

## GLOSSARY of REAL ESTATE TERMINOLOGY and *UNIFORM* TOPIC INDEX

**(Note: The *COLORADO* TOPIC INDEX follows after this Uniform Topic Index.)**

The GLOSSARY has been designed as a quick reference to help students understand the language of the real estate profession. A complete vocabulary review before your state examination also will serve to bring together the many different facets of real estate that you have been studying.

Although you will need to *understand* these terms for both the Uniform and Colorado exams, the Colorado portion of the license exam will not *test* on the definitions and their applications. Therefore, you should focus more on these definitions in the preparation for the *Uniform* exam.

Terms that you are less likely to encounter may not be in the text material but have been included in this glossary, both to aid your general understanding and to allow the glossary to serve as a resource tool.

**Numbers in brackets (i.e., [7], [10]) following the definition indicate in which chapter(s) the terms appear in the Uniform (Real Estate Law and Practice) course.** If a definition is not followed by a number in brackets, this is a “minor” term not requiring additional explanation within the materials.

Terms preceded by an asterisk (\*) apply only to the *Colorado* (final / license) exam. A detailed Colorado Topic Index follows this Uniform Index, and indicates which chapter each Colorado *topic* appears.

*As a quick aid, remember that words ending in "-or" are givers: donor, grantor and optionor. Words ending in "-ee" are receivers: donee, grantee and optionee.*

### A

**abatement** A legal action to stop a nuisance. Also can be a reduction of a property tax assessment.

**absolute fee** See *fee simple*, below. [3]

**abstract** A history of every recorded document dealing with a property. It is examined to determine whether there is marketable title. See also, *abstract and opinion*, below. [7]

**abstract and opinion** A summary of all recorded instruments affecting title to the particular piece of land, accompanied by an attorney's opinion of the status of title. Used to inform the purchaser of the nature of the seller's title and of any defects, liens, or encumbrances. [7]

**abstractive method** A means of obtaining land value by deducting the value of improvements from the total property value.

**abstract of judgment** A condensation of a court judgment. When recorded, the judgment becomes a general lien on the property of the debtor within the county where recorded.

**accelerated depreciation** Any method of depreciation for tax purposes that gives greater initial depreciation than the straight-line method.

**acceleration clause** A provision in a note making all payments due upon the happening of a certain event (such as missing a payment or selling the property). Also known as an *alienation clause* and a *due-on-sale clause*. [5] [10]

**acceptance** An act or agreement that forms a contract. [1]

**accession** Obtaining title as a result of attaching or joining property to other property.

**accommodation party** A third person (cosigner) who signs a negotiable instrument agreeing to be liable personally to the payee.

**accord and satisfaction** The act of accepting a different consideration than agreed; for exam purposes, if there is a dispute as to performance and one party accepts less than bargained for originally. [1]

**accounting** One of the five duties of an agent to the principal: to make an accounting to the principal for all money or other valuable consideration which is received in the course of the agency. [2]

**accretion** A gradual buildup of soil by action of water or wind. [3]

**accrual basis** An accounting method where income and expenses are considered reportable (and deductible) when the right to receive it occurs (although the actual cash may not be received). [12]

**accrued depreciation** Depreciation to date; measured by the difference between the replacement cost new and the present value. [4]

**acknowledgment** A declaration customarily made before a notary, certifying that the signing of an instrument is the signer's own free act. [7]

**acre** A measure of land equal to 43,560 square feet. [8] [13]

**action *in personam*** A legal action against a person. When recorded, a judgment from such an action is a general lien against all of a debtor's property in the county where recorded.

**action *in rem*** A legal action against property. When recorded, a judgment from such an action is a specific lien against the particular property involved in the action.

**actual authority** That authority given either expressly or impliedly by the agent's principal. [2]

**actual notice** Personal, first-hand knowledge of an interest or instrument. [7]

**ademption** Disposal of property by a testator prior to death. It defeats the rights of a specific beneficiary under the will. (The beneficiary is not entitled to the sale proceeds or value.)

**adjustable rate mortgage (ARM)** A mortgage loan bearing a rate of interest subject to change (based on a particular index, such as the T-bill rate) during the term of the loan. ARMs generally have caps (upper limits) on the interest that can be charged. [5]

**adjusted basis** Acquisition cost less depreciation plus cost of improvements. The adjusted basis is deducted from the sales price to determine gain or loss. [12]

**adjusted gross income** Gross income adjusted for a vacancy factor and collection loss. (See *effective gross income*, below) [12]

**adjusted market price** The adjustment of a comparable property's sales price to account for differences in features and amenities of a property under appraisal (using the market comparison approach).

**administrator** A person appointed by a probate court to administer the estate of a deceased; a woman appointee is an *administratrix*.

**administrator's deed** A deed from a person duly appointed by a court for an adult adjudged to lack the legal capacity to voluntarily convey their property. [7]

**ad valorem** A tax according to value; real property taxes are *ad valorem* taxes. [10] [13]

**advance commitment** A lender agreement to provide permanent financing upon completion of a construction project.

**advance fees** Fees paid in advance of services rendered.

**adverse possession** A means of obtaining title from another by open, hostile and continuous use for a statutory period of time. (\*In Colorado, 18 years.) In some states, adverse possession also requires payment of taxes. The purpose behind this concept is to promote the productive use of land and to give title to the one putting the land to use. [3] [7]

**affidavit** A statement sworn to under oath or by affirmation before a notary.

**affirmation** A formal declaration as to the truthfulness of a statement; may be made by a person whose religious beliefs prohibit swearing under oath.

