competent parties, which means that all parties must be at least 18 years of age and mentally competent. Note that a deed only requires a competent grantor.

increment (earned)

An increase in real property value due to labor or improvements to the property, such as adding a family room.

increment (unearned)

An increase in real property value as a result of forces outside of the influence and control of the property owner, such as a favorable shift of population in the area.

incurable

Depreciation is incurable when the cost to repair exceeds the added value.

incurable functional obsolescence

A functional deficiency that is not economical to correct.

indenture

A mortgage or deed of trust under which there is an outstanding security establishing a claim against the debtor, a claim secured by a lien against the debtor's property, or an equity security of the debtor.

independent contractor

One who contracts to render a service according to his own methods and is subject to his employer's control only as to the final result of his efforts. For example, many sales associates are considered to be independent contractors and not employees of their registered broker.

index

A rate set by market forces and published by a neutral third party. The index will go up and down due to market factors. The index is used to determine the adjusted interest for an adjustable mortgage by adding it to the margin that was set at the mortgage's inception. Examples of indexes include the one-year U.S. Treasury Bill and the London Inter Bank Offering Rate (LIBOR). See *adjustable rate mortgage and margin*.

index lease

Provides for adjustments in the amount of rent due based on changes in a specified index. Rent may be based on a consumer price index, a wholesale price index, or any other agreed-upon index.

industrial

Properties that have land uses of manufacturing, assembly, or processing of materials and products (e.g., lumber mills

and solid waste disposal areas). Industrial areas include industrial parks and subdivisions.

ineffective license

Condition of a license when it is inactive or suspended.

informal hearing

A hearing before the FREC for final action on a complaint where the respondent does not dispute the administrative complaint allegations. *See administrative complaint and respondent.*

in-house sale

Occurs when the brokerage firm, through one or more of its real estate licensees, acts as both listing and selling agents.

initial issue

The first license requested by applicants is an initial issue for the license status to which they are entitled.

injunction

A judicial process that requires the person to whom it is directed to do or refrain from doing a particular thing or act.

innocent purchaser

One who purchases real or personal property in good faith without notice of circumstances that would cause a person of ordinary prudence to question the title of the seller.

insolvent

Inability to pay one's debts as they become due, or in the usual course of business.

installment contract

See contract for deed.

installment sale

Owner financing that allows the owner to defer paying the capital gain tax until payments are received. Under current tax law, the installment sale is only available for gains and not for losses.

Institute of Business Appraisers (IBA)

The oldest professional society established in 1978 devoted solely to the appraisal of closely held businesses.

Institute Of Real Estate Management

(IREM) An institute whose membership is comprised of those specializing in management of real estate.

institutional lender

A savings association or commercial bank whose lending practices are regulated by law, and who commonly invests the funds of depositors in mortgage loans.

instrument

A written legal document such as a contract, deed, or lease.

insulation

Adequate insulation prevents air leakage. Insulation material is measured by its R-Value and the higher the R-Value, the more resistant the material is to heat flow.

Fiberglass is a leading insulation material.

See R-Value.

insurance value

Value of property often estimated for insurance coverage purposes and is based on new cost minus physical deterioration and insurance exclusions and does not include the land value.

intangible property (asset)

Items of personal property that represent or evidence value (e.g., stock certificates, certificates of deposit, bonds, and promissory notes).

intangible tax

A tax on intangible property. For example, a Florida state intangible tax is collected when newly created mortgages are recorded into the public record. Loan amount x .002= intangible tax due.

intensity

Concerns the degree of use (e.g., building coverage of the land and open space to one another).

interest

1) A term used to denote a right, title, or share in something, such as an estate in real property; or 2) the amount charged for the use of money for a period of time, the price of money.

interest accrued

The amount of interest that has been earned as of a given date.

interest rate

The percentage applied to a sum of money to compute the charge for its use for a period of time. It is often expressed as an annual percentage rate (APR).

interest rate risk

The risk is related to changes in interest rates.

interior lot

A lot set between other lots.

intermediary

A third party who facilitates a deal between two other parties (e.g., when a homeowner is upside down, an intermediary negotiates between the lender and the homeowner for a reduction in amount owed if the home is sold as a short sale). *See mortgage modification, short sale, and upside down.*

intermediation

The process by which funds of individuals are placed in savings accounts and time accounts with financial institutions.

intermingle (intermingling)

See commingling.

International Real Estate Federation (IREF)

An organization headquartered in Paris that works for the promotion of high professional standards and good relations among its members who are engaged in the real estate profession worldwide.

interpleader

Places the escrow funds with the court for a determination of the rightful claimant when the broker who is holding disputed escrow funds does not have any claim to them.

Interstate Land Sales Full Disclosure Act

Passed in 1968, regulates interstate land sales by requiring developers to file a registration statement disclosing relevant information concerning real estate developments (subdivisions) with HUD's Office of Interstate Land Sales Registration.

intestate

A person who dies without leaving a will is said to die intestate.

investment value

The value of property to an individual investor based on his or her standards; often subjective and represents the maximum a buyer would pay or the minimum a seller would accept for a given property.

involuntary alienation

Transfer of property that takes place when a person dies without a will or dies without a

valid will, by escheat, eminent domain, or adverse possession.

involuntarily inactive

Licensure status of individuals who do not renew their licenses. This generally occurs when a licensee fails to renew at the end of the license period, whether voluntarily or involuntarily. A licensee who fails to complete the 14 hours of continuing education will also become involuntarily inactive. A licensee can be involuntarily inactive for two years and then the license becomes null and void.

involuntary lien

A lien that attaches to property without the consent of the owner (e.g., a real estate tax lien). *See voluntary lien.*

- J -

jalousie

A type of window where glass louvers overlap one another to form the panes which are opened with a crank or turn-screw. Provides a lot of ventilation but not energy efficient or secure.

joint estate (joint tenancy)

A form of real property ownership in which two or more persons receive an undivided interest in the property at the same time, by the same conveyance, and with an undivided right of possession. *See undivided interest.*

joint venture (or adventure)

A type of business organization formed by the oral or written agreement of two or more persons, corporations, or partnerships that combine their efforts to engage in a single business enterprise for profit. In Florida, a joint venture cannot be registered to broker real estate.

judgment

The final decision of the court that resolves a dispute and sets forth the rights and obligations of the parties.

judgment lien

A legal right or claim to the land of the judgment debtor that permits the judgment creditor to have the property sold to satisfy the judgment.

judicial

Pertaining to or connected with the administration of justice (e.g., the proceedings of a court of justice).

judicial review

A respondent may challenge FREC's final order within 30 days by filing an appeal for judicial review with the DBPR and the appropriate district court. If the final order is reversed, the the respondent's rights as a licensee are restored as to the date of filing. Also, if the court reverses or sets aside the final order, then the court may award court costs and attorney fees to the aggrieved prevailing party.

jumbo loan

A loan that does not conform to Fannie Mae and Freddie Mac standards. For a one-unit property, the loan amount exceeds \$417,000.

junior mortgage

Any mortgage that is subordinate to another mortgage and has a lower priority in the order of payment.

just value

The fair, honest, and reasonable value of property. Also called fair market value.

- K -**key lot**

A lot shaped similar to a key shaft and bounded by five or more lots.

kickback

A return of part of a sum of money received, which could result from a confidential agreement or coercion. Generally, the term infers an illegal or improper act, which could result in disciplinary action by the Commission if it involves a real estate licensee.

- L -**laissez-faire**

A philosophy opposing governmental interference in economic affairs beyond the minimum necessary for the maintenance of peace and property rights.

land

See real estate.

land sales contract

See contract for deed.

land surveyor

See surveyor.

land use study

A study undertaken by a government agency as a part of the planning process for land use and zoning, which analyzes and examines the existing land uses in a given area.

larceny

Taking and carrying away the property of another without the owner's consent, and with the felonious intent to appropriate the property or to deprive the owner the use of it.

latent (latent defect)

Concealed, hidden, or not apparent (e.g., a latent defect in a building which a reasonable inspection would not reveal).

lead-based paint

Banned in 1978, an environmental contaminant that if disturbed can create dust or chips that are harmful if ingested.

lease contract

An agreement whereby the owner of a parcel of real estate gives to another party (the tenant) the rights of possession, occupancy, use, enjoyment, and possible profit from the use of the property for a specified period of time.

leasehold estate

A less-than-freehold or nonfreehold estate which grants mere possession of the real property of another to a tenant for either a definite or indefinite period of time. It is an estate in real property held under a lease or rental agreement that does not convey title to the property. *See nonfreehold estate.*

lease option

A clause in a lease contract that gives the lessee the right to purchase the real property held under the lease at a specific price for a specified period of time under specified terms and conditions.

legal age

The statutory age at which a person acquires full legal capacity to transact

business (e.g., executing his own contracts, deeds, mortgages).

legal capacity

Being mentally competent and of legal age 18 years of age in Florida.

legal description

A description of land recognized by law that identifies the real estate and locates its boundaries. *See metes and bounds method, monuments method, government survey system, and lot and block.*

legal title

In a contract for deed, the seller retains the legal title to the property until performance by the buyer. Since the seller has the legal title, there are potential problems - judgment liens and probate claims against the seller may be attached to the property, in the event of the death of the seller. The seller also retains the right to sell his interest in the property and to place a mortgage on it. *See equitable title.*

legally sufficient

A complaint that alleges that a violation of Florida statute or FREC or DBPR rule has occurred. If the complaint is legally sufficient it must be investigated. If not, no further action will be taken.

legislative

Pertaining to the process of making or enacting laws by the legislative branch of government.

legislative risk

Risk that legislative changes that require additional costs for future investments could actually decrease the value of investments that were made prior to the legislative changes.

lessee (tenant)

One who rents or leases the property of another. As applied to real estate, the lessee is also known as the tenant.

lessor (landlord)

One who rents or leases his property to another. As applied to real estate, the lessor is also known as the landlord.

level payment plan

An amortized mortgage with periodic payments of principal and interest. When all the scheduled payments have been made,

the balance is zero and no further interest is due. *See amortized mortgage.*

leverage

The use of borrowed money to acquire assets.

license

1) A written instrument issued by the Department of Business and Professional Regulation that certifies that the person or entity named thereon was duly licensed on the effective date shown; 2) as applied to real property, a privilege to go onto land for a specified purpose, which does not confer any estate, title, or interest in such property.

licensed appraiser

A person licensed by the department as qualified to issue appraisal reports for residential real property of one to four family residential units or on such real estate or real property as may be authorized by federal regulation. After July 1, 2003, the DBPR stopped issuing licenses for the category of licensed appraiser.

licensee

As applied to real estate, anyone who holds a broker's or sales associate's license issued by the Department of Business and Professional Regulation.

license reactivation

A licensee who has been involuntarily inactive for more than 12 months but less than 24 months may reactivate their license by successfully completing a 28 hour Commission-prescribed education course. Students who fail the end of course exam must wait at least 30 days from the date of the exam to retest and have up to one year to retest one time or they can retake the course to avoid the 30 day wait. *See involuntarily inactive.*

licensure

The DBPR shall license any applicant whom the FREC certifies to be qualified to practice as a broker or sales associate. The DBPR may not license any applicant currently under investigation in any other state, territory, or jurisdiction of the United States or any foreign national jurisdiction for any act that would constitute a Chapter 475 F.S. or Chapter 455 F.S. violation until the

investigation is complete and disciplinary proceedings have been terminated.

