GLOSSARY

100-year flood plain: An area where a flood has a 1% chance of being equaled or exceeded each year. Thus, a 100-year flood could occur more than once in a relatively short period of time or even within the same month.

abstract of title: The condensed history of a title to a particular parcel of real estate, consisting of a summary of the original grant and all subsequent conveyances and encumbrances affecting the property and a certification by the abstractor that the history is complete and accurate.

acceleration clause: The clause in a mortgage or deed of trust that can be enforced to make the entire debt due immediately if the borrower defaults on an installment payment or another covenant.

acceptance: Expression of intent by the offeree to be bound by the terms of the offer; must be in writing if the contract pertains to real property. Acceptance must be communicated to the opposite party to create a contract.

accession: Acquiring title to additions or improvements to real property as a result of the annexation of fixtures or the accretion of alluvial deposits along the banks of streams.

accretion: The increase or addition of land by the deposit of sand or soil washed up naturally from a river, lake, or sea.

accrued items: On a closing statement, items of expense that are incurred but not yet payable, such as interest on a mortgage loan or taxes on real property.

acre: A measure of land equal to 43,560 square feet, 4,840 square yards, 4,047 square meters, 160 square rods, or 0.4047 hectare.

action to quiet title: A lawsuit brought in a court in order to establish a party's title to real property and to "quiet" any challenges or claims to the title.

actual eviction: The legal process that results in the tenant's being physically removed from the leased premises; summary ejectment.

addendum: A rider to a contract with additional terms or conditions.

adjustable rate mortgage (ARM): A loan characterized by a fluctuating interest rate, usually one tied to a published index. Caps for adjustments on periodic interest, lifetime interest, and payment amounts are normal.

adjusted basis: *See* basis.

ad valorem tax: A tax levied according to value, generally used to refer to real estate tax.

adverse possession: The open, continuous, exclusive, adverse, notorious (OCEAN) possession of another's land under a claim of title. Possession for a statutory period of 20 years in North Carolina may be a means of acquiring title.

aesthetic zoning: Zoning ordinances that regulate the appearance of real property, such as exterior color, exterior construction material, required screening and fencing.

after-tax cash flow: The amount of cash remaining after the owner has reported all income from the property, less appropriate tax deductions and any taxes due.

age-life method: A method of depreciation computed by dividing the replacement cost of a property by the number of years of remaining useful life; also called the *straight-line method.*

agency: The relationship between a principal and an agent wherein the agent is authorized to represent the principal in certain transactions.

agent: One who acts or has the power to act for another. A fiduciary relationship is created under the law of agency when a property owner, as the principal, executes a listing agreement or management contract authorizing a licensed real estate broker to be the property owner's agent. *See* OLD CAR.

agricultural fixture: In North Carolina, a fixture attached to leased property by a tenant farmer is considered the landowner's real property rather than the tenant's personal property.

air rights: The right to use the open space above a property, usually allowing the surface to be used for another purpose.

alienation: The act of transferring property to another. Alienation may be voluntary, such as by gift or sale, or involuntary, as through eminent domain or adverse possession.

alienation clause: This clause prevents the borrower from letting someone else assume the debt without the lender's approval. *See* due-on-sale clause.

amendment: A change to contractual terms or conditions.

Americans with Disabilities Act (ADA): Federal act implementing regulations that protect citizens with mental or physical disabilities. Does not apply to residential housing but to commercial facilities and places of public accommodation.

American Land Title Association (ALTA) policy: A title insurance policy that protects the interest in a collateral property of a mortgage lender that originates a new real estate loan.

amortized loan: A loan in which principal as well as interest is payable in periodic installments over the term of the loan.

amount realized: A calculation performed to determine capital gain; the difference between the actual sales price and expenses of the sale.

annexation: The process of converting personal property into real property.

annual percentage rate (APR): The relationship of the total finance charges associated with a loan. This must be disclosed to borrowers by lenders under the Truth in Lending Act.

anticipated revenue: A synonym for potential or projected or scheduled gross income used when developing an operating statement.

anticipation: The appraisal principle that value can increase or decrease based on the expectation of some future benefit or detriment affecting the property.

antitrust laws: Laws designed to preserve the free enterprise of the open marketplace by making certain private conspiracies and combinations formed to minimize competition. Most violations of antitrust laws in the real estate business involve either price fixing (brokers conspiring to set fixed compensation rates) or allocation of customers or markets (brokers agreeing to limit their areas of trade or dealing to certain areas or properties).