**affirmative easement** An easement that allows the easement holder a right of use over the land of another.

**after-acquired interest** An interest acquired by a grantor after he or she has conveyed property. Under some deeds, after-acquired interest is said to pass to the grantee.

**age-life tables** Appraisal tables that indicate the economic life for various types of structures.

**agency** A contractual relationship in which one person (an agent) represents another (a principal).

**agency by estoppel** An agency created when the principal's words or conduct led another to believe in the agency and thereby act to the other's detriment.

**agency by ratification** An agency created by a principal approving an unauthorized act of an agency coupled with an interest An irrevocable agency under which the agent has an interest in the subject matter of the agency.

**agent** A person representing another, (a principal) acting in his or her behalf, in dealings with third parties. [2]

**air rights** The rights of a property owner to the reasonable use of the airspace over his or her property. Air rights are real property and can be separately leased or conveyed.

**ALC (Accredited Land Consultant)** A professional designation of the REALTORS Land Institute.

**alienation** A transfer of property or property rights by one person to another. [7]

**alienation clause** See *due-on-sale clause*, below. [5] [10]

**all-inclusive mortgage** See *wraparound loan*, below. [5]

- allodial system** Ownership by individuals rather than the government. The United States follows the allodial system of ownership. [3]
- alluvion** Soil added gradually to land by action of water. The soil belongs to the land it is added to by this accretion process. [3]
- ALTA (American Land Title Association)** A type of title insurance policy providing extended coverage to the lender. The same extended coverage also may be available for the buyer.
- alteration** Modification of a contract or note by one party without the consent of the other.
- amend escrow instructions** A change in the escrow instructions after they have been signed. The signatures of both buyer and seller are required to amend the instructions.
- amenities** Features of a property that enhance the satisfaction and use of the property; for example, an extra bath, a flower garden, mature shade trees.
- Americans with Disabilities Act (ADA)** Prohibits any discrimination based on physical or mental disabilities that would deny the equal enjoyment of goods, services, facilities and accommodations in any existing place of public accommodation. [6]
- amortization** The liquidation or gradual retirement of a financial obligation by specific installment payments. [5]
- amortized loan** A loan that is liquidated (paid off) by equal payments throughout the life of the loan.
- annexation** Adding to something, as when a city annexes outlying land.
- annual percentage rate (APR)** An interest rate expressed in simple interest considering all finance charges over the life of the loan. It is required by Regulation Z to reveal the true cost of the financing. *See also, finance charge, below.* [5]
- anticipation** The principle of value that states that value changes based on anticipated future use and income. [4]
- anticipatory breach** An action or a statement of a party prior to the performance due date that indicates the party will breach the contract. The other party can bring suit upon anticipatory breach without waiting for an actual breach.
- antimerger clause** A clause in a mortgage that prevents loss of lien priority should the lienholder receive a deed. Otherwise, a deed in lieu of foreclosure would convey title subject to later liens.
- apparent authority** That authority which the principal by words or conduct to other persons, has led these other persons to believe that the agent has. [2]
- appraisal** An estimate of market value of property; the process by which conclusions of the value of property are obtained; also refers to the report setting forth the estimate of value together with the basis for such conclusions. [4]
- appraised value** The value placed on a parcel of real property by an appraiser, based on a comparison of the subject property with other comparable properties (*Sales Comparison Approach*), or the cost of building a comparable property (*Cost Approach*), or the property's potential income production (*Income Approach*). Not the same as *assessed value*, below. [4] [13]
- appropriation** A legal term designating the act or acts involved in the taking and reducing to personal possession of water occurring in a stream or other body of water, and of applying such water to beneficial uses or purposes.

- appurtenance** Rights, benefits and attachments that transfer with real property; for example; buildings, easement rights, water rights and the like. [3]
- appurtenant easement** A beneficial easement that transfers with the land. Involves two parcels of adjacent property: the parcel benefiting from the easement is the dominant estate, and the parcel being burdened is the servient estate. [3]
- arbitrage** Taking advantage of the interest rate differential by buying at one interest rate and selling at a higher interest rate by either land contract or the use of a wraparound loan.
- arbitration** A nonjudicial process for resolution of disputes whereby the parties agree to abide by a decision made by a third person.
- arm's-length transaction** A bargain freely entered into without duress, undue influence or collusion (deceit).
- artificial monument** A surveyor point for metes and-bounds descriptions that is manmade, such as an iron stake, a fence or a canal.
- as is** A phrase intended to mean that the seller does not warrant a property's condition. Such phrase, however, does not protect the seller in cases of concealment or fraud. Some courts hold that it applies only to readily observable defects, not to known but undisclosed latent defects.
- assemblage** The act of bringing adjacent parcels of land under one ownership; the opposite of subdividing. Assemblage usually results in an increase in value. (See *plottage*, below.) [4]
- assessed value** Value placed by a tax assessor for property tax purposes only. (Note: has nothing to do with the actual or appraised value of a property, but will be used to confuse the student on exams.) [4] [13]
- assessment** The process of valuing a property for taxation purposes.
- assessor** The county assessor determines the general assessed valuation for property (taxes) in the county. [10]
- assets** Property owned by or owed to a business or person.
- assignee (assigns)** One who receives an assignment.
- assignment** The complete transfer of one person's rights to another. The assignee takes over the rights and duties of the assignor. [1]
- assignment of rents** A mortgage clause that allows the mortgagee to collect rents during the foreclosure period. Could also be a transfer of rents to a third party.
- assignor** One who makes an assignment.
- assumption** The act of taking over the responsibilities for an obligation and agreeing to be liable personally for the obligation. A deficiency judgment might be possible against an assuming party. (Also known as "*Assume and Agree to Pay*".) [5] [10]
- attachment** The legal seizure of property under court order prior to a judgment when there is belief that the property will not be available after judgment. [10]
- attestation** The act of witnessing; to attest is to bear witness. Formal wills require witnesses.
- attorney-in-fact** A person operating as an agent (not an attorney at law) under a power of attorney. [2]
- attornment** An agreement between owner and sublessee that the owner will recognize the sub-lease and the sublessee will pay the owner should the sublessor's interests be foreclosed.