lien

A claim or liability attached to property which 1) affects the title to the property; and 2) provides security for a debt collectable against the property that can be enforced by court action (e.g., real estate tax liens, special assessment liens, mortgage liens, mechanic's liens, and vendor's liens which are encumbrances on real property).

lienholder (lienor)

A person who owns a lien or has a right of lien upon the property of another.

lien theory

A view that a recorded mortgage on real property creates a lien or claim on the mortgaged property in favor of the lender until the loan is paid off. Florida is a lien theory state. See *title theory*.

life estate

A freehold estate in real property of indeterminate duration that is limited to the life of the person holding it (i.e., the life tenant), or the life of some other person. Upon the death of the life tenant, or the other person as the case may be, the property passes to the holder of the remainder interest or to the grantor by reversion. See *remainderman and reversion estate*.

lifetime cap

Limits the interest rate increase over the life of an adjustable-rate mortgage.

like-kind exchange

An exchange of real estate for real estate used in a tax-deferred exchange. While it does not matter where the real estate is located, the properties must have a similar use, such as a four-unit residential rental property in exchange for an eight-unit residential property.

limitations, statute of

See *statute of limitations*.

limited liability company or LLC

A business entity that may broker real estate and has the best characteristics of a corporation and a partnership. An LLC offers personal liability protection like a

corporation but treated as a partnership for income tax purposes.

limited liability partnership or LLP

A business entity that may broker real estate and has characteristics similar to that of a limited partnership. An LLP offers the partners protection from personal liability like a limited partnership.

limited partnership

A type of business organization formed by two or more persons who must have one or more general partners and one or more limited partners. In Florida, at least one of the general partners must be currently licensed as an active broker in order for the limited partnership to be registered to broker real estate. The limited partners cannot manage. They can only make an investment of cash or property, never services.

limited representation

Occurs when fiduciary duties are not owed to either party, although limited confidentiality is owed to the party represented. The broker is not permitted to represent one party to the detriment of the other.

line of credit

The maximum borrowing power of a person or business entity from a financial institution, such as a commercial bank.

lineal

Being in a direct line of descent from an ancestor (e.g., from a father or mother to a son, or from a father or mother to a daughter).

lineal descendant

A person in the direct line of descent from an ancestor (e.g., a child or grandchild, as contrasted with a niece or nephew).

liquidated damages

The monetary penalty for breach of contract that is specified in the contract. Normally the earnest money.

liquidation value

The amount for which a property is most likely to sell in a forced sale. Sometimes used in valuing foreclosed properties and those properties having a tax lien. It does

not include any intangible assets. See *going concern value*.

liquidation analysis

(liquidation value approach)

For appraisal purposes, involves an analysis of the business based on the premise that the assets of the business will be sold for market value and the proceeds used to satisfy any liabilities of the business.

liquidity

The ability of a person or business entity to convert assets into cash or its equivalent.

lis pendens, notice of

A notice filed on public record that serves as a warning that the title to certain property is involved in a lawsuit and subject to the court's decision.

listing (listing contract)

A broker's employment contract with his principal or customer that 1) creates the agency relationship between the parties or nonagency relationship; and 2) establishes the broker's right to compensation if he performs as stated in the agreement.

littoral rights

The legal rights of real estate owners whose land abuts nonflowing water (e.g., an ocean, sea, or lake) to use and enjoy the water and shore abutting their property.

loan origination fee

See *origination fee*.

loan servicing

In residential financing, when the lender collects the monthly payments, disburses the funds to pay property taxes and insurance, supervises the loan, and handles delinquencies, early payoffs, and mortgage releases.

loan-to-value ratio

A ratio that represents the lender's investment in mortgaged property as compared to the value (or purchase price) of the property.

locus sigilli (L.S.)

The place occupied by the seal of written instruments, which is usually abbreviated by the letters L.S. In accordance with Florida statutes, a seal is not necessary on any

document that conveys an interest in real property.

lot

Measured section of land, often a particular parcel of land on a registered plan.

lot and block

A method of legally describing real property that is normally used in conjunction with the government survey system or a metes and bounds description of a parcel being subdivided. The parcel will first be divided into areas called blocks and each block will be further subdivided into smaller areas called lots. See *government survey system and plat (plat map)*.

- M -

mailing address

The current residential address used by the licensee to receive mail through the U.S. Postal Service. A post office box is an acceptable mailing address.

majority

The legal age at which a person is entitled to the management of his own affairs and to the enjoyment of civil rights. See *legal age*.

mandamus, writ of

A writ issued from a court of competent jurisdiction that orders an inferior court, board, agency, corporation, or person to perform a particular duty imposed by law.

mandatory

An order or command requiring strict obedience.

Mansard

A type of roof named after a French architect that has two slopes on all four sides. The lower slope is steeper than the upper slope.

margin

A percent added to the lending institution's index rate to determine the rate the borrower is to pay. The margin is really a profit margin (i.e., usually 1 to 2% added to the index rate to increase the lender's profit).

marketability

The ability to sell an asset for market value.

marketable (merchantable) title

A good and marketable title to real property in fee simple, which can be held without reasonable fear of being challenged, and is readily transferable in the market.

market data approach

See sales comparison approach.

market price

An amount actually paid by a buyer to a seller for property in a real estate transaction.

market rent

Also called economic rent; the rent the property commands in the open market.

market value

The most probable price in terms of money that a property should sell for in a competitive and open market under all conditions requisite to a fair sale. This definition assumes that both the buyer and seller act prudently, knowledgeably, and that the price is not affected by undue stimulus.

Massachusetts trust

See business trust.

master deed

An enabling declaration (document) that conveys a parcel of real property held under a single deed into a number of individual condominium estates plus an estate for the common areas and elements of a condominium.

material facts

Those issues that affect the value of the property. Information is considered material if its existence substantially affects property value, to the extent that if the information had been disclosed, the sales contract would not have been signed.

mechanic's lien

A statutory lien created for the purpose of securing priority payment for labor or materials furnished to construct or improve real property. It is enforced by foreclosure, but such action must be taken within one year or the lien becomes void.

mediation

The settlement of a dispute between two contending parties by action of a neutral third party. One of the settlement

procedures available to a broker in an escrow dispute.

meeting of the minds

The mutual agreement or assent of parties to a contract regarding the substance, terms, and conditions of the agreement. Meeting of the minds is one of the essential elements of a valid and enforceable contract.

merchantable title

A good and marketable title to real property that is free from material defects, encumbrances, and any reasonable doubt as to who is the owner.

meridians

See principal meridian.

metes and bounds method

A method used to legally describe regular or irregularly shaped tracts of land. A metes and bounds description starts at a point of beginning and follows the boundaries of the property and returns to the point of beginning. It is often used in conjunction with the government survey system when accuracy is important and the property is more valuable. The services of a qualified land surveyor are required to prepare a metes and bounds legal description. *See government survey system, point of beginning, and surveyor.*

middleman

An intermediary who merely brings two parties together to enable them to make their own contract. A broker may act as a middleman to bring a seller and buyer together if he does not have an agency relationship with either, and if each party is aware of and agrees to the arrangement.

mill

One tenth of one cent. There are 1000 mills in one dollar. In Florida, a millage rate is used to compute real property taxes; the maximum levy by any unit of local government is 10 mills.

millage rate

See tax rate.

mineral right

An interest in minerals in land, which permits the holder to extract the minerals or otherwise derive a profit from them.

minor

An infant or person who is under the legal age of majority or legal competence.

minority

1) As defined in the Civil Rights Act of 1968, a minority is any group or individual member of a group that can be identified by race, color, religion, sex, or national origin; 2) the state or condition of a minor as defined by law.

misrepresentation

An untrue, incorrect, or deceptive statement of fact made by one person to deceive or mislead another, which is a form of fraud.

mistake

An unintentional act, omission, or error resulting from ignorance, surprise, or misplaced confidence.

modify (modified)

To alter, enlarge, reduce, change, or limit in degree or extent.

monument

A physical and topographical feature such as a tree or fence that is used as a point of reference.

monuments method

A rather imprecise method of legally describing real property that uses physical features as points of reference to locate the boundaries or corners of the property (e.g., trees, fences, rivers, bridges, roads).

moral(s)

Relating to character, conduct, social behavior, conscience, or the general principles of right conduct.

moral turpitude

Any premeditated act or behavior that is morally wrong and gravely violates accepted moral standards (e.g., embezzlement, larceny, rape, robbery, kidnapping).

moratorium

The suspension of activity such as a building moratorium.

mortgage

A written instrument executed by a borrower that pledges his property as security for repayment of a debt. In Florida, it does not convey legal title of the

mortgaged property to the lender. See *lien theory*.

mortgage banker

A person or business entity that originates and sells mortgage loans into the secondary market; sometimes called a bridge between the primary and secondary mortgage markets.

mortgage broker

One who functions as an intermediary, middleman, or loan arranger who brings borrowers and lenders together for the purpose of obtaining a mortgage loan for the borrower. Effective October 1, 2010, a mortgage broker refers to a business entity and a licensed individual is a mortgage loan originator. See *mortgage loan originator*.

mortgage insurance premium (MIP)

Charged to FHA borrowers annually and collected monthly with the mortgage payment.

mortgage loan originator (MLO)

A person licensed by a state and registered with the Nationwide Mortgage Licensing System (NMLS). See *Nationwide Mortgage Licensing System*.

mortgage modification

Granted by the lender to the mortgagor, a change in the original terms of the mortgage. Several methods include lowering the interest rate, granting a payment abatement, lowering the monthly payment, or reducing the principal balance. A modification could utilize one method or combine all of the methods.

mortgage note (bond)

See *promissory note*.

mortgage underwriting

The process by which a lender estimates the risk involved with originating a mortgage loan by analyzing the real property as security for the debt and the borrower's ability to repay the debt.

mortgage warehousing

The process whereby a lender originates and retains a number of mortgage loans in-house until they are assembled into a package which is salable in the secondary mortgage market.

mortgagee

The one who receives the mortgage from the borrower and to whom the mortgaged property is pledged as security for repayment of the debt; the lender.

mortgagee's (lender's) title policy

Indemnifies the lender only up to the amount owed on the mortgage loan for any loss (not exempted in the policy) sustained by reason of defective title. If the mortgagee sells (assigns) (transfers) the mortgage to another party, the mortgagee's policy may be transferred to the new owner of the mortgage. See *title insurance*.

mortgagor

The one who gives the mortgage to the lender and pledges his real property as security for repayment of the debt; the borrower.

multiple licenses

Issued only to active brokers if it is clearly shown that such additional licenses are necessary to the conduct of legitimate business, and that there is no opportunity for such licenses to be used in a manner harmful to the public or to the business associates of the license holder.

multiple listing

A listing available only to real estate brokers and their sales associates who are members of a multiple listing service (MLS). It usually consists of an exclusive right to sell listing contract which authorizes and obligates the listing broker to place the listing in the MLS.

multiple listing service (MLS)

An organization that distributes the real property listings of its REALTOR® member brokers to REALTOR® member-cooperating brokers.

mutual recognition

Allows the Florida Real Estate Commission to enter into written agreements regarding licensing with similar licensing authorities. The mutual recognition agreements recognize the experience and education of individuals licensed in another state to obtain a Florida real estate license or vice versa. However, the agreements only apply to nonresidents who are licensed in the

other state. As of 2011, FREC has agreements with nine states including Alabama, Arkansas, Connecticut, Georgia, Indiana, Mississippi, Nebraska, and Oklahoma. An applicant under mutual recognition is not required to take a pre-license course. They are required to take a state license law exam with 40 questions and they must score at least a 75% (30 questions correct). The successful applicant will still need to complete the applicable post-license and continuing education. See *continuing education, Florida resident, and post-license education*.

mutual savings bank

Lending institutions regulated by the FDIC that are mutually owned and operated for the benefit of the depositors who have rights to earnings based on their share of the deposits.