apparent authority: When someone claims to be an agent but there is no express agreement, the principal can establish an agency relationship by performing any act that accepts (ratifies) the conduct of the agent as that of an agent.

appraisal: An estimate of the quantity, quality, or value of something. The process through which conclusions of property value are obtained; also refers to the report that sets forth the process of estimation and conclusion of value.

appreciation: An increase in the worth or value of a property due to economic or related causes, which may prove to be either temporary or permanent; opposite of depreciation.

appurtenance: A right, a privilege, or an improvement belonging to, and passing with, the land.

arm's-length transaction: A transaction where the parties are dealing from equal bargaining positions.

asbestos: A fire-resistant mineral fiber used in a wide variety of building supplies prior to 1978; environmental health hazard, when friable, that can cause respiratory diseases and cancer.

assessment: (1) The imposition of a tax, charge, or levy, usually according to established rates. (2) Official valuation of property for the purpose of establishing assessed value for tax purposes.

as is: A description of the physical condition of the property where no promises are made regarding its quality or condition.

assignment: The transfer to another party in writing of rights or interest in a bond, a mortgage, a lease, or another instrument.

assumption of mortgage: Acquiring title to property on which there is an existing mortgage and agreeing to be personally liable for the terms and conditions of the mortgage, including payments.

auction: A form of selling property where oral bids are taken and the property is sold to the highest bidder.

avulsion: The sudden tearing away of land, as by earthquake, flood, volcanic action, or the sudden change in the course of a stream. The loss of land may not result in loss of title to the property.

backup offer: An offer submitted to the property owner with knowledge that the owner is already under contract; a secondary offer.

balloon payment: A final payment of a mortgage loan that is larger than the required periodic payments because the loan amount was not fully amortized.

bargain and sale deed: A deed that carries with it no warranties against liens or other encumbrances but that does imply that the grantor has the right to convey title. The grantor may add warranties to the deed at his discretion.

baseboard: A board around the bottom of a wall perpendicular to the floor. Sometimes called *wains*, baseboards cover the gap between the floor and the wall, protecting the wall from scuffs and providing a decorative accent.

Base Flood Elevation: The location of the lowest floor in relation to the computed elevation to which floodwater is anticipated to rise during a flood on the flood map.

base line: The main imaginary line running east and west and crossing a principal meridian at a definite point; used by surveyors for reference in locating and describing land under the rectangular (government) survey system of legal description.

basement: Story-high space below the first floor that is totally or partially below the exterior grade; floor is usually concrete slab.

basis: The financial interest that the IRS attributes to an owner of an investment property for the purpose of determining annual depreciation and gain or loss on the sale of the asset. If a property was acquired by purchase, the owner's basis is the cost of the property plus allowable closing costs plus the value of any capital expenditures for improvements to the property, minus any depreciation allowable or actually taken. This new basis is called the *adjusted basis*.

before-tax cash flow: The money left after debt service has been subtracted from the net operating income and before income tax is paid; also called *cash throw-off* or *cash flow after debt service*.

benchmarks: Permanent reference marks or points established for use by surveyors in measuring differences in elevation.

beneficiary: (1) The person for whom a trust operates or on whose behalf the income from a trust estate is drawn. (2) A lender in a deed of trust loan transaction. (3) The recipient of personal property (a bequest or legacy) in a will.

bilateral contract: *See* contract.

blanket loan: A mortgage covering more than one parcel of real estate, providing for each parcel's partial release

from the mortgage lien upon repayment of a definite portion of the debt.

blockbusting: The illegal practice of inducing homeowners to sell their properties by making representations regarding the entry or prospective entry of persons of a particular protected class into the neighborhood.

blue-sky laws: Common name for state and federal laws that regulate the registration and sale of investment securities.

boot: Money or property given to make up any difference in value or equity between two properties in a 1031 exchange.

branch office: A secondary place of business apart from the principal or main office from which real estate business is conducted. A branch office usually must be run by a broker-in-charge working on behalf of the broker.

breach of contract: The violation of any terms or conditions in a contract without legal excuse; for example, failure to make a payment when it is due.

bridge loan: A short-term loan to cover the period between termination of one loan and the beginning of another loan; between interim construction loan and a permanent takeout loan; residential financing arrangement where homeowner borrows money under a second mortgage on buyer's unsold current home to fund acquisition of a new home.