**attractive nuisance** A doctrine holding the owner of land liable for injury to children due to the unsafe condition of property where property is likely to attract children as trespassers.

**avulsion** The sudden tearing away or loss of real property by action of water, such as a river changing course. [3]

**axial growth** City growth along transportation routes from the city center (resembles the spokes of a wheel).

**Azimuth system** A rarely-used land description system that expresses all directions in terms of the angle from one direction only through 360°. (For example, the description “S. 35° E.” under the bearing system would be expressed as merely “145°” under the Azimuth system.) [8]

## B

**back-end ratio** The ratio of gross income to loan payments (PITI) plus long-term installment debt payments. (Used to qualify buyers.)

**bailment** Giving possession of personal property to another but retaining title; for example, storing goods in a warehouse, renting a trailer, giving existing mortgages to a lender as security for a loan.

**balance** The principle of valuation that states that the maximum value of an area is realized when there is balance in the number and location of the various types of real estate usages. Value will decrease if there is either too much or too little of Residential, Commercial or Industrial property in the particular area. [4]

**balance sheet** A financial statement showing assets and liabilities. The balance sheet shows net worth.

**balloon loan** A mortgage loan where the periodic payments are not sufficient to fully repay the principal loan balance by the end of the term of the loan (Also known as a *limited reduction loan* or a *partially-amortized loan*.) [5]

**balloon payment** A final installment of an unamortized (“balloon”) loan that exceeds the previous payments. [5]

**band of investment method** A procedure to determine the capitalization rate to be used for a particular property under the income approach.

**banker's interest** Interest based on a 30-day month and a 360-day year.

**bankruptcy** A legal procedure to eliminate unsecured debts. To eliminate secured debts, the security must be surrendered.

**bargain and sale deed** A deed for consideration that uses the terms “bargain and sale”. (It implies that monetary consideration was given, as opposed to a gift.) It contains no warranties other than an implied interest by the grantor. [7]

**base fee** See *fee simple determinable*, below. [3]

**base lines** The principal east and west surveyor lines established by government survey.

**basis (cost basis)** Cost plus improvements less depreciation. Used to determine profit for tax purposes upon sale.

**bearer paper** A negotiable instrument made out to cash or bearer that can be transferred without endorsement.

**bearing** The direction of a line. Used along with *distances* in the legal description of a parcel of land. [8]

- bearing system** A method of land description that uses the degrees (or fractions of a degree) from the cardinal directions of north or south (i.e., N. 83° 27' E). [8]
- benchmark** A marker placed by a government surveyor showing elevation above sea level and used by surveyors as a reference point.
- beneficiary** The person receiving payments under a deed of trust; similar to a mortgagee (lender). [10]
- beneficiary statement** A statement of a lender of the balance due on a loan.
- bequeath** To give personal property by will.
- bequest** Personal property that is given by will.
- betterment** An actual improvement (not a repair) to real estate.
- bilateral contract** A mutual exchange of promises whereby each promise is consideration for the other promise. [1]
- bill of sale** A written agreement transferring title to personal property. [1] [21]
- binder** Insurance coverage given by an agent prior to the issuance of a policy or payment of a premium.
- blanket mortgage** A mortgage covering more than one property. Often used by developers to buy the land for a subdivision. As each lot is developed and sold to individual home buyers, the developer will pay off that portion of the loan and the lender will “release” that parcel as collateral for the loan. [5]
- blended mortgage rate** A refinance rate that is less than the current market rate but more than the old rate.
- blind advertising** An advertisement that fails to indicate that the advertiser is a real estate agent.
- block** A division of a subdivision plat which describes a group of lots and provides for infrastructure such as sidewalks, street lighting, and streets. See also, *lots*, below. [8]
- blockbusting** The act of inducing panic-selling for gain by exploiting the fear of loss in value due to minority members moving into an area. Blockbusting is illegal under the Civil Rights Act of 1968. [6]
- blue-sky laws** Security registration requirements to protect consumers against investments in fraudulent schemes.
- board foot** A unit of lumber measurement equal to 144 cubic inches (1' x 1' x 1").
- book value** Original property purchase price plus improvements less depreciation taken; the value assigned an asset for bookkeeping purposes. [4]
- boot** Money, personal property or debt relief given to even off a trade. Boot is taxable to the person receiving it. [12]
- bounds** Measurements of boundaries. See also *metes* and *metes and bounds*, below. [8]
- bracketing** The process of selecting a value that lies between selling prices of comparable properties having more and fewer amenities; used in the market comparison method of appraisal.
- breach** The breaking of a law or the terms of a contract.
- bridge loan** See *gap loan*, below.
- broker** A licensed agent employed by a principal for real estate transactions. Only a broker can employ a salesperson (or Associate Broker, in Colorado).\*