- N -

National Association of REALTORS® (NAR)

The national trade organization of the real estate profession whose membership is comprised of REALTORS® and REALTOR®- Associates. The NAR functions through the various state associations and the local boards of REALTORS®, whose members operate under a strict code of ethics. See *code of ethics, National Flood Insurance Act (Regulation H)*. Protects against losses from damage caused to real and personal property by floods or tidal waves if the community in which the property is located participates in the National Flood Insurance Program. Flood insurance is offered by private insurance companies and subsidized by the federal government with the insurance companies participating on a risk-sharing basis.

Nationwide Mortgage Licensing System (NMLS)

The legal system of record for licensing in all participating states (including Florida), the District of Columbia, and all U.S. Territories. The NMLS was created by the

Conference of State Bank Supervisors and the American Association of Residential Mortgage Regulators. The NMLS does not grant or deny license authority. The NMLS streamlines the licensing process by providing a centralized and standardized system for mortgage licensing.

natural person

In general usage, a human being.

negative amortization

The type of amortization that results when the mortgage payment is less than the interest due on the principal balance of the loan. Consequently, the borrower owes more than he did before making the payment, because the unpaid interest is added to the remaining principal balance of the loan.

negative leverage

The rate of return from the investment is lower than the interest rate paid on borrowed funds.

negotiable

Legally capable of being transferred or assigned.

negotiable instrument

A written document that promises to pay on demand a sum of money to the bearer (e.g., a personal or cashier's check, or negotiable bond).

net lease (triple-net lease)

A lease agreement in which the tenant pays a specified rental amount to the landlord, plus operating expenses (e.g., maintenance, property taxes, and utilities) as agreed between the parties. The more 'nets' means that the tenant pays more expenses (e.g., net lease, net-net lease, or net-net-net lease).

net listing

A listing contract in which the owner specifies the minimum amount that he will accept for his property after all closing costs, liens (if any), and the broker's commission have been paid.

net operating income (NOI)

As used in the income capitalization approach, the effective gross income minus all applicable operating expenses. See *income capitalization approach*.

neutral leverage

The rate of return from the investment is equal to the interest rate paid on borrowed funds.

no brokerage

Occurs when a broker is not acting as an agent for others or as a transaction broker in a residential sale transaction. The broker still must deal honestly and fairly, disclose all known facts that materially affect the value of residential real property and are not observable by the buyer, and account for all funds entrusted to the broker.

nolo contendere

A type of plea by a defendant to the court meaning "I do not contest the charge." If a licensee is charged with a crime and enters a plea of nolo contendere, such plea is considered to be a conviction for the purposes of Chapter 475, F.S.

nominee

A person designated to act for or represent another in his or her place.

nonconforming loan

A loan that does not conform to Fannie Mae and Freddie Mac standards (e.g., a jumbo loan). See *jumbo loan*.

nonconforming use

A land use that was lawful prior to the adoption, revision, or amendment of a zoning ordinance, but which fails to comply with present zoning provisions as designated in the ordinance.

nonfreehold estate

Provides possession and use but not ownership. See *leasehold estate*.

nonrepresentation

A buyer and/or seller can choose not to be represented by a real estate broker since Florida law does not require prospective buyers and sellers to be represented. A real estate licensee who does not represent their party to the residential transaction is operating in a No Brokerage Relationship. See *No Brokerage*.

nonresident

Person who has not resided in Florida for four calendar months or more within the preceding one year; or a person who currently resides in Florida but does not

intend to reside in Florida for four calendar months or more within the preceding one year.

nontraditional mortgage

As defined by the SAFE Act, any mortgage other than a 30-year fixed rate mortgage.

See *SAFE Act*.

notary public (notary)

One who is authorized by the state to administer oaths and to attest to the authenticity of signatures on certain classes of documents. In Florida, a notary is considered to be an officer of the state.

note (bond)

See *promissory note*.

notice of irrevocable consent

This notice must be signed by nonresident Florida real estate applicants and licensees stating that they will defend any suit brought against them in Florida.

notice of noncompliance

Administrative penalty used for first time minor violations.

novation

The substitution of a new borrower for another; and a new mortgage for an existing mortgage. Generally, novation occurs when a buyer assumes a seller's mortgage and the seller is released from liability by the lender, which relieves the seller of all personal liability under the mortgage and note.

null and void

Without legal validity or effect.

- O -

occupancy ratio

The percentage of rental units occupied. Determined by dividing the number of occupied units by the total number of units.

occupational license

A license issued by a city or county government that authorizes a person or business entity to conduct a particular occupation or business enterprise.

offer

In real estate contracts, the proposal of a potential buyer to purchase the real

property of another under stated terms, conditions, and so on. See *counteroffer*. *offeree*

The person to whom the offer is made (e.g., an owner who wishes to sell his real property).

offeror

The person who makes the offer (e.g., a potential buyer of real property).

Office of the Comptroller of the Currency (OCC)

Effective July 1, 2011, federal savings associations are supervised by the OCC.

Office of Fair Housing and Equal Opportunity (FHEO)

Investigates complaints filed with HUD.

Office of Thrift Supervision (OTS)

A part of the U.S. Treasury Department that regulated all federally chartered savings associations. The OTS transferred this supervisory responsibility to the OCC on July 21, 2011.

omission

The intentional or unintentional failure to act, or neglect to perform as required by law.

open-end clause

A clause in a mortgage contract that permits the mortgagor to borrow additional funds whenever the initial loan amount has been substantially reduced. It may be used only at the option of the mortgagee who normally reserves the right to adjust the interest rate. See *mortgagor and mortgagee*.

open listing

A listing contract in which the owner agrees to list his property with a broker, but reserves the right to also list with other brokers or sell the property himself. The owner is not obligated to any broker for a commission if 1) he sells the property to a party not procured by any of the brokers; and 2) the sales contract is executed before any broker procures a purchaser for his property.

operating business risk

The risk that actual income may be lower than projected and expenses may be higher.

operating financial risk

The risk that available resources such as equity investment and financing may be insufficient to fund the operations.

opinion of title

An opinion of the condition or status of title in a specific parcel of land, which is based upon facts revealed in an abstract of title. It is an opinion rendered by an attorney-at-law or other person competent to examine titles that does not guarantee that the documents in the abstract are genuine or that the owner has a good and marketable title in the property. See *abstract of title and marketable (merchantable) title*.

option contract

A unilateral contract where the optionor must perform if required by the optionee. A written agreement in which a property owner grants to a potential buyer the right to purchase his property at a specified price for a given period of time, or to nominate another purchaser within the same time period but only when substantial, valuable consideration is given. See *optionee, optionor, and unilateral contract*.

optionee

The potential buyer who receives an option to purchase the property of another.

optionor

The property owner who gives a potential buyer the right to purchase his property.

oral contract

A contract that is not in writing, or one that is partly in writing and partly in spoken words. Also called a parol contract.

ordinances

The equivalent of a city or county statute which governs matters not already covered by state or federal law (e.g., zoning, building codes, safety).

origination fee

A fee charged by lenders for services related to originating a mortgage loan; usually computed as a percentage of the loan amount. See *points (discount points)*.

ostensible (quasi-) partnership

A partnership created when two or more parties act, or do business, in such a manner that the public is deceived into believing that a partnership exists when, in fact, it does not. Since it is a partnership that merely appears to exist without any legal basis, it cannot be registered as a real estate broker.

overage (secret profit)

The act of a broker receiving more than the compensation agreed to (i.e., a secret profit) in a real estate transaction without the knowledge and consent of the parties—a form of fraud.

over-improvement

An improvement that does not contribute to the highest and best use of the parcel of land on which it is located.

owner-developer

A business entity that sells, exchanges, and leases its own property and therefore is not required to be licensed. However, any agents working for the owner-developer that are paid commissions must be licensed as an active sales associate or broker.

owner-investor

Usually holds property for the production of income and long-term benefits such as appreciation, tax shelter, and income from the eventual sale of the property.

owner's title policy

Insurance that indemnifies the property owner only up to the amount of the policy for any loss (not exempted in the policy) sustained by reason of defective title. If the owner sells the property, the policy is not assignable (transferable) to future owners.

owner-user

Usually holds property as a necessity or convenience for residential, personal, or business use. In addition, the property is usually being held for long-term benefits such as appreciation and tax shelter.

- P -**package mortgage**

A mortgage that pledges both real and personal property as security for repayment of a debt. The items of personal property are technically chattels (e.g., stoves, refrigerators, washers, dryers).

parallel lines

Imaginary lines running east and west used in the government survey system.

parcel

A quantity or tract of land.

parol contract

See oral contract.

partially amortized mortgage

Requires periodic payments consisting of interest and a partial repayment of the principal. Since the entire amount borrowed will not be repaid by the payments, a balloon payment will be due at the maturity date of the loan. *See balloon payment.*

partially-exempt

Property that is subject to taxation but the owner has been partially relieved of the burden (e.g. homestead tax exemption).

See homestead exemption.

participation mortgage

A mortgage that permits a lender to receive a portion of the gross or net income of an income producing property in addition to the interest earned on the loan.

partition

A division of real or personal property held by two or more persons that results in each holding an individual interest.

patent deed

As applied to real property, the instrument used by the state or federal government to grant public lands to an individual.

payment cap

Limits the increase in the monthly payment for an adjustable rate mortgage from one adjustment period to the next. Usually a percentage of the loan. Payment caps can lead to negative amortization because interest the lender earns is not limited. *See periodic adjustment cap.*

penalty clause

A clause in a mortgage contract that specifies the monetary penalty that may be imposed by the lender for partial or total prepayment ahead of schedule of a mortgage loan.

percentage lease

A lease agreement in which the tenant's rent is based on a percentage of the gross or net profits of the business occupying the leased space, with a minimum rental amount stipulated that will assure the landlord of some basic income. *See lease contract.*

per diem

By the day; an allowance of a certain paid amount per day.

performance

The fulfillment or completion of a promise, contract, or other obligation according to its terms and conditions.

periodic adjustment cap

Limits the increase in the interest rate for an adjustable rate mortgage from one adjustment period to the next. *See payment cap.*

perjury

Willfully making a false statement under oath as to a matter of fact, opinion, belief, or knowledge by a witness in a judicial or administrative proceeding as a part of his evidence given in open court or hearing, or in an affidavit, or otherwise.

personal assistant

A person who can be licensed or unlicensed and can work full or part time. The FREC in their September 2009 meeting published a list of guidelines that an unlicensed personal assistant can legally perform. A link to the guidelines can be found at the end of this dictionary.

personal property (personalty)

See chattel (personal property).

personal representative

In Florida, a person who acts as an executor, executrix, administrator, or administratrix of a deceased person's estate.

petition for review

As applied to real estate, a written application filed in the District Court of Appeals requesting judicial review of a final order of the Florida Real Estate Commission that imposed discipline upon a real estate licensee.

petitioner

One who presents a petition to a court, officer, or legislative body.

physical deterioration (obsolescence)

In appraising, a loss in building value as a result of wear and tear caused by use, negligence, or action of the elements (the extent to which a building or component is physically worn out).

pier

A type of building foundation that uses columns of masonry to support the entire structure.

pitch

The slope of the roof. It is measured in inches as the vertical distance (rise) divided by the horizontal distance measured in feet (run) (e.g., a roof that has a pitch of 5/12 has a rise of five inches in height over a one-foot horizontal distance).