British Thermal Unit (BTU): A measure of heat used in rating the capacity of heating and cooling systems.

broad form (HO-2): An insurance policy covering buildings and personal property against loss or damage from fire, lightning, removal, windstorm, hail, explosion, riot, smoke, vandalism, and theft. This form also covers falling objects; weight of snow, ice, or sleet; collapse of buildings; malfunctioning heating systems; accidental discharge of water or steam; and electrical currents that are artificially generated.

broker: (1) One who acts as an intermediary on behalf of others for a fee or commission. (2) One who is licensed to list, lease, buy, exchange, auction, negotiate or sell interest in real estate for others for a fee.

brokerage: The bringing together of buyers and sellers in the marketplace.

broker-in-charge (BIC): Required for each brokerage firm and each branch office, the full broker responsible for displaying all licenses properly, notifying the North Carolina Real Estate Commission of any change of business address or trade name, ensuring that all advertising and agency compliance is done properly, maintaining the trust account and trust account records properly, retaining and maintaining all real estate transaction records properly, and supervising all provisional brokers associated with the firm or office.

broker price opinion (BPO): *See* comparative market analysis.

budget comparison statement: Compares actual results with the original budget, often giving either percentages or a numerical variance of actual versus projected income and expenses.

buffer zone: A strip of land, usually used as a park or designated for a similar use, separating and screening land dedicated to one use from land dedicated to another use (e.g., residential from commercial).

building code: An ordinance that specifies minimum standards of construction for buildings to protect public safety and health.

building permit: **W**ritten governmental permission for the construction, alteration, or demolition of an improvement, showing compliance with building codes and zoning ordinances. See certificate of occupancy.

bulk transfer: *See* Uniform Commercial Code.

bundle of legal rights: The concept of land ownership that includes ownership of all legal rights to the land (i.e. disposition, exclusion, enjoyment, possession and control).

business cycle: The upward and downward fluctuations in business activities generally characterized by four stages: expansion, recession, depression, and revival.

buydown: A financing technique used to reduce the monthly payments for the first few years of a loan. Funds in the form of discount points are given to the lender to buy down or lower the effective interest rate paid by the buyer, thus reducing the monthly payments for a set time.

buyer agency agreement: A principal-agent relationship in which the broker is the agent for the buyer, with fiduciary responsibilities to the buyer. The broker represents the buyer under the law of agency.

Buyer Closing Disclosure (BCD): A form required (as of 2015) in most residential mortgage transactions provided to a buyer prior to closing that includes details about settlement costs, such as loan and closing costs.

call: In surveying, a reference to a course, distance, or monument when describing a boundary.

capital gain: The taxable profit earned from the sale of a capital asset such as real property. Profits from assets owned for 12 months or less are treated as short-term capital gain, which is taxable as ordinary income. Profits from assets owned longer than 12 months are treated as long-term capital gain that is usually taxed at a much lower rate than ordinary income.

capital improvement: The addition of a permanent structural improvement or the restoration of some aspect of a property that will either enhance the property's overall value or increase its useful life; often used in the calculation of capital gain.

capital loss: A loss derived from the sale of a capital asset such as real property that may be deductible from ordinary taxable income.

capitalization: A mathematical process for estimating the value of a property using a proper rate of return on the investment and the annual net operating income expected to be produced by the property. The formula is Income ÷ Rate = Value.

capitalization rate: The rate of return a property will produce on the owner's investment.

carbon monoxide: A colorless, odorless gas produced as a byproduct of inefficient burning of fuel such as gas, oil or wood; poor ventilation can lead to deadly concentration of gas.

cash flow: The net spendable income from an investment, determined by deducting all operating and fixed expenses from the gross income. When expenses exceed income, a negative cash flow results.

cash flow after debt service: *See* before tax cash flow.

cash-on-cash rate of return: Derived by dividing the before-tax cash flow by the owner's cash investment; equity dividend rate.

cash throwoff: *See* before tax cash flow.

casualty insurance: See property insurance.

caveat emptor: A Latin phrase meaning "Let the buyer beware." In a caveat emptor state, sellers do not have to disclose any facts about their property when selling.

ceiling joist: Attached to the top plate of a wall, these joists carry the weight of the roof.

certificate of occupancy (CO): A certificate issued by a government authority stating that a building is fit for occupancy and there are no building code violations; the end result of a successful building permit.

certificate of reasonable value (CRV): A form indicating the appraised value of a property being financed with a VA loan.

certificate of title: A statement of attorney's opinion on the status of the title to a parcel of real property based on a title search of specified public records.

chain of title: The succession of title conveyances, from some accepted starting point, whereby the present holder of real property derives title.

change: The appraisal principle that no physical or economic condition remains constant.

channeling: *See* steering.

chattel: *See* personal property.