See Chapter 14, under 12-61-101, C.R.S., for the specific Colorado definition of what actions constitute the need for a broker's license in Colorado.

**BTU (British thermal unit)** The unit of heat needed to raise one pound of water one degree Fahrenheit. The BTU is used to rate the capacity of heating and air-conditioning units.

**budget mortgage** A loan by which the borrower pays one-twelfth of the estimated property tax and insurance payment with each monthly payment.

**building line** The setback from the lot line, (the boundary upon which structures can be built within a lot.)

**built-up method** A process for arriving at a capitalization rate by rating a risk-free, management-free investment and then adding for risk and management problems.

**bulk sales act** A part of the Uniform Commercial Code; requires recording and publication of sales not in the course of normal business. It applies to the sale of stock in trade when a business is sold. If the act is not complied with, the sale is void as to the vendor's creditors, who can then treat the stock as if the vendor still owned it.

**bulk zoning** Zoning for density with height, setback and open space requirements.

**bundle of rights** All rights incidental to ownership, such as rights to lease, use, encumber, sell, exclude and so forth.

**business opportunity** A business including stock, fixtures and goodwill.

**buydown** A financing technique in which a builder, seller or broker makes a property more attractive by paying a lender a percentage of the loan or a number of payments to lower the effective interest rate on the buyer's mortgage. [5]

**buyer agency** Unlike common-law seller agency, here the broker exclusively represents – and owes all agency duties to – the buyer. The buyer is principal. [2]

**buyers' market** A market condition characterized by more sellers than buyers, so buyers have a more commanding position.

**bylaws** The rules of how a corporation shall be governed; set forth the authority of its officers.

## C

**cap** A limit, usually on the interest rate or rate increases, on an adjustable-rate mortgage (ARM). [5]

**capital asset** A physical asset such as land, a building and equipment, usually for a business or trade. Capital assets other than land may be depreciated.

**capital gain** Profit from the sale of a business or an investment property. Generally it is the difference between the cost and selling price, less certain deductible expenses. Used mainly for income tax purposes. [12]

**capitalization method** An appraisal approach whereby the net income of an investment property is capitalized to determine its value (the net income is divided by a capitalization rate).

**capitalization rate ("cap-rate")** An investor's desired rate (percentage) of return for an investment. It is divided into the net income to determine a property's value. [4]



**capital loss** Loss from a sale of a capital asset or other real property. (For tax purposes, there is no taxation on the loss from the sale of a residence, although a gain is taxable.) [12]

\* **CAR** Colorado Association of REALTORS®.

**care** One of the five duties of the agent to principal: to use reasonable care in the performance of the agency. [2]

**cash basis** An accounting method where income and expenses are considered reportable (and deductible) in the year in which it is received. [12]

**cash flow** The net spendable cash remaining after all cash outlays are subtracted from the gross income. [12]

**caveat emptor** "Let the buyer beware." This old rule has been modified by consumer rights legislation.

**CC&Rs** See *restrictive covenants*, below.

**certificate of eligibility** Obtained by the veteran to be eligible for a VA loan. The veteran must submit discharge information. [5]

**certificate of occupancy** Frequently required before a new structure can be occupied; usually provided by the building inspector.

**certificate of purchase** Received by the purchaser at a tax sale. If the defaulting taxpayer fails to redeem (pay off) the taxes within a certain time-period (3 years in Colorado), the holder of the certificate may present it to the County Treasurer to provide notice that the holder intends to occupy the property. See *treasurer's deed*, below. [10]

**certificate of reasonable value (CRV)** An appraisal required for VA-guaranteed loans. [5]

\***certificate of taxes due (tax cert)** A written statement or guaranty of the condition of the taxes on a certain property, made by the County Treasurer of the county wherein the property is located. Any loss resulting from an error in a tax certificate shall be paid by the county that such treasurer represents. [10][17]

**certificate of title** 1) Evidence of title issued by a registrar under the Torrens title system; [7] 2) Evidence of transfer of title that seller must deliver to buyer of a *manufactured home*. [1]

**chain** A surveyor measurement of 66 feet.

**chain of title** The history of a property showing all conveyances from the original government conveyance (called the *patent*). [7]

**change** The principle of valuation that states that neither neighborhoods nor real estate values remain constant. [4]

**chattel** An item of personal property. [7]

**chattel mortgage** A mortgage of personal property; generally has been replaced by financing statements (UCC-1's) under the Uniform Commercial Code. [5] [20]

**chattel real** A personal property interest in real property, such as a lease, mortgage, trust deed, land contract or share in a real estate syndicate.