PITI (principal, interest, taxes, and insurance)

The acronym for the total mortgage payment collected by the lender. The mortgage payment includes the monthly principal and interest plus one-twelfth the annual property tax amount plus one-twelfth the annual insurance amount. See *budget mortgage*.

plaintiff

A person who brings suit against another in a court of law.

planned unit development (PUD)

A high density residential development that has mixed land uses and open spaces that are maintained by a nonprofit community association.

planning commission (or agency)

A commission or agency established by a local governing body responsible for the preparation and periodic evaluation of the comprehensive plan. See *comprehensive plan*.

plat (plat map)

A survey map of a parcel of land that has been subdivided into lots and blocks. After a plat map has been prepared and recorded, legal descriptions may be defined by referring to a given map, plus lot and block numbers. See *lot and block*.

plottage (plottage value)

In appraising, an increase in value that results from combining vacant and unimproved adjacent parcels of land into a larger tract held by one owner.

point of beginning (POB)

A surveyor's mark at the beginning location in the metes and bounds method of land description.

point-of-contact information

Any means by which to contact the brokerage firm or individual licensee including mailing address, physical street address, email address telephone number(s), or facsimile telephone number(s).

points (discount points)

A fee or charge made by lenders for services related to originating a mortgage loan in which each discount point equals one percent (1%) of the loan amount.

police power

The constitutional authority of state and local government to adopt and enforce laws and regulations which protect the public's safety, health, morals, and general welfare (e.g., zoning ordinances and building codes).

policy manual

A set of written office standards and procedures.

positive leverage

Occurs when the rate of return from the investment exceeds the interest rate paid on borrowed funds.

possession

The act of possession under which a person exercises his power and control over real property at his pleasure and to the exclusion of all other persons.

post-dated checks

A check that has a date in the future. It is considered a promissory note and the

seller's approval must be obtained before acceptance.

post-license education

Both resident and nonresident licensees (active or inactive) must satisfactorily complete a Commission prescribed or approved post-license educational course prior to their first renewal following licensure. Licensed sales associates must take 45 hours of 50 minutes each and licensed brokers must take 60 hours of 50 minutes each. Both must successfully pass the end of course exam with a grade of 75% or higher. Otherwise, the 30 day waiting time to retest applies just like in the pre-license course.

potential gross income (PGI)

The total income the property will produce if fully rented for one year.

power of attorney

A written instrument authorizing a person to act as the agent of another. See *attorney-in-fact*.

preclosing inspection

A walk-through of the property prior to closing to determine that that property is in the same condition as the time of executing the contract.

premises clause

Also called the granting clause; the only necessary clause in a deed; contains words of conveyance, names of the two parties, the legal description, and the date of the deed.

prepayment clause

A clause in a mortgage contract that allows a borrower to pay off all or some portion of the remaining loan balance ahead of schedule without penalty.

prepayment penalty

If the borrower pays off their loan ahead of schedule, then the lender could charge an additional fee called a penalty. FHA, VA, and conforming conventional loans do not contain a prepayment penalty.

prepayments

Items typically paid in advance (e.g., rent, insurance, and interest on a new mortgage) that must be identified with the seller's period of ownership in order to debit one

party and credit the other party on the closing statement. Note that if the seller is not providing the buyer's mortgage, then the prepaid interest is only a debit to the buyer.

price

The amount actually paid by a buyer to a seller in a real estate transaction.

prima facie (evidence)

On the face of it; a fact presumed to be true unless disproved by evidence to the contrary.

primary mortgage market

That part of the money market in which primary lenders, such as savings associations, mutual savings banks, commercial banks, life insurance companies, mortgage bankers, and credit unions originate mortgage loans directly to borrowers.

principal

1) A party with whom a real estate licensee has entered into a single agency relationship; a broker's employer; 2) The amount of money borrowed, owed, or loaned; 3) The remaining balance due on a mortgage loan. See *client*.

principal baseline

An imaginary line running east and west crossing a principal meridian at a definite point. There are 37 sets of principal meridians and baselines in the continental U.S. In Florida, this line crosses at a point in Tallahassee. These lines are used in the government survey system of legal description. See *principal meridian*.

principal meridian

An imaginary line running north and south crossing a baseline at a definite point. There are 37 sets of principal meridians and baselines in the continental U.S. In Florida, the principal meridian crosses at a point in Tallahassee. These lines are used in the government survey system of legal description. See *principal baseline*.

principle of anticipation

Economic principle that reflects the market value of a property equals the present worth of the future income stream or the amenities of the property.

principle of change

Economic principle that states the forces of supply and demand constantly change and cause fluctuations in the market value of a property.

principle of competition

Economic principle that states the actions of buyers, sellers, builders, developers, investors, and others in the marketplace create competition for certain types of properties, thereby establishing market values.

principle of conformity

Economic principle that indicates an overimproved property will tend to conform and decrease in value toward the value of other property in the area.

principle of contribution

(principle of diminishing marginal returns) Economic principle that reflects the cost of any factor of production (land, labor, capital, and management) added to a property should be evaluated in relationship to the value it returns.

principle of highest and best use

Economic principle that refers to the legal, possible, probable, and reasonable use which, at the time of an appraisal of a property, is most likely to produce the greatest net return (greatest present value) to the land and/or improvements over a given period of time while preserving its utility.

principle of substitution

Economic principle that states that an informed buyer will pay no more for a property than the cost of acquiring another equally desirable property with the same or equal utility or productivity, (with any time costs or delays encountered taken into account in making the substitution). If two similar houses are for sale, the lowest price house will generally sell first.

principle of supply and demand

Economic principle that concerns the ability of people to pay for real estate and its relative scarcity in the marketplace.

principle of variable proportions

(principle of balance) (principle of increasing and decreasing returns)

Economic principle that states real estate achieves its highest and best use, or point of maximum productivity, when the factors of production (i.e., land, labor, capital, and management) are in balance with one another.

private mortgage insurance (PMI)

Insurance that protects mortgage lenders against excessive risk and losses due to borrower default on a conventional mortgage loan (usually required when the loan-to-value ratio exceeds 80%).

private restrictions

Limitations on the use of real property created by restrictive covenants in deeds, conveyances, leases, and mortgages. See *deed restriction*.

probable cause

Reasonable grounds to prosecute which is determined by the 2 person probable cause panel. If it is determined that probable cause exists, then a formal/administrative complaint will be filed. See *administrative complaint and probable cause panel*.

probable cause panel

Receives the DBPR investigator's report and any recommendations from the DBPR. The chairperson of the FREC appoints two current members of the Commission to form the probable cause panel or one current and one former member. One member must be a professional member. If a former member is used, then they must hold an active real estate license.

procuring cause

A broker is regarded as the procuring cause of a sale when his efforts lead directly to the closing of the transaction, which entitles him to be compensated.

profit

The amount a person makes above their cost. See *cost*.

progression

A principle in appraising that an inferior property will be enhanced by its association with the same type of superior property.

promissory note

A negotiable, written instrument that is the legal evidence of a debt, and a promise by

one or more parties to repay a definite sum of money by a specified time.

property

In the strict legal sense, property is an aggregate or bundle of rights to a thing that is guaranteed and protected by the government.

property development

A multifaceted aspect of the real estate industry and involves everything from buying vacant (raw) land to selling a completed project.

property management

A service of real estate that involves the management of income-producing property of an owner. The objective of property managers is to obtain the highest possible net income for the owner while maintaining high property value.

property management contract

Provides the details of the relationship between the property manager and the owner, including fees and responsibilities.

property report

Under the antifraud provision of the Interstate Land Sales Full Disclosure Act, a developer of 25 or more lots must provide each purchaser a required disclosure called a property report. The report contains information about the real estate and must be delivered prior to signing the contract.

prorate (pro rata)

To divide proportionally.

prorate

The mathematical process of proportionally dividing certain costs between the seller and buyer as of the closing date of the real estate transaction (e.g., real property taxes, prepaid interest, interest paid in arrears, rent and security money, and association fees).

proprietary lease

A lease between an owner-cooperative of real estate and the tenant-stockholder.

Gives the tenant-stockholder the right to occupy their unit.

prospect

See *customer*.

public accommodation

Public and private facilities that are open to the public must comply with ADA requirements for accessibility (e.g., a certain number of disabled parking spaces, the height of light switches, and grab bars in bathrooms).

public grant

A grant of public lands to an individual by the state or federal government.

public records

Legal records maintained by a governmental unit or a governmental officer which are subject to public inspection, and thus give notice of their contents to the public at large. See *constructive notice*.

public restrictions

A limitation on the use of privately owned real property imposed by the government (e.g., zoning ordinances).

punitive damages

Damages awarded to punish a defendant for wrongful behavior or to make an example of him.

purchase agreement

See *contract for sale and purchase*.

purchase money mortgage

Any mortgage given to secure a loan that is made for the purpose of purchasing real property. Typically, a purchase money mortgage is 1) a first mortgage given by a buyer to a third party, such as an institutional lender; or 2) a first or junior mortgage given by a buyer to a seller.

purchasing power risk

Risk related to the effect inflation may have on the property's value.

- Q -

qualified fee estate

Fee ownership with certain limitations imposed by the grantor.

qualifying

See *mortgage underwriting*.

quantity survey method

Used in appraising to determine reproduction cost. The method specifically analyzes each item of construction including building materials and supplies,

other products, labor costs, indirect costs, and builder's profit necessary to reproduce the subject property.

quasi

Related to; of a similar nature. See *ostensible* (*quasi-partnership*, *quasi-judicial powers*, and *quasi-legislative powers*).

quasi-judicial powers

The powers granted by Chapter 475, F.S. to the Florida Real Estate Commission which permits them to deny applications for licensure, certification, registration, or permit, or the renewal thereof; and hold informal hearings and issue final orders in all disciplinary proceedings to suspend or revoke licensure, reprimand or fine a licensee, registrant, or permittee, or place any of the foregoing on probation.

quasi-legislative powers

The powers granted by Chapter 475, F.S. to the Florida Real Estate Commission which permits them to 1) enact rules that implement its owners and duties prescribed by law; 2) enact bylaws and regulations for its own government; and 3) establish fees.

quasi-partnership

See ostensible quasi-partnership.

quiet enjoyment

The right of an owner of real property or a tenant occupying real property under a lease agreement to enjoy the possession of the premises in peace and without interference.

quitclaim deed

A type of deed in which the grantor makes no covenants for title and merely releases or relinquishes all right, title, or interest that he has in the real property, without claiming any interest whatsoever. It is commonly used to cure defects in or remove clouds from a title. *See cloud on title.*

quorum

The minimum numbers of members of a deliberative body who must be present before meetings may be held or business conducted. For example, four members must be present for the FREC to conduct business.