Civil Rights Act of 1866: A federal act that prohibits racial discrimination in the sale and rental of all real and personal property.

client: *See* principal.

closing: The consummation of a real estate transaction; seller delivers clear title and buyer delivers payment of the purchase price; occurs at the recordation of the deed per the standard residential sales contract.

closing agent: A third party that conducts the closing of the transaction, usually an attorney in North Carolina.

Closing Disclosure (CD): A settlement form required in most residential mortgage loans required by the TRID rules since October 2015.

closing statement: A detailed cash accounting of a real estate transaction showing all cash received, all charges and credits made, and all cash paid out in the transaction.

cloud on the title: Any document, claim, unreleased lien, or encumbrance that may impair the title to real property or make the title doubtful; usually revealed by a title search and removed by either a quitclaim deed or suit to quiet title. **clustering:** The grouping of homesites within a subdivision on smaller lots than normal, with the remaining land used as common area.

cluster zoning: The practice of slightly reducing the sizes of the individual lots and clustering the lots around varying street plans such as cul-de-sacs to create more open space in a development.

co-brokered sale: A real estate transaction involving two or more brokerage firms, one firm representing the seller and the other representing the buyer.

co-brokered transaction: *See* co-brokered sale.

code of ethics: A written system of standards for ethical conduct.

codicil: A supplement or an addition to a will, executed with the same formalities as a will that normally does not revoke the entire will.

coinsurance clause: A clause in insurance policies covering real property that requires that the policyholder maintain fire insurance coverage generally equal to at least 80% of the property's actual replacement cost.

co-listing: Two brokerage firms team up to sell a property, usually to create more effective marketing for the listing client.

commingling: The illegal act by a real estate broker of placing consumer funds with personal funds. By law, brokers are required to maintain a separate trust or escrow account for other parties' funds held temporarily by the broker.

commission: Payment to a broker for services rendered, as in the sale or purchase of real property; traditionally, a percentage of the gross sales price of the property but can be a flat fee or some other calculation.

common elements: Parts of a prop common use by all of the condominium residents. Each condominium owner has an undivided ownership interest in the common elements.

common interest community ownership (or hybrid) ownership: Ownership that contains elements of both ownership in severalty and concurrent ownership.

common law: The body of law based on custom, usage, and court decisions.

common law of agency: The basic framework of law that governs the legal responsibilities of the broker to the people the broker represents.

comparable: Property used in an appraisal report that is substantially equivalent to the subject property.

Comparative Market Analysis (CMA): A comparison of the prices of recently sold homes that are similar to a listing seller's home in terms of location, style, and amenities; an estimate of market value; also called a *broker price opinion*.

compensatory damages: Money damages awarded to the injured party to compensate them for the breach of contract but not to punish the breaching party.

competition: The appraisal principle that states that excess profits generate competition.

Comprehensive Loss Underwriting Exchange (C.L.U.E.): A report which generally contains up to seven years of personal auto and property data, used by insurance companies to determine the insurability of a property and/ or auto owner.

comprehensive plan: *See* master plan.

concrete slab: *See* slab.

concurrent ownership: Ownership involving two or more owners.

condemnation: A judicial or an administrative proceeding to exercise the power of eminent domain, through which a government agency takes private property for public use and justly compensates the owner.

condition: It limits coverage of a specified property in an insurance policy.

conditional-use permit: Written governmental permission allowing a use inconsistent with zoning but in the public interest, such as locating an emergency medical facility in a predominantly residential area: special-use permit.

condition subsequent: A defeasible fee simple estate that dictates some action or activity that the new owner must not perform. The former owner retains a right of reentry, so if the condition is broken, the former owner can take repossession of the property.

condominium ownership: The absolute ownership of a unit in a multi unit building based on a legal description of the airspace the unit actually occupies, plus an undivided interest in the ownership of the common elements, which are owned jointly with the other condominium unit owners.

conforming loan: A standardized conventional loan that meets Fannie Mae or Freddie Mac's purchase requirements.

conformity: The appraisal principle that holds that the greater the similarity among properties in an area, the better they will hold their value.