**check** A 24-mile-by-24-mile area formed by guide meridians and parallels under government survey that correct for the curvature of the earth.

**Civil Rights Act of 1866** Law that provided that every citizen shall have the same and equal rights as to housing. If the discrimination is based upon *color*,

the Civil Rights Act of 1866 has no exceptions, such as those contained in the Civil Rights Act of 1968. [6]

**Civil Rights Act of 1964** Law that prohibits discrimination in government-related housing. [6]

**Civil Rights Act of 1968** Title VIII of this act is known as the federal Fair Housing Act. It prohibits discrimination based on race, color, religion and national origin. The Housing and Community Development Act of 1974 added the protected class of gender, and the Fair Housing Amendments Act of 1988 added the protected classes of handicap and familial status. [6]

**\*closing instructions** Instructions from the parties (seller and buyer) to the closing company regarding the payment of fees for closing services. The Commission recommends the closing instructions be signed at the time of execution of the listing agreement. The Commission-approved (Rule F) form must be used. [9] [21]

**closing section** Because of the curvature of the Earth, townships under the governmental survey system would not be exactly 36 square miles. The closing sections of a township are located on the north and west tiers, and are smaller than the normal 640 acres (1 square mile) to account for these discrepancies. [8]

**closing short** Closing even though the closing company does not have the full amount of funds from lender or buyer. In Colorado, it is a violation of Rule E.

**closing statement** The final accounting showing all debits and credits in the sale of real property or a business; also known as a *settlement statement*.

**cloud on title** A claim, document or discrepancy that casts doubt on the marketability of a title. [7]

**codicil** An amendment to a will that requires the same formalities as the will itself

**cognovit note** Note containing a confession of judgment by the borrower.

**coinsurance** A requirement that a property carry a minimum coverage (usually 80 percent of replacement cost) in order to collect 100 percent of the loss. If a person carries only a percentage of the amount required, that person receives only that percentage of the loss suffered.

**collateral** Property that secures a loan.

**collaterally secured** Secured by other loans.

**color of title** Because of a defect, having only the appearance of title instead of true title; for example, a title under a forged deed. [3]

**Colorado Coordinate System** A little-used method of describing real property, which plots the location of the parcel on X-Y coordinates based on information from the National Geodetic Survey within Colorado. [8]

**commercial acre** The amount left in an acre after deducting land for streets and walks; for example, less than 43,560 square feet.

**commingling** The act of mixing personal funds and a principal's funds; considered grounds for disciplinary action.

**commission** An agent's fee or percentage for fulfilling the terms of the listing agreement. It is *earned* when the listing broker finds a "ready, willing and able" buyer, but is only *paid* when the transaction is completed. [9]

**commission split** Since the seller will normally be responsible for paying both the listing broker (representing the seller) and the cooperating broker (either a buyer broker or transaction broker working with buyer) the listing agreement between seller and listing broker should specify the payment (percentage) that will be paid to both brokers (the "split"). [9]

**commitment** 1) In lending, an agreement to grant a loan, at the terms specified; [5] 2) In title insurance, a statement of the status of title to the property, and an agreement by the title company to provide certain title insurance according to the terms stated within. [7]

**common elements** Areas in a common interest subdivision owned in common with other owners and used by all of the owners.

\* **common interest community** Means real estate described in a declaration with respect to which a person, by virtue of such person's ownership of a unit, is obligated to pay for real estate taxes, insurance premiums, maintenance or improvement of other real estate described in a declaration. Ownership of a unit does not include holding a leasehold interest in a unit of less than forty years, including renewal options. The period of the leasehold interest, including renewal options, is measured from the date the initial term commences. [3]

**common law** The unwritten law of England established by many years of court precedent. English common law is the basis for U.S. statutory real estate law. [1-12]

**community property** Property acquired during marriage that is considered equally owned by both spouses. Presently, community property states are Arizona, California, Idaho, Louisiana, Nevada, New Mexico, Texas, Washington and Wisconsin. Most states, including Colorado, have a modified version of community property. [3]

**compaction** The compressing of soil so that it will support a structure.

**company dollar** The broker's share of the gross commission earned before expenses.

**comparative market analysis (CMA)** An appraisal prepared by an agent using recent comparable sales to indicate the likely sales price of a property. [4]

**comparative unit method** An appraisal method to determine replacement cost. In general, the method is based on current price per square foot or cubic foot of similar construction.

**compensating balance** The requirement of a lender that a borrower keep a specified balance on deposit with the lender.

**compensatory damages** Money damages awarded to indemnify the injured party for a loss because of another's wrongful act. [1]

**competition** The principal of value that states that when extraordinary profits are being made, competition will enter the area and profits will drop. [4]

**complete escrow** An escrow for which everything necessary to be done has been accomplished.

**compound interest** Interest that compounds on interest as well as principal. Because interest is paid monthly on standard real estate loans, it is simple, not compound, interest.

**concentric circle growth** City growth in rings from the city center.

**concurrent estates** More than one estate in the same real property at the same time (one person could have a fee simple interest, and another, a leasehold estate).