- R -

R-Value

A value for the resistance to heat flow. The higher the R-Value, the more resistant the material. Search by zip code at the U.S. Department of Energy web site.

radon gas

A colorless, odorless gas that develops in the earth naturally as a result of the decay of radioactive materials such as uranium.

range

A vertical (north/south) strip of land six miles wide on either side of the principal meridian. *See government survey system and principal meridian.*

range lines

The lines running every six miles east and west of the principal meridian. *See government survey system and principal meridian.*

ratification (ratified)

Confirmation by a party of a previous act done either by himself or by another.

ready, willing, and able

Words usually contained in listing contracts implying that a potential buyer will complete the transaction at the time and place specified in the contract; has the desire to complete the transaction under the terms and conditions of the contract; and has the financial capability to complete the transaction under the terms and conditions of the contract.

real estate

The physical land at, above, and below the earth's surface. It includes any buildings, structures, fixtures, or other improvements erected on or affixed to the land, and anything growing on the land. *See real property (realty).*

real estate broker

A licensed person who, for compensation or with the intent to receive compensation, acts as an agent for others in the performance of one or more services of real estate; this includes transactions involving business enterprises or opportunities. As set forth in Chapter 475, F.S., the term broker also includes any person who

advertises rental property information or lists; any person who is a general partner of a brokerage partnership or an officer or director of a brokerage corporation; and any person or entity who lists, advertises for sale, promotes, or sells by any means whatsoever one or more time-share periods per year on behalf of others, except as otherwise provided by law.

real estate brokerage

A business registered with the Department of Business and Professional Regulation that 1) buys, sells, rents, leases, exchanges, auctions, or appraises the real property of others for compensation; 2) advertises rental property information or lists; or lists, advertises for sale, or promotes; or 3) sells by any means whatsoever one or more time-share periods per year on behalf of others. A brokerage business may be registered and operated as a sole proprietorship, corporation, limited liability corporation, limited liability partnership, or general or limited partnership.

Real Estate Education and Research Foundation

The major purpose of the foundation is to create and promote educational projects to expand the knowledge of the public and real estate licensees in matters pertaining to Florida real estate.

Real Estate Investors Association (REIA)

Formerly known as the Real Estate Securities and Syndication Institute. A trade association that represents local investor, apartment, property owner, and landlord associations with a mission to educate their members to become better real estate investors.

real estate investment trust (REIT)

See business trust.

real estate owned (REO)

A property that has gone through foreclosure and is now owned by the lender. The REO property did not find a buyer during the foreclosure auction so the lender takes it back. This type of property is less risky in that a buyer can obtain title insurance at closing to insure against any

defects in the title whereas at a foreclosure sale, title insurance would not be available.

Real Estate Recovery Fund

A fund established by statute to reimburse any person, partnership, or corporation who is adjudged by a court of law to have suffered monetary damages by reason of certain acts committed as a part of any real estate brokerage transaction involving real property in Florida by any broker or sales associate who held a valid and current license at the time the alleged act was committed.

real estate sales contract

An agreement whereby one party agrees to buy and the other party (the owner) agrees to sell certain real property according to the price, terms, and conditions of the contract. Also known as an agreement for sale, an agreement of sale, a contract for purchase, a contract for sale, contract for sale and purchase, a purchase agreement, and a purchase and sale agreement.

real estate services

Any real estate activities performed for another for compensation require an active real estate license (personal and business). Florida real estate license law identifies eight real estate services that require licensure if compensation is offered or expected - A BAR SALE (advertise real estate services, buy, appraise, rent or provide rental lists, sell, auction, lease, and exchange).

Real Estate Settlement Procedures Act (RESPA) (Regulation X)

A federal law that requires lenders to fully disclose the type and amount of closing costs that borrowers are required to pay on government-under written mortgage loans, or on federally related residential mortgage loans. RESPA attempts to eliminate kickbacks. *See closing costs and kickback.*

real property (realty)

The physical land, and generally whatever is erected on, affixed to, or growing on the land, plus the interests, benefits, and legal rights inherent in the ownership of real estate. The term realty is sometimes used to denote real property.

REALTOR®

A real estate professional who is a member of the National Association of REALTORS®, a state association of REALTORS®, and a local board or association of REALTORS®. Some boards or associations permit the term to be used only by member-brokers, while others permit it to be used by member-brokers or member-sales associates.

REALTOR® - associate

In some local boards or associations of REALTORS®, a real estate sales associate who is a member of the National Association of REALTORS®, a state association of REALTORS®, and a local board or association of REALTORS®.

REALTORS® National Marketing Institute (RNMI)

An institute whose membership is comprised of those specializing in the brokerage of residential, commercial, and investment real property. Offers the Council of Real Estate Brokerage Managers professional certification.

realty

See real property.

receiver

A person appointed by the court to receive, preserve, and manage the property of a bankrupt or property in litigation, to receive the rents and profits generated by the property, and to apply or dispose of them at the direction of the court.

receivership clause

Allows income from the mortgaged property to be applied to the mortgage payments should the mortgagor default. *See mortgagor.*

recommended order

Issued at the end of a formal hearing by an ALJ based on clear and convincing evidence; must include any findings of fact, conclusions of law, interpretation of rules and recommended penalty, if any.

reconciliation

What an appraiser does by weighing the estimates of value that were derived from the sales comparison, cost-depreciation, and income approaches to arrive at a final estimate of market value.

recording

Placing or entering instruments that affect the title to real property into official public records of the county in which the property is located so as to give notice of their contents. *See constructive notice.*

reddendum clause

The reserving clause in the deed that reserves a right or restriction in the title, not land, to the grantor (e.g., the grantor reserves the right to receive rent from the property for his life).

redlining

An illegal and discriminatory practice by financial institutions that refuse to make mortgage loans on real property in certain areas due to alleged deteriorating or otherwise undesirable conditions, and not the applicant's credit record.

referee's deed in foreclosure

Used to convey property sold in a court-ordered foreclosure sale.

referee's deed in partition

Used to convey property following a court-ordered partition judgment involving property owned jointly by two or more persons who desire to dissolve their joint ownership of the property but who cannot agree on the physical division (partition) of the property.

referral fee

See finder's fee.

refinancing

To renew financing, or obtain new financing to pay off existing debts or loans.

registered trainee appraiser

An individual registered with the Department of Business and Professional Regulation who is permitted to appraise real property under the supervision of a state-certified appraiser.

registration

The placing and maintaining on record, by the DBPR, the name and address of each licensed broker and sales associate, and the name and business address of the sales associate's employer.

regression

A principle in appraising that a superior property will be adversely affected by its

association with the same type of inferior property.

Regulation Z

Published in 1969 by the Federal Reserve Board of Governors and requires that a borrower be shown clearly in both dollars and a percentage amount what is actually being paid for credit. See *Consumer Credit Protection Act*.

release clause

A clause in a mortgage contract that allows individual parcels of land to be released from the mortgage as they are sold and upon payment of a specified amount to the lender. See *blanket mortgage*.

remainder estate

A future ownership interest in real property that passes to a certain person at a specified time or upon the happening of a necessary event.

remainderman

One who receives the remainder of an estate in real property after a preceding estate carved out of it has expired. For example, "A," who owns land in fee simple, conveys it to "B" for twenty years, and at the end of that time, it passes to "C" (a remainderman) in fee simple.

rent

An agreed sum paid at fixed intervals by the tenant to the landlord. See *lessee and lessor*.

renunciation

The act by which a person abandons an acquired right without transferring it to another.

replacement cost

As used in the cost-depreciation approach, the current cost of creating a building of equal utility as the building being appraised, but not necessarily with identical materials or in exact physical detail.

reproduction cost

As used in the cost-depreciation approach, the current cost of creating a duplicate or replica of the building being appraised by using identical materials and design.

resale condominium

When the seller of the condominium unit is someone other than the developer it is

considered a resale. The buyer must be provided the condominium documents that include the articles of incorporation, association rules, bylaws, declaration, the frequently asked questions and answers, governance form, and the most recent year-end financial report.

rescind

To terminate, annul, or make void.

rescission (of a contract)

The act of canceling or declaring a contract void, which places each party in the position held before the contract was made.

reserve for replacements

An annual reserve fund for replacement of short-life items that wear out from time to time.

reserve requirement

The portion of depositors' funds that regulated financial institutions must keep and not loan out. This increases or decreases the amount of money available for loans, depending upon the direction of change in the reserve requirement.

residential sales

The sale of improved residential property of four units or fewer, the sale of unimproved residential property intended for the use of four units or fewer, or the sale of agricultural property of 10 acres or fewer.

resolution

The adoption of a motion that merely expresses an opinion or the will of an official body, such as a resolution of the Florida Real Estate Commission.

respondent

The party who responds to a pleading in a civil matter. See *complainant*.

restriction

A limitation on the use of real property which may be contained in a deed, lease, or zoning ordinance. See *deed restriction, private restrictions, and public restrictions*.

restrictive covenant

Recorded with the subdivision plat and affects the entire subdivision. Opposite of deed restriction because deed restrictions affect a single property.

reverse

To vacate, set aside, make void, annul, or revoke. For example, the District Court of Appeals could reverse a final order of the Florida Real Estate Commission.

reverse annuity mortgage

A loan made by a lender to a 62 years or older homeowner against the equity in his home. The homeowner receives monthly payments directly from the lender based on the homeowner's accumulated equity in his home or through the purchase of an annuity from an insurance company.

reversion estate

A future ownership interest in real property that returns or reverts to the grantor, or to his heirs, at the termination of a particular estate. For example, "A," who owns land in fee simple, conveys it to "B" for his lifetime. When "B" dies, the property reverts to "A" or his heirs in a fee simple estate.

revocation (revoke)

The taking back of some power, authority, or thing granted, or rescinding a right or status that existed prior to the act of revocation (e.g., revocation of a license by the Florida Real Estate Commission). Revocation is permanent except for two situations—when the licensee filed for renewal but did not comply with the continuing or post license education requirements prior to the expiration date or when an individual files an application for licensure that contains fraudulent information.

right of survivorship

The right of a surviving joint owner of property to receive the interest of a deceased joint owner. In Florida, a joint estate may include the right of survivorship if expressly stated in the instrument which creates the estate. See *joint estate (joint tenancy)*.

right-of-way

The right or privilege to pass over the land of another, which is often acquired by contract.

right to reinstate

Not available in title theory states. See *equity of redemption and title theory*.

riparian rights

The rights of landowners whose property borders on a river or stream.

- S -

S corporation

A type of corporation that passes corporate income, losses, deductions, and credit through to their shareholders for federal income tax purposes. See *corporation for profit*.