Connor Act: A North Carolina law that requires many types of real estate documents to be recorded for protection against claims from third parties. These documents include deeds, mortgages, purchase contracts, installment land contracts, assignments, options, leases exceeding three years, easements, and restrictive covenants; a pure race statute.

consequential damages: Award of special damages if the breaching party entered the contract with plans to breach; injured party may sue for lost profits.

consideration: (1) That received by the grantor in exchange for a deed. (2) Something of value that induces a person to enter into a legally enforceable contract.

construction loan: *See* interim financing.

constructive eviction: The actions of a landlord that so materially disturb or impair a tenant's enjoyment of the leased premises that the tenant is effectively forced to

move out and terminate the lease without liability for any further rent.

constructive notice: The notice given to the world by recorded documents. All people are charged with knowledge of such documents and their contents, whether or not they have actually examined them. Possession of property is also considered constructive notice that the person in possession has an interest in the property.

Consumer Financial Protection Bureau (CFPB): A federal agency created by the Dodd-Frank Act in 2010 to oversee consumer protection via financial regulations within seven federal agencies.

contingency: A provision in a contract that requires a certain act to be done or a certain event to occur before the contract becomes binding; a condition of the contract.

contract: A legally enforceable promise or set of promises between legally competent parties that must be performed for consideration. If a breach of the promise occurs, the law provides a remedy. A contract may be either unilateral, by which only one party is bound to act, or bilateral, by which all parties to the instrument are legally bound to act as prescribed.

conventional loan: A loan from private investors that requires no government insurance or guarantee.

conveyance: A term used to refer to any document that transfers title to real property. The term is also used in describing the act of transferring.

cooperating broker/firm: *See* listing broker.

cooperative listing service (CLS): Another term for MLS. *See* Multiple Listing Service.

cooperative ownership: A residential multi unit building whose title is held by a trust or corporation that is owned by and operated for the benefit of persons living within the building, who are the beneficial owners of the trust or stockholders of the corporation, each possessing a proprietary lease to a specific apartment in the building.

co-ownership: Title ownership held by two or more persons or entities.

corporation: An entity or organization, created by operation of law, whose rights of doing business are essentially the same as those of an individual. The entity has continuous existence until it is dissolved according to legal procedures.

cost approach: The process of estimating the value of a property by adding the appraiser's estimate of the reproduction or replacement cost of the building, less depreciation to the estimated land value.

cost recovery: An Internal Revenue Service term for depreciation.

counteroffer: A new offer made in response to an offer received. It has the effect of rejecting the original offer.

covenant: A written agreement between two or more parties in which a party or parties pledge to perform or not perform specified acts with regard to property; usually found in such real estate documents as deeds, mortgages, leases, and contracts for deed.

covenant of quiet enjoyment: The covenant implied by law by which a landlord guarantees that a tenant may take possession of leased premises and that the landlord will not interfere in the tenant's possession or use of the property.

crawl space: The space between the ground surface and the first floor; frequently found in houses without basements that are not built on a slab foundation.

credit: On a closing statement, an amount entered in a person's favor—an amount the party has paid or an amount received from another party.

customer: third party to whom is owed honesty and fairness; not a fiduciary relationship.

datum: A horizontal plane from which heights and depths are measured.

debit: On a closing statement, an amount charged; an amount the party must pay at settlement.

debt service: The principle and interest payment on a loan.

decedent: A person who has died.

declaration of restrictive covenants: A statement of all covenant, conditions and restrictions (CC&Rs) affecting a parcel of land; sometimes noted on the plat map or in a separate document. Restrictions are appurtenant and aim to protect property values.

dedication: The voluntary transfer of private property by its owner to the public for some public use, such as for streets or schools.

deductible: Loss not covered by the insurer.

deed: A written instrument that, when executed and delivered, conveys title to or interest in real estate; evidence of title.

deed in lieu of foreclosure: A deed given by the mortgagor to the mortgagee when the mortgagor is in default under the terms of the mortgage. This avoids foreclosure but does not remove liens from the property; "friendly foreclosure."

deed of trust: An instrument used to create a mortgage lien by which the borrower conveys title to a trustee, who holds it as security for the benefit of the note holder (the lender); also called a *trust deed*.