- condemnation** (1) The legal action to take property for public use by eminent domain. (2) The process of declaring property unfit for use. [3]
- condition precedent** A fee simple subject to a Condition Precedent automatically terminates upon the happening of a specified event. (Also known as a **Fee Simple Subject to a Special Limitation**.) [3]
- conditional loan commitment** A promise to make a loan on a property to a buyer yet unknown, so long as the buyer otherwise qualifies for the loan.
- conditional sales contract** A security sales agreement for the sale of personal property where title remains with the vendor (the vendee has possession). Title is transferred only when goods are paid for (has generally been replaced by financing statements).
- conditional use permit** Special permission for a use not otherwise allowable under the zoning but considered under special criteria in the zoning. [3]
- condition precedent** A condition that must happen prior to the vesting of title in another. Until the condition occurs, title remains with the grantor. [3]
- condition subsequent** A transfer of title with the requirement that a specified condition be met. If the condition is breached, the grantor must declare a forfeiture of grantee's rights and retake the property within a reasonable period of time. Grantee's estate (interest in land) is known as a "fee simple subject to a condition subsequent". *Grantor's* future interest is called the "Right of Re-entry" (See below). [3]
- condominium** A vertical subdivision with common ownership of land and common areas and individual ownership of the units. [3]
- conforming loan** A loan that meets the purchase requirements of secondary-mortgage lenders, Fannie Mae or Freddie Mac.
- conformity** The principle of value that states that a property will have its maximum value when it is located in an area of similar properties. [4]
- conservator** A person appointed by the probate court to manage and protect the assets of an adult who is unable to handle his or her own affairs.
- consideration** Something of value given or promised in exchange for a promise, an act or property of another. A promise made without consideration is deemed void and unenforceable. "Love and affection", although deemed good consideration, are not regarded as valuable consideration to support a promise or an act of another. [1]
- construction loan** A short-term loan for builders where the principal is paid out incrementally, as construction on a large project progresses. Each pay-out is called a "draw". [5]
- constructive eviction** An act of a property owner that interferes with a tenant's quiet possession, thus allowing the tenant to consider the lease at an end and to be free from further obligations. [3]
- constructive notice** The notice given by occupancy or recording to subsequent purchasers or lienholders of a prior interest in the property. Also known as *legal notice*. [7]
- contingent remainder** A remainder interest in property that will vest only if some specified contingency is met, such as the holder outliving a life tenant. See also, *fee tail* and *life estate*. [3]

**continuation statement** A statement filed with the secretary of state that extends a financing statement (a “mortgage” for personal property) for five years.

**contour lines** Topographical lines on a map that follow elevations. Lines close together indicate a slope, and lines far apart indicate a relatively level area.

**contract** An agreement, enforceable by law, between two or more competent parties for consideration to perform or not perform a legal act. (A one-sided take-it-or-leave-it contract. Courts will refuse to enforce oppressive provisions.) [1]

**contribution** The principle of valuation that states that improvements should not be made to a property unless the value of the property is increased enough to justify the cost of the improvements. [4]

**conventional loan** A loan made by a conventional lender without government guarantee (VA) or insurance (FHA). [5]

**conversion** Taking property entrusted to you and converting it to your own use; a form of larceny.

**conveyance** An instrument in writing by which some estate, interest, or title in real estate is transferred from one person to another, such as a deed or mortgage. [7]

**cooperative housing corporation** A cooperative in which each owner owns stock in the project and has the right to occupy a unit. [3]

**\*coordinate system** A method of land description using measurements from an intersection of a defined north-south axis and a defined east-west axis. [8]

**cooperative** An apartment structure owned by a corporation wherein each shareholder occupies a specific unit under what is called a proprietary lease. [3]

**corner influence** An increase in value of commercial property because of the additional traffic and exposure of being located on two streets.

**corporation** A separate legal entity whose shareholders are not liable personally for corporate debts.

**correction lines** Surveyor corrections to compensate for curvature of the earth.

**correlation** Interpreting value by combining the three methods of appraisal; also known as *reconciliation*.

**cost approach** A method of appraisal whereby the cost to replace the structure is calculated. Accrued depreciation is determined and deducted from the replacement cost; the land value is then added to determine property value. [4]

**covenant** A promise that runs with the land. [7]

**covenant against encumbrances** A covenant in a warranty deed whereby the grantor guarantees there are no encumbrances on the property other than those specifically disclosed in the deed. [7]

**covenant of further assurance** A covenant in a warranty deed whereby the grantor promises to procure or perfect any instruments to make title good. [7]

**covenant of habitability** A law that obligates all landlords to ensure that rental properties are fit for human habitability. [3]

**covenant of quiet enjoyment** A covenant in a warranty deed whereby the grantor guarantees that grantee will not be disturbed in the possession of the property by superior claims. [7]

**covenant of warranty forever** A covenant in a warranty deed whereby the grantor guarantees that grantee shall have title and possession to the property as promised. [7]

**covenant of seizin** A covenant in a warranty deed whereby the grantor guarantees that grantor owns the property and has the right to convey it. [7]

**CPI (consumer price index)** An index that reflects by its changes the changes in the purchasing power of the dollar; widely used as a measurement of inflation.