SAFE Act (SAFE)

Secure and Fair Enforcement for Mortgage Licensing Act of 2008 sets minimum standards for the licensing and registration of state licensed mortgage loan originators. See *mortgage loan originator*.

sale-leaseback

A method of financing in which the owner of real property sells his property and simultaneously leases it from the buyer for an extended period of time.

sales associate, real estate

A person who performs one or more services of real estate, either as an employee or independent contractor, under the direction, control, or management of a licensed real estate broker or owner-developer. See *independent contractor*.

sales comparison approach

Appraisal method for estimating cost based on the principle of substitution.

sales contract

See *contract for sale and purchase*.

sandwich lease

The lease of a lessee who has sublet all or a portion of the leased space to another, who is now sandwiched between the fee-owner and the party who acquired the sublease.

satisfaction

The discharge of an obligation by paying a party; the amount awarded to him by judgment of the court.

satisfaction of mortgage

When a mortgage is paid in full, Florida law requires the lender to file a satisfaction of mortgage discharging the debt within 60 days of receiving the last payment.

Save Our Homes (SOH)

Chapter 193.155 F.S., states that beginning in 1995 and thereafter, homestead property shall be reassessed annually on January 1 and any change shall not exceed the lesser of 3% of the assessed value or the change in the Consumer Price Index. See *Consumer Price Index and homestead*.

savings association

A type of financial institution whose original function was to promote thrift and home ownership. Savings associations are chartered by either the federal or state government, and regulated by the Office of Thrift Supervision. See *Office of Thrift Supervision (OTS)*.

scarcity

A characteristic of value, scarcity describes a limited supply relative to the demand for a specific type of property.

seal

See *locus sigilli (L.S.)*

second mortgage

A subordinate or junior mortgage to a first mortgage.

secondary mortgage market

That part of the money market in which secondary lenders, such as federal government agencies, life insurance companies, and pension funds buy and sell closed loans originated in the primary mortgage market. See *primary mortgage market*.

section

In the government rectangular survey method of describing real property, a tract of land that is one mile square; has an area of one square mile; and contains 640 acres. See *township*.

security

A pledge given by a debtor to assure the payment of his debt, which provides the creditor with a resource to be used if the debtor fails to meet his obligation. For example, a mortgage pledges the borrower's real property as security for repayment of the debt.

seller property disclosure form

Usually resembles a questionnaire or a checklist and requires that the sellers give a

detailed and comprehensive report on the property; usually has a signature area where the sellers also agree that this information can be given to prospective buyers.

seller's market

A market where there are more buyers relative to the number of sellers. See *buyer's market*.

separate property

The real and personal property that married persons individually own.

servient estate

Adjoining property to a dominant estate; known as the servient estate because it suffers from the right granted by the easement. See also *dominant estate*.

severity

An estate held by a person in his own right; sole ownership.

shed roof

A type of flat roof that slopes in one direction.

short sale

When the proceeds from the sale are not sufficient to cover the homeowner's mortgage obligations and other closing costs, including the real estate sales commission, property taxes, any past due association fees, and transfer taxes.

Usually short sales occur when the homeowner is behind in their mortgage payments and/or other liens. The lender agrees to accept less than what is owed because the homeowner is experiencing a financial hardship and/or is upside down due to decreasing home values. See *upside down*.

single agency or single agent

An agency relationship in which the agent has only one principal per transaction in a residential sale. For example, a single agency exists when either a seller or buyer, but not both in the same transaction, employs a broker.

site

A plot of land set apart for some specific use.

situs

The economic quality of real estate resulting from its location and immobility.

Society of Industrial and Office REALTORS®

A professional organization that serves commercial brokerage specialists.

sole proprietorship

A type of business organization owned and controlled exclusively by one person.

sole titleholder

The person holding title to property owned by a corporation sole. *See corporation sole.*

solvent

The ability of a person or business entity to pay debts when due from current assets.

special agent

An individual who has been authorized to act on the employer's behalf to perform a single act. As an example, a broker employed under a listing contract to market one property is acting as a special agent.

special assessment

A one-time tax levied by local government against real property for some improvement that will increase the value of the property affected (e.g., for sewer or water mains, sidewalks, streets).

special exception

A deviation in land use that does not comply with the designated use as specified in a zoning ordinance.

Special Flood Hazard Areas (SFHAs)

Delineated according to National Flood Insurance Program criteria where the probability of flooding an area will be at least 1% in any given year.

special-purpose property (special use property)

Properties that do not fit other zoning categories (e.g., schools, libraries, courthouses, parks, and other government properties).

special power

Limited to some special act (e.g., signing a contract, deed, or mortgage).

special tax districts

Established to support specific needs (e.g., fire protection, flood control, hospitals, and emergency ambulance service). These

districts are created by the local government, the property owners who desire a special service or improvement through the local government, or by acts of the state legislature.

special warranty deed

A type of bargain and sale deed in which the grantor promises only to guarantee and defend the title to the real property against lawful claims made by himself or anyone claiming by, through, or under him. This type of deed is given by corporations selling their property.

specific performance

The actual performance of a contract by a party required to fulfill it; a type of legal action in which one party to a contract requests the court to require another party to perform according to the exact terms of the contract.

speculative building

An improvement (e.g., a house) constructed by developers, contractors, or builders according to their specifications on land they own with the goal of selling the land and the building.

spouse

One's husband or wife.

state-certified general appraiser

See certified general appraiser.

state-certified residential appraiser

See certified residential appraiser.

statute of frauds

Statutory law requiring all contracts for land or any interest in land, that cannot be fulfilled within one year, to be in writing to be enforceable. This statute applies to real estate sales contracts, option contracts, deeds, mortgages, and leases for longer than one year.

statute of limitations

A Florida statute requiring a plaintiff to bring a lawsuit within a specified time period or it will be disallowed by the courts. For example, a legal action on a written contract must be started within five years and within four years on an oral agreement.

statutes

Acts by the Florida Legislature (state law) or by the United States Congress (federal law)

declaring, commanding, or prohibiting something. The term is used to denote legislatively enacted laws as opposed to case, unwritten, or common laws.

statutory right of redemption

Allows a mortgagor in default to redeem property after foreclosure from the purchaser at the public sale.

stay of enforcement

A motion that defendants may file when they file an appeal asking that a final order be stayed (delayed) from taking effect. If requested, the stay will be granted and the licensee may continue to operate, unless the FREC can show there is a probable danger to the public welfare. If a stay is not requested, the final order becomes effective.

steering

See channeling.

stigmatized property

Property upon which some event with more of a psychological impact than a physical impact or defect has occurred or is occurring. Property can be stigmatized by events such as murder, suicide, or drug-related arrest, or the property may be considered haunted by ghosts or spirits. Also includes those premises on which a famous person may have once lived.

stipulation

When the Division of Real Estate's attorney meets with the licensee-respondent and their legal counsel to discuss a possible settlement, the agreement reached that states the facts of the case and the penalty determined. A stipulation must be approved by the FREC to be effective.

subagent

A person employed by an agent to assist in transacting the business of his principal; an agent of an agent.

subdividing

Converting a raw parcel of land into smaller parcels.

subdivision or subdivided lands

Any contiguous land which is divided or is proposed to be divided for the purpose of disposition into 50 or more lots, parcels, units, or interests; or any land, whether

contiguous or not, which is divided or proposed to be divided into 50 or more lots, parcels, units, or interests which are offered as a part of a common promotional plan.

subdivision plat map

An engineer's plan for land use that is superimposed onto a map of the land to be developed. It indicates the streets, public utilities, water and sewer lines, and the individual lots.

subject property

The property being appraised.

subject to mortgage

When real property is sold subject to the mortgage, the buyer assumes liability only for the existing mortgage and the seller retains prime liability on the note. In the event of default, the buyer could lose the property and his equity in the property in a foreclosure sale.

sublease

A lease agreement in which a tenant leases to another party all of the leased space for less than the remaining time of the lease period and/or only part of the leased space for any time period.

subordination agreement

An agreement which allows the rights of one person to rank below the rights of another. For example, the holder of a first mortgage may agree to take a second mortgage position, and thus subordinate or relinquish his priority position to a new mortgage. The subordination clause provides that the mortgagee will allow another mortgage to assume a superior position in priority.

subpoena

A command to appear in court or at a hearing, usually for the purpose of giving testimony on a certain matter.

subrogation

The substitution of one party in the place of another who has a claim against a third party.

subsequent

Later in time, following, succeeding.

subsurface rights

Include the right in a parcel of real estate to explore, drill, or dig below its surface for

minerals (e.g., gas, oil, coal) and water. The mineral rights and certain water rights may be sold or leased.

suit for declaratory decree

Legal action used by a broker who claims an interest in disputed escrow deposits.

suit for interpleader

Legal request used by a broker who does not claim an interest in disputed escrow deposits and places them with the court registry.

suit to quiet title

A proceeding to establish a plaintiff's claim to real property by bringing into court any adverse claimant, and require him to establish his claim or thereafter be prevented from doing so.

summary suspension

An emergency suspension of a license.

supply

A quantity of something. There is an inverse relationship between supply and demand. Supply factors include the availability of land, materials, skilled labor, and construction loans. See *demand*.

Supreme Court (Florida)

The highest appellate court with statewide jurisdiction; court of last resort.

surface rights

Include the right to control, occupy, and use the surface area of a parcel of real estate along with land and water rights (e.g., building improvements on land and growing crops on it).

surplus money action

A junior mortgage holder who is holding a second or subsequent mortgage position may file a surplus money action so that any funds that are collected at the foreclosure sale will pay all senior claims as well as his or her own against the borrower.

survey

1) The process by which a parcel or tract of land is measured, and its boundaries and contents determined; 2) a map, plat, or explanation of the results of a survey.

surveyor

One who makes surveys and determines the area of a parcel or tract of land, the

length and direction of its boundary lines, and contour of its surface.

suscipient function

Function of businesses (e.g., flower shops, ice cream stores) in commercial areas that depend on attracting passerby traffic.

suspension of a right (suspend)

The act by which a person is temporarily deprived of the exercise of a right for a period of time. For example, the Florida Real Estate Commission has the power to suspend the license of a broker or sales associate for a maximum period of 10 years.

syndication

See *business trust*.