deed restriction: Clause placed in a deed by the owner to control the future uses of the property. *See* restrictive covenants.

default: The nonperformance of a duty, whether arising under a contract or otherwise; failure to meet an obligation when due.

defeasance clause: A clause used in leases and mortgages that cancels a specified right upon the occurrence of a certain condition, such as cancellation of a mortgage upon repayment of the mortgage loan.

defeasible fee estate: An estate in which the holder has a fee simple title that may be terminated upon the occurrence or nonoccurrence of a specified event. Two categories of defeasible fee estates exist: fee simple determinable and fee simple on condition subsequent.

deferred maintenance: The act of postponing necessary maintenance and repairs on rental properties

deficiency judgment: A personal judgment levied against the borrower when a foreclosure sale does not produce sufficient funds to pay the mortgage debt in full; a general lien.

delivery and acceptance: The actual delivery of a deed by a grantor and the actual or implied acceptance of the deed by the grantee; recordation of the deed is viewed as acceptance.

demand: The amount of goods people are willing and able to buy at a given price; often coupled with supply.

Department of Housing and Urban Development (HUD): A federal cabinet department active in national housing programs. Among its many programs are urban renewal, public housing, model cities, rehabilitation loans, FHA subsidies, fair housing enforcement, and water and sewer grants.

depreciation: (1) In appraisal, a loss of value in property due to any cause, including physical deterioration, functional obsolescence, and external obsolescence. (2) In real estate investment, an expense deduction for tax purposes taken over the period of ownership of income property.

descent: The acquisition of an estate by inheritance in which an heir succeeds to the property by intestate succession.

designated dual agency: An agency option under dual agency that allows the firm, with both clients' permission, to appoint one or more licensees to exclusively represent the seller-client and one or more licensees to exclusively represent the buyer-client; also called *designated agency*.

developer: A person or company that attempts to put land to its most profitable use through the construction of improvements.

devise: A gift of real property by will. The donor is the devisor, and the recipient is the devisee.

direct reduction loan: A mortgage loan that requires a fixed amount of principal payment in each period; the total debt service payment starts higher than with a level payment loan since interest portion will reduce with each payment.

discount point: Interest paid in advance; one point equals 1% of the loan amount for the borrower and increases the yield for the investor approximately ⅛%.

Doctrine of Prior Appropriation: Followed primarily by Western states, this doctrine contends that water rights are determined by priority of beneficial use. The first person to use water or divert water for a beneficial use or purpose can acquire individual rights to the water. In these states, property owners may have land that borders water but no rights to use that water.

Dodd-Frank Wall Street Reform and Consumer Protection Act (Dodd-Frank): Legislation passed in 2010, primarily affecting financial institutions and their consumers in an effort to prevent a recurrence of events that caused the economic recession and the mortgage market meltdown during the mid-2000s.

dominant tenement: A property that includes in its ownership the appurtenant right to use an easement over another person's adjacent property (called the *servient tenement*) for a specific purpose; ownership of the easement runs with the land.

dormer: A projection built out from the slope of a roof, used to house windows on the upper floor and to provide additional headroom. Common types of dormers are the gable dormer and the shed dormer.

dual agency: Representing both parties to a transaction; must be consensual and reduced to writing prior to presentation of first offer.

due diligence: (1) a buyer's investigative process of having experts inspect the property, examine title, and review any leases to determine if the property meets the buyer's needs and if buyer wishes to proceed with the purchase. During the "due diligence period," the buyer can terminate the purchase contract for any reason or no reason; (2) a licensee's affirmative duty to discover and disclose any material facts about the property in question.

due-on-sale clause: A provision in a mortgage that states that the entire balance of the note is immediately due and payable if the mortgagor transfers (sells) the property. *See* alienation clause.

duress: The unlawful constraint or action exercised on a person whereby the person is forced to perform an act against that person's will. A contract entered into under duress is voidable.

earnest money: Money deposited by a buyer under the terms of a contract, to be forfeited if the buyer defaults but applied to the purchase price if the sale is closed.

easement: A right to limited use and enjoyment of the land of another for a specific purpose without ownership; a nonpossessory interest in real estate. Two types of easements are easement appurtenant and easement in gross.

easement appurtenant: An easement that runs with the land; the easement is part of both the dominant and the servient tracts and conveys with the title to either tenement.