**creditor** 1) One to whom something is owed; 2) Regulation Z defines a creditor as anyone who extends consumer credit more than 25 times in a year or more than five times in either the preceding calendar year (or the current calendar year in the case of transactions secured by a dwelling and if the extension of consumer credit is subject to a financing charge or is payable by a written agreement in more than four installments - not including a down payment). [5]

**cul-de-sac** A dead-end street having a rounded end. It is desirable for housing because there is no through traffic.

**cumulative zoning** Zoning that allows the designated category of use as well as less restrictive uses.

**curable depreciation** Depreciation that can be cost-effectively corrected. [4]

**curtail schedule** A payment schedule that indicates principal reduction of a loan for each payment.

**curtesy** A common-law right of a husband in the estate of his deceased wife. Some states have made this a statutory right to a life estate in the wife's property, whereas other states grant undivided fee simple interest in a portion of the wife's estate. [3]

## D

**datum plane** A surveyor's plane from which elevations and depths are measured.

**dealer** A person who makes a regular part of his or her income by buying and selling property.

**debenture** Bonds issued without specific security and are secured only by the overall equity of the issuer.

**debt capital** Money raised by a business by borrowing through bonds or other debentures.

**debt service** The series of payments of interest and principal required on a debt over a given period of time (i.e., mortgage payments). Debt service is not considered part of operating expenses, and therefore may not be deducted from the effective gross income to determine annual net operating income. [4]

**debtor** One who owes money to a creditor.

**declaration of homestead** A formal procedure of recording a homestead declaration. It protects the homestead from unsecured creditors up to a statutory amount.

**declaration of restrictions** A declaration of the restrictive covenants recorded by the subdivider. In each deed, the subdivider usually incorporates the restrictions by referencing the recording of the document.

**declaratory relief** The court is asked to determine the rights and possible future relief of the parties – before any damage actually can occur. [1]

**declining balance depreciation** An accelerated method of depreciation used for tax purposes whereby a percentage of the straight-line depreciation is taken from a constantly declining balance.

**dedication** The gift of real property to a governmental unit, usually by a subdivider, in order to gain approval. If the dedication is given for a particular purpose and that purpose is later abandoned, the land dedicated may revert to the grantor.

**deed** A document that conveys title to real property from a grantor to a grantee. [7]

**deed in lieu of foreclosure** A deed from owner to lienholder, given to avoid foreclosure proceedings. Unlike foreclosure, it may not wipe out junior encumbrances.

**deed in trust** A deed to a person as trustee for a third party. [7]

**deed of reconveyance** A deed given by the trustee to the trustor when the trustor has paid the beneficiary in full. It is used for trust deeds to remove the lien in the same manner as a satisfaction is used to remove a mortgage.

**deed of trust** An instrument given by a borrower pledging the real property as security for the loan. Unlike a mortgage, the deed of trust is given to a third part (in trust) to hold and release when the loan is paid (or conduct foreclosure if the loan goes into default). See also, mortgage, below. [5] [10]

**default** The breach of a promise or an agreement.

**default clause** A mortgage provision that allows a junior lienholder to cure any default of a prior lien (and then foreclose on his or her own lien).

**defeasance clause** A mortgage provision that defeats (or cancels) the mortgage upon the full payment as agreed.

**defeasible estate** An estate that can be lost should a certain event take place. See also, *fee simple determinable*, below. [3]

**defense** A condition of the parties or contract making the contract invalid (void, voidable or unenforceable). The contract will be invalid even though it has the requisite offer, acceptance and consideration. [1]

**deferred maintenance** Maintenance that has been postponed.

**deficiency judgment** A judgment obtained when a foreclosure sale does not satisfy a debt. Deficiency judgments are difficult to obtain in many states because of restrictions on them. In some states, they are not allowed at all. [10]

**degree** A measurement for angles used in metes-and-bounds descriptions. One degree is 1/360<sup>th</sup> of a circle.

**delivery** The actual transfer of an interest; requires the intent to make an irrevocable transfer. [7]

**delivery and acceptance** Required elements of a deed. Transfer of title is not effective until a deed is not only delivered (evidencing grantor's intent) but accepted by grantor. [7]

**demand** Required for real property to have value; the need for ownership. One of the four requirements for real property to have value. [4]

**demand loan** A mortgage loan which may be called due at any time by the lender. [5]

**demise** The transfer of a leasehold interest.

**Department of Veterans Affairs (VA)** The new name for the Veterans Administration.

**dependency** The principle of value that states that the value of a parcel changes based on changes in the use of surrounding parcels. [4]

**depreciation** A loss in property value from any cause. Only improvements (structures) may be depreciated – never land. A factor in the Cost Approach method of determining value. [4]

**depth table** An appraiser's table that determines additional value attributable to additional depth.

**dereliction** Land that is created by the recession of water. It belongs to the adjacent landowners. Also called *reliction*. [3]

**descent** Hereditary succession by act of law when property does not pass by will. See also *statutes of descent*, below. [7]

\* **designated broker** The licensed broker who has the direct responsibility for a particular transaction. If firms with two or more licensees, the Employing Broker may or may not be the designated broker for a particular transaction. If an employed broker (who is NOT the Employing Broker) is the DB for a transaction, then that employed broker is the only licensee designated to be responsible for that transaction. (This responsibility no longer extends to the Employing Broker.) This law, enacted in 2003, changes the former status of *vicarious liability* in Colorado agency relationships with the public: NOW individual members of the public should not be held liable for the acts or omissions of real estate brokers that have not been approved, directed, or ratified by such individuals; limits the public's legal relationship with brokers to only the individual broker they have engaged. [2]

**desk cost** The office overhead cost per desk. It is determined by dividing overhead by number of salespeople in an office.