- T -**tangible property**

Real or personal property that may be touched and possessed (e.g., land, buildings, trees, cars, boats, jewelry).

taxable income

For IRS purposes, the gross income minus any allowable tax deductions. For real estate purposes, the net operating income plus reserve for replacements minus the financing costs and allowable depreciation.

taxable value

The property tax rate is applied to the difference between the total assessed value and all exempt value to determine the property tax due.

tax certificate

Failure to pay real property taxes results in the public sale of tax certificates which gives the certificate buyer a right to the delinquent property tax plus interest.

tax deed

A deed used to convey title to real property that has been foreclosed by a court order for nonpayment of real estate taxes. See *deed*.

tax lien

A lien on real or personal property in favor of local, state, or federal government which may be foreclosed for nonpayment of taxes.

tax rate

Property tax rates are set by the millage which is determined by the taxing district governing bodies (e.g., city, county, water management, school board, and special districts).

tax shelter

Created when deductions exceed taxable income.

tax value

Also known as assessment value or what the property is valued for assessment purposes; often less than real market value.

teaser rate

The low, temporary, introductory interest rate for an adjustable rate mortgage. See *adjustable rate mortgage*.

telephone solicitation

The initiation of a telephone call for the purpose of encouraging the purchase of, or investment in, property, goods, or service.

tenancy at sufferance

A tenancy created when a tenant's legal rights have ended, but he remains in possession of the landlord's property without agreement; also known as a holdover tenant. See *nonfreehold estate*.

tenancy at will

A tenancy created by either an oral or written agreement that exists whenever a landlord grants the possession and use of his real property to a tenant for an indefinite period of time (sometimes referred to as a rental agreement). See *nonfreehold estate*.

tenancy (estate) by the entireties

A form of joint ownership that can exist only between a husband and wife, which is normally created when they acquire title to real property at the same time. On the death of one spouse, the surviving spouse becomes the sole owner of the property.

tenancy (estate) for years

A tenancy created when a landlord grants the possession and use of his real property to a tenant for a definite period of time (e.g., a certain number of days, weeks, months, or years from a given date). It is created by a written lease containing specific beginning and ending dates as agreed between the parties.

tenancy in common

A form of joint ownership in which two or more persons called co-tenants own a separate and distinct share of real or personal property. A tenancy in common cannot provide for the right of survivorship since each co-tenant can sell, give, will, or otherwise dispose of his interest in the property at any time.

tenant

See *lessee*.

tender

1) An offer of money to satisfy a claim; 2) an unconditional offer to perform combined with the ability to carry out the offer and produce certain subject matter.

tenendum clause

The clause in the deed that states that the land together with any improvements to the land is being conveyed to the grantee.

terminus

A post or stone marking a boundary. Metes means terminus or measurements (e.g., inches, feet, yards, and miles). See *metes and bounds method*.

termite inspection

A physical inspection of real property for the presence of termites.

term mortgage (straight term)

A mortgage that requires the payment of interest only at specified intervals, with the entire principal amount borrowed due at the loan maturity date.

testate

A person who dies and leaves a will is said to die testate.

testimonium clause

The clause in the deed that contains the statement, "In witness whereof the parties to these presents have hereunto set their hands and seals."

thrift institutions

Organizations that primarily accept savings account deposits and invest most of the proceeds in mortgages; savings banks, savings associations, and credit unions are other examples of thrift institutions.

time is of the essence

A contract provision that means that the parties will be held to exactly that time

period specified. The party that is late is in breach of contract.

time-share

A plan or arrangement in which a purchaser receives a fee simple interest in or a right to use a time-share unit, such as an apartment, condominium, or cooperative unit, for a specified period of time each year—usually one week. If the purchaser is merely granted a right to use an accommodation, it may consist of a lease, rental agreement, license, or club membership.

title

The right by which a party is entitled to the present or future ownership of real estate. Ownership includes the right of possession, occupancy, use, enjoyment, and disposition of the property. Title is also the evidence of ownership of real estate. One who owns property has title to it.

title insurance

A title insurance company's guarantee against loss or damage from defects or encumbrances in the title to a specified parcel of land to which the company has not taken an exception. See *mortgagee title policy* and *owner's title policy*.

title plant

A duplicate set of the public records that include copies of all the essential recorded instruments affecting title to real estate.

title search

An examination of the public records and other publicly available records for documents that affect title to a parcel of real estate to determine whether any defects exist in the chain of title. See *chain of title*.

title theory

A view that a mortgage conveys legal title to the mortgaged real property to the lender until the terms and conditions of the mortgage contract are satisfied by the borrower. See *lien theory*.

T lot

In the shape of a T typically used in alternation in a block; used to provide variety in terms of distance of the houses from the street; allows for higher density building along an area with limited attraction

access. Suffers from runaway cars and headlights.

topography

The nature and contour of the surface of land.

tort

A wrongful act or injury, other than breach of contract, which permits the wronged party to bring a civil suit against the alleged wrongdoer for damages suffered.

township

In the government survey system of describing real property, a tract of land that is six miles square; has an area of 36 square miles; and contains 36 sections.

township line

Drawn every six miles parallel to base lines.

See *base lines and correction lines*.

toxic waste

Waste material that can cause injury or death. The Department of Environmental Protection regulates the disposal of toxic waste.

tract building

Involves a builder building homes from a variety of floor plans which act as examples of what the builder has to offer in a subdivision. This is also called model home building.

trade fixture

An article of personal property annexed or fixed to real estate being rented or leased by a tenant as a necessary part of the tenant's business or trade.

trade name

See *fictitious names statute*.

transaction broker

A relationship created when a broker offers limited representation to one or both parties in a residential real estate sale transaction, but does not represent either in a fiduciary capacity or as a single agent.

transferability

A characteristic of value, transferability means title to a property can be transferred from one person to another.

triggering terms

Creditors are required by the Truth-in-Lending Act to disclose additional information when certain credit terms are

used in advertising (e.g., the amount or percentage of down payment, number of payments, term of repayment, amount of any payment, and the amount of any finance charges).

trust

An arrangement in which real or personal property is transferred to a trustee with the intention that it be managed for the benefit of another or others.

trust account

See escrow account.

trustee

A person who holds title to real or personal property for another or others.

- U -

underground storage tanks

A tank that holds over 1000 gallons of gasoline underground. A major concern to the landowner is if it leaks. Storage tank cleanups are very expensive. The Department of Environmental Protection regulates the use of underground storage tanks.

underwriting

When a lender analyzes risk and accepts it by funding a proposed mortgage.

undivided interest

An interest in the entire property as opposed to ownership of a certain portion of the property.

unenforceable

A contract that will not be upheld in court or cannot be proved but was valid when it was executed.

Uniform Appraisal Dataset (UAD)

The UAD provides common requirements for appraisals. The UAD has field-specific standardization requirements. For appraisals completed on or after September 1, 2011, the appraisal report must be completed with the UAD for conventional mortgages sold to Fannie Mae or Freddie Mac.

Uniform Commercial Code (UCO)

A standardization of rules throughout the United States regarding the sale or transfer

of personal property. Each state in the country has adopted the UCC in some form.

Uniform Standards of Professional Appraisal Practice (USPAP)

The generally accepted standards for professional appraisal practice in North America.

unilateral contract

A contract in which only one party has promised to perform in accordance with the terms and conditions of the agreement (e.g., an option contract).

unit-in-place cost method

Used in appraisal, utilizes cost manuals to determine the cost of construction of components (parts, materials, and labor). The builder's overhead and profit are added to the construction cost.

unit-of-comparison method

Used in appraisal, requires that the cost of reproduction of the subject property be computed on the basis of the cost per square foot or per cubic foot of comparable buildings to determine the estimated value. In arriving at the unit cost, the appraiser examines the cost of similar structures, called benchmarks.

universal agent

An individual authorized to act for and represent the employer in all matters. The agent may do for employers anything employers can do for themselves. An attorney often serves as a universal agent, advising clients on issues as diverse as investments, insurance, and death matters.

unliquidated damages

The damages for breach of contract that are not specified in the agreement.

Upfront Mortgage Insurance Premium (UFMIP)

A charge that is paid in cash or financed for FHA mortgages. As of October 4, 2010, the UFMIP is 1% of the loan amount for a 30 year mortgage (e.g., a \$100,000 mortgage has a \$1,000 UFMIP that could be financed in the loan for a total loan amount of \$101,000).

upside down

When the net proceeds of a real estate sale are not sufficient to pay the lender and

other customary closing costs, the homeowner is considered upside down. When the home is worth less than the liens on the property.

urban renewal

A redevelopment plan involving land uses, and improved traffic, public transportation, public utilities, recreation, community facilities, and so on.

urea formaldehyde foam insulation (UFFI)

A home insulation pumped into walls and ceilings, banned by most states in the 1970s and 1980s. Formaldehyde in the insulation reacts with heat and humidity in the air, allowing formaldehyde gas to be released which can cause breathing difficulties, headaches, nausea, nosebleeds, eye and ear irritation, and dizziness.

usury

Charging more for the use of money than allowed by law.

utility

A characteristic of value, utility is the ability of a property to satisfy human needs and desires.

value

The estimated worth of property that is expressed in terms of money. See *assessed value and market value*.

VA mortgage loan

A mortgage loan made to a veteran by an approved lender that is partially guaranteed by the Department of Veterans Affairs (VA).

variable expenses

Those expenses related to the actual operations of the property (building). These expenses are variable and usually reflect the extent to which the building is occupied.

variable lease

A type of lease where the tenant pays specified rent that is scheduled to increase in the future at set dates usually tied to an index, such as the Consumer Price Index. See *lease contract and Consumer Price Index*.

variance

A property use which permits its owner to depart from the literal requirements of a current zoning ordinance that would cause an undue hardship to the owner if strictly enforced.

vendee

A purchaser or buyer.

vendor

A seller.

vendor's lien

A lien on property in favor of a seller that provides security for a debt collectable against the property (e.g., a lien that likely would be imposed when a seller takes a purchase money mortgage from a buyer). See *lien and purchase money mortgage*.

vested

Given to someone, such as title or the rights of absolute ownership.

Veteran's Affairs (VA)

The Department that partially guarantees mortgage loans made by approved lenders. See *Department of Veterans Affairs*.

void

Null; ineffectual; having no legal force or binding effect. A real estate license is void if it has expired or has been suspended or revoked even though it appears valid on the

- V -

vacancy rate

An indicator of the relationship between supply and demand. Determined by dividing the number of vacant units by the total number of units.

vacated

To set aside or cancel; annul.

valid

Legally sufficient; authorized by law; of binding force.

valid contract

See *enforceable contract*.

valuable consideration

Required to create an enforceable contract that has not been fully performed or completed (e.g., enforceable promises, money, real or personal property).

valuation

See *appraisal*.

face of it. A licensee may not operate with a void license.

voidable contract

An agreement that binds one party but gives the other party the right to withdraw.

volt

The potential difference between two points on a conductor carrying a current of one ampere, when the power dissipated between the points is one watt.

voluntary alienation

Transfer that takes place when real property is sold or conveyed by deed or by will.

voluntarily inactive

The status of an individual who maintains a current license status, but who is not actually performing real estate services, may request and receive an inactive individual status. Inactive individuals must meet the continuing education requirements, pay renewal fees, and properly renew the license in order to remain current. A licensee may remain in a voluntarily inactive status indefinitely.

voluntary lien

A lien that attaches to real property with the consent of the owner, such as a mortgage lien. See *involuntary lien*.

- W -**waive (waiver)**

The intentional abandonment, renunciation, or surrender of a claim, privilege, or right.

warrant

A promise that certain facts are true as declared to be.

warrant of encumbrances

An assurance to the grantee by the grantor that there are not encumbrances or liens against the property being conveyed other than those specifically listed in the deed.

warrant of further assurance

An assurance to the grantee by the grantor to do such further acts in the future as the grantee may reasonably require to perfect the grantee's title.

warrant of quiet enjoyment

An assurance to the grantee by the grantor that the grantee shall enjoy the possession of the property in peace and without disturbance by hostile claimants.

warrant of seisen

An assurance to the grantee by the grantor that the grantor has the estate of title in the quantity and quality that he or she purports to convey. This is essentially a claim of ownership. warranty against grantor's acts A provision in a bargain and sale deed which the grantor transferring title of property from a decedent's estate warrants or promises that he or she has done nothing to injure or adversely affect the title while he or she was the personal representative of the estate and had control of the property. See *bargain and sale deed*.

warranty deed (general warranty deed)

A type of bargain and sale deed that contains five covenants of title. It is the most commonly used deed and best for the grantee, for the grantor promises to guarantee and defend the title against defects arising both before and during the time that he held title to the real property.

warranty forever

An assurance to the grantee by the grantor that the grantee shall have possession, completeness, security, and continuance of the title transferred to the grantee. The grantor will forever warrant and defend the grantee's title against all lawful claims.

water rights

May include the water and the land around and under the water.

watt

A unit of power equal to one joule per second.

widow

A woman whose husband is dead, and who remains unmarried.

widower

A man whose wife is dead, and who remains unmarried.

will(last will and testament)

A revocable instrument by which a person makes a disposition of his real and personal property, to take effect after his death.

Women's Council of REALTORS® (WCR)
A council whose membership is comprised of REALTORS® and REALTOR®-Associates.

wraparound mortgage

A junior mortgage obtained by the buyer of real property from the seller when additional financing or refinancing is needed. Such a mortgage is often used when it is impractical to originate a new mortgage and pay off an existing mortgage, due to a high prepayment penalty, low interest rate, or both. The first mortgage cannot have a due on sale clause. Very risky for the buyer because the seller is still the mortgagor on the first mortgage and could be foreclosed if payments are not made, which could wipe out the buyer's equity and interest in the home. See *due-on-sale clause*.

writ

An order issued from a court requiring a party to perform a specified act, or giving authority to have it done.

writ of certiorari

An order to bring from a lower court to an appellate court a record of the case proceedings.

writ of mandamus

See *mandamus*, *writ of*.

writ of supersedeas

A court motion reversing a decision by another court or by the FREC regarding the denial, suspension, or revocation of the licensee; a stay of enforcement until the outcome of the appeal process.

- Y -

yield

1) To give up or surrender a thing; 2) the return on an investment that is expressed in dollars or as a percentage of the amount invested.

- Z -

zero lot line

Where a home is set to the lot boundary, leaving very little space between the houses.

zoning

The division of a city or county into districts, and the application within each district of regulations or ordinances pertaining to land use, lot sizes, types of structures allowed, building heights, setbacks, density, and so on. See *ordinances*.

zoning ordinance

The government's exercise of police powers through classification of real property for different uses. See *ordinances and police power*.

This page intentionally left blank

Websites for Research and Information

American Society of Appraisers
www.appraisers.org

American Society of Real Estate Counselors
www.cre.org

Appraisal Institute
www.appraisalinstitute.org

Consumer Financial Protection Bureau
www.consumerfinance.gov

Department of Business and Professional Regulation (DBPR)

- Division of Condominiums, Timeshares, and Mobile Homes
- Division of Real Estate
- Florida Real Estate Appraisal Board
- Florida Real Estate Commission (FREC)
www.myfloridalicense.com

Department of Energy
www.energy.gov

Department of Veterans Affairs
www.va.gov

Division of Administrative Hearings
www.doah.state.fl.us

Environmental Protection Agency
www.epa.gov

Federal Deposit Insurance Corporation

- Deposit Insurance Fund
- Financial Institutions, Reform Recovery, and Enforcement Act
www.fdic.gov

Federal Emergency Management Agency

- Special Flood Hazard Area
www.fema.gov

Federal Home Loan Mortgage Corporation
www.freddiemac.com

Federal National Mortgage Association
www.fanniemae.com

Federal Trade Commission
www.ftc.gov

Federal Reserve System

- Adjustable Rate Mortgage
- Equal Credit Opportunity Act
www.federalreserve.gov

Florida Department of Revenue Save Our Homes
<http://dor.myflorida.com>

Florida Department of State Division of Corporations
www.sunbiz.org

Florida Realtors®

- Permissible Activities of Unlicensed Assistant
www.floridarealtors.org

Florida Statutes

- Administrative Procedures Act
www.leg.state.fl.us/statutes/

Government National Mortgage Association

www.ginniemae.gov

Institute of Business Appraisers

www.go-iba.org

Institute of Real Estate Management

www.irem.org

International Real Estate Federation

www.fiabci.org

Internal Revenue Service

www.irs.gov

National Association of Realtors®

www.realtor.org

National Mortgage Licensing System

- Safe ACT
<http://mortgage.nationwidelicensingsystem.org>

Office of the Comptroller of the Currency

www.occ.treas.gov

Real Estate Investment Trust

www.reit.com

Real Estate Investors Association

www.nationalreia.com

U.S. Department of Agriculture Rural Development

www.rurdev.usda.gov

U.S. Department of Housing and Urban Development

- Federal Housing Administration (FHA)
- Good Faith Estimate
- HUD-1
- Office of Fair Housing and Equal Opportunity
- Real Estate Settlement Procedures Act (RESPA)
www.hud.gov

U.S. Department of Labor

- Consumer Price Index
www.bls.gov

Terms Frequently Used by the Department of Business and Professional Regulation (DBPR)

You will see the following terms when managing your Online Services account with the DBPR.

Active (see also Active Status) Real estate license status that indicates the licensee is allowed to operate under the associated license.

Applicant References an individual or organization that has applied for a license but has not yet been approved.

Current Status Real estate license status that indicates the licensee is up to date with respect to the department's requirements for licensure.

DBPR The Department of Business and Professional Regulation (DBPR) licenses and regulates Florida businesses and professionals, from real estate agents, veterinarians, and accountants to contractors and cosmetologists. Offices are located in Tallahassee, Florida.

Date Filed The date filed is the date that an application for licensure was received by the DBPR application intake unit.

Educational Shortfall The DBPR will show a shortfall of required education until the education is reported electronically. Once the education is reported and the license renewed, the online DBPR record will again show a shortfall in education. This shortfall is reflective of the education hours due for the next renewal cycle.

Eligible Indicates that the applicant has been approved and can proceed to the next licensure requirement (e.g. examination).

Expiration Date The expiration date is the date that either the license or the application, whichever is applicable, is set

to expire. For example, if an individual is licensed, they may have an expiration date of 9/30/2013. This means the individual would have to renew by that date to retain their license's status. Renewals after this date would require payment of delinquent fees, and possibly another application for licensure.

FREC Florida Real Estate Commission located in Orlando, Florida.

Inactive Real estate license status which indicates that the licensee has met the departments' requirements for licensure but is not allowed to work or provide the services of real estate to the public.

Involuntarily Inactive Real estate license status that indicates the licensee has not completed a renewal of their license in the required time frame. This is a status imposed by the DBPR and should be brought back to current as soon as possible to avoid additional fees and the possible loss of the license.

License Mailing Address This is the address where the mail and other department correspondence associated with a particular licensee will be sent.

Null and Void Indicates that an individual's license is no longer valid.

Late fee A fee required when a license is not renewed by the license expiration date.

License Authority Voided Indicates that a licensee has not been timely in meeting their obligations to the department.

Post License Education Education that is required by the state for the initial (first renewal) renewal of a Florida real estate sales or Florida real estate broker's license. Sales associates must complete 45 hours of education for the first renewal of a sales associate license. Brokers must complete 60 hours of education for the first renewal of a broker's license.

Pre-License Education or Course

A course or set of courses that is required by the state of Florida to obtain a real estate sales license or a real estate broker license. Reactivation Course – If a license status is involuntarily inactive for more than a year, but less than two years, it is necessary to complete a 28 hour Reactivation course and pay any late fees in order to change the license status to current.

Renewal Cycle The time period beginning with the day after the license renewal date and ending with the next renewal date of the license (the first renewal cycle may be shorter). Example – License expires 9/30/2013 – the next renewal cycle for that license would be 10/1/2013 to 9/30/2015.

Reversion from Broker's license to Sales license – If a Florida real estate broker licensee fails to complete the 60 hour post license education requirement by the renewal date, the license will revert to Null and Void. The licensee has the option to revert the license to a sales associate license within the first six months after the license goes Null and Void. There are specific state requirements that must be met prior to the license status being reverted from a broker to a sales associate.

Abbreviations and Acronyms

ADA:	Americans with Disabilities Act of 1990	FHEO:	Office of Fair Housing and Equal Opportunity
ADS:	Annual Debt Service	FHLMC:	Federal Home Loan Mortgage Corporation
AI:	Appraisal Institute	FIRREA:	Financial Institutions, Reform, Recovery, and Enforcement Act
ALJ:	Administrative Law Judge	FLI:	Farm and Land Institute
AMC:	Appraisal Management Company	FmHA:	Farmer's Home Administration
AMPS:	Amperage	FNMA:	Federal National Mortgage Association
APA:	Administrative Procedures Act	FRB:	Federal Reserve Board
APR:	Annual Percentage Rate	FREAB:	Florida Real Estate Appraisal Board
ARM:	Adjustable Rate Mortgage	FREC:	Florida Real Estate Commission
ASA:	American Society of Appraisers	FRS/Fed:	Federal Reserve System
ASREC:	American Society of Real Estate Counselors	F.S.:	Florida Statutes
ATCF:	After Tax Cash Flow	FTC:	Federal Trade Commission
AVM:	Automated Valuation Model	GIM:	Gross Income Multiplier
BPO:	Broker Price Opinion	GFE:	Good Faith Estimate
BRDA:	Broker Relationship Disclosure Act	GRM:	Gross Rent Multiplier
BTCF:	Before Tax Cash Flow	GNMA:	Government National Mortgage Association
CAM:	Community Association Manager	HUD:	Department of Housing and Urban Development
CFPB:	Consumer Financial Protection Bureau	IBA:	Institute of Business Appraisers
CMA:	Comparative Market Analysis	IREF:	International Real Estate Federation
CPI:	Consumer Price Index	IREM:	Institute of Real Estate Management
DIF:	Deposit Insurance Fund	IRS:	Internal Revenue Service
DOAH:	Division of Administrative Hearings	LLC:	Limited Liability Company
DOE:	Department of Energy	L.S.:	Locus Sigilli
DRE:	Division of Real Estate	MLS:	Multiple Listing Service
DBPR:	Department of Business and Professional Regulation	MLO:	Mortgage Loan Originator
ECOA:	Equal Credit Opportunity Act – Regulation B	NAR:	National Association of REALTORS®
EDO:	Escrow Disbursement Order	NMLS:	National Mortgage Licensing System
EGI:	Effective Gross Income	NOI:	Net Operating Income
EIN:	Employer Identification Number	OTS:	Office of Thrift Supervision
EPA:	Environmental Protection Agency	PGI:	Potential Gross Income
FAR:	Florida REALTORS®	PITI:	Principal, Interest, Taxes, & Insurance
FDIC:	Federal Deposit Insurance Corporation	PMI:	Private Mortgage Insurance
FED:	Federal Reserve System	POB:	Point of Beginning
FHA:	Federal Housing Administration		

PUD:	Planned Unit Development
REIA:	Real Estate Investors Association
REIT:	Real Estate Investment Trust
REO:	Real Estate Owned
RESPA:	Real Estate Settlement Procedures Act
RNMI:	REALTORS® National Marketing Institute
SAFE:	Secure and Fair Enforcement for Mortgage Licensing Act of 2008
SFHA:	Special Flood Hazard Area
SIOR:	Society of Industrial and Office REALTORS®
SOH:	Save Our Homes
UFFI:	Urea Formaldehyde Foam Insulation
FNMA:	Department of Veterans' Affairs
FRB:	Women's Council of REALTORS®