**determinable fee** An estate that would end on the happening of an event that may or may not happen. [3]

**development method** An appraisal method to determine land value where cost of development is deducted from estimated value after development.

**devise** A gift of real property by the last will and testament of the donor.

**devisee** The person receiving real property by Will.

**devisor** The testator or testatrix who transfers real property by will upon his or her death.

**diminishing returns** The principle of valuation that states that once demand is met, additional units will begin to saturate the market and result in a lower return. (See *increasing returns*, below.) [4]

**direct endorsement** A lender authorized to make FHA loans without FHA approval.

**disburser** Lender who disburses construction loan money periodically as work progresses. [10]



**disburser's notice** Recorded by the lender of a construction loan to indicate the principal contract, disburser, and legal description of the land being secured by the mortgage or deed of trust. [10]

**disclosure** (1) One of the five duties of an agent to the principal: keep the principal fully informed of material facts that may affect the agency; (2) Colorado (Rule E-35) requires that brokers disclose their duties and obligations (with a Commission-approved form) to a party prior to engaging in acts that require a license. [2]

**discount points** See *points*, below. [5]

**discounting a loan** Selling a loan for less than its face value (common with second mortgages or loans bearing low interest rates).

**disintermediation** The sudden withdrawal of savings from lending institutions, resulting in a tight money market.

**distribution** The apportionment and division of an estate in probate after debts and costs have been paid.

**divided amortization loan** The schedule of amortization may be divided so that there is a faster maturity on one part of the loan and a longer maturity on another part of it. Or only interest may be charged for several years and then a complete amortization schedule developed from that point on. [5]

**\*documentary fee** A Colorado state law requiring a fee of one cent for each one hundred dollars of consideration paid by the person recording an instrument of conveyance to the county clerk and recorder. [7]

**documentary stamps** Formerly a federal tax on real property conveyances that, when abandoned by the federal government, was adopted in many states; also known as revenue stamps.

**domiciliary probate** Probate in the deceased's state of residence.

**dominant tenement** An estate using the land of another under an easement. The easement is an appurtenance to the dominant tenement. (Also known as "dominant estate") (See *appurtenant easement*, above.) [3]

**donee** The person who receives a gift. [7]

**donor** The person who gives a gift. [7]

**double escrow** The use of one escrow (closing) to purchase and resell a property.

**dower** A wife's common-law right in the estate of her husband should she survive him. In some states, it is a statutory right, such as one-third interest. [3]

**downzoning** A change in zoning resulting in a lower-density use or lesser use.

**dragnet clause** A provision extending a mortgage to cover future obligations that may arise between the parties; used in an open-end mortgage. [5]

**dual agency** An agency created when an agent acts for the buyer as well as the seller in a transaction. Dual agency has been abolished in Colorado, effective January 1, 2003. [2]

**dual contracting** A fraudulent arrangement whereby the buyer and seller of a property a false contract for a higher sales price, in order to induce the buyer's lender to increase the loan proceeds. [1] [5]

**due-on-sale clause** A type of acceleration clause in a note that makes all future payments due when a property is sold. It prevents an assumption of the loan.

Also called *alienation clause*, *assumption clause* and an *acceleration clause*. [5] [10]

**duress** The use of force or threat to make a person act; makes a contract voidable. [1]

## E

**earnest money** A good-faith deposit made by an offeror with an offer.

**easement** The right of a person to use another's land. [3]

**easement by condemnation.** An easement acquired for a public purpose, such as a power line or sewage treatment facility, through the right of eminent domain. (See, *condemnation*, above.) [3]

**easement by estoppel** An easement created when one person's words or actions lead another to believe in the existence of an easement, causing the second person to act to his or her own detriment. The person who made the assertion will be estopped by court action from denying the existence of the easement.

**easement by necessity** An easement sometimes granted when there is no other possible access to a property. [3]

**easement by prescription (prescriptive right)** An easement created by open, notorious and hostile use of property for a prescribed period of time. [3]

**easement in gross** A personal easement to use land of another where there is no dominant tenement being benefited. [3]

**ECOA** See *Equal Credit Opportunity Act*, below. [5] [6]

**economic life** That period for which improvements give a return attributable to the improvements alone. [4]

**economic rent** The rental value of a property in the marketplace.

**economics of scale** The overall cost of production should decrease by spreading costs among a greater number of transactions or units. [4]

**effective gross income** The gross income less the vacancy factor and an allowance for collection loss.

**effective life** An age placed on property for appraisal purposes based on the condition of the property. The effective age may be more or less than the chronological age. [4]

**egress** A way to exit a property.

**ejectment** A legal action to oust an encroacher or a trespasser.

**elevations** (1) Views of a structure from various directions on a builder's plans. (2) Height above sea level.

**Ellwood Mortgage-Equity-Analysis** A method which enables the analysis of an income-producing property by comparing mortgage financing and future property appreciation or depreciation at the time of sale. [4]

**emancipated minor** A minor who, under state law, may contract as an adult.

**emblems** Cultivated annual crops; considered to be personal property.

**eminent domain** The government right to take private property (title or easement) for public use. It is not under the police power, for the owner is paid for the property taken. [3]



























































































