easement by necessity: An easement allowed by law as necessary for the full enjoyment of a parcel of real estate; i.e., to allow a landlocked owner a right of ingress and egress over a grantor's land.

easement by prescription: An easement acquired through adverse use of another's property for a period of 20 or more years in North Carolina.

easement in gross: An easement that is not created for the benefit of any land owned by the owner of the easement but that attaches personally to the easement owner. There is no dominant tract; the easement attaches

to the servient tract. Personal easement in gross is not assignable; a commercial easement in gross is assignable.

eave: The overhang of a sloping roof that extends beyond the walls of the house.

economic life: The number of years during which an improvement will add value to the land.

economic obsolescence: *See* obsolescence.

effective age: The apparent age of a building based on observed condition rather than chronological age.

effective gross income (EGI): The anticipated income from a rental property resulting from potential gross income minus an allowance for vacancy and bad debts.

electromagnetic fields (EMFs): Naturally occurring energy fields near power lines and electrical appliances thought to be linked with adverse health effects but research is inconclusive.

emblements: Growing crops, such as grapes and corn, that are produced annually through labor and industry; also called *fructus industriales*. Usually considered to be personal property.

eminent domain: The right of a government or municipal quasi-public body to acquire property for public use through a court action called *condemnation*, in which the court decides that the use is a public use and determines fair compensation to be paid to the owner.

employee: Someone who works as a direct employee of an employer and has employee status. The employer is obligated to withhold income taxes and Social Security taxes from the compensation of the employee.

employment contract: A document evidencing formal employment between employer and employee or between principal and agent. In real estate, this is generally a listing agreement, a buyer agency agreement or a management agreement.

enabling act: State legislation that confers zoning powers on municipal governments.

encapsulation: Sealing off environmental hazards instead of removal.

encroachment: An unauthorized intrusion of an improvement, or any part of an improvement, on the real property of another party; can make title to both parcels unmarketable. Best discovered by survey.

encumbrance: Any charge, claim, lien, or liability held by someone other than the owner of property that may diminish the value or use and enjoyment of a property. May not prevent the transfer of title. **endorsement** In an insurance policy, coverage added to the general policy; a rider.

Equal Credit Opportunity Act (ECOA): The federal law that prohibits discrimination in the extension of credit because of race, color, religion, national origin, sex, age, or marital status.

equitable title: (1) The interest held by the grantor in a deed of trust that allows possession and use of the pledged property. (2) The interest held by a vendee under a contract for deed or an installment contract; the equitable right to obtain absolute ownership to property when legal title is held in another's name.

equity: The interest or value that an owner has in property over and above any indebtedness.

equity buildup: That portion of the loan payment directed toward the principal rather than the interest, plus any gain in the property value due to appreciation.

equity dividend rate: *See* cash on cash rate of return.

equity of redemption: The right of a borrower in default on a mortgage loan to reclaim the forfeited property prior to the foreclosure sale through payment in full of all debt and associated costs.

erosion: The gradual wearing away of land by water, wind, or other natural forces; the diminishing of property by the elements may cause loss of ownership.

escheat: The reversion of property to the state, as provided by state law, in cases where a decedent dies intestate without heirs capable of inheriting or when the property is abandoned.

escrow: The closing of a transaction through a third party called an *escrow agent* who receives certain funds and documents to be delivered upon the performance of certain conditions outlined in the escrow instructions.

escrow account: The trust account established by a broker under the provisions of the license law for the purpose of holding funds on behalf of the broker's principal or some other person until the consummation or termination of a transaction.

estate taxes: Federal taxes on a decedent's real and personal property.

estate (tenancy) at sufferance: The tenancy of a lessee who lawfully comes into possession of a landlord's real estate but who continues to occupy the premises after the lease has expired against the landlord's wishes.

estate (tenancy) at will: An estate that gives the lessee the right to possession until the estate is terminated by either party; the term of this estate is indefinite and no prior notice to terminate is needed.

estate (tenancy) for years: A possessory interest in property for a definite period of time leased for a specified consideration.

estate (tenancy) from period to period: A possessory interest in leased property that automatically renews from period to period—week to week, month to month, or year to year; notice is necessary to terminate. Also called *periodic tenancy*.

estoppel: A method of creating an agency relationship in which a person states incorrectly that a second person is the first person's agent and a third person relies on that representation.

ethics: The system of moral principles and rules that becomes the standard for conduct.

eviction: A legal process to oust a person from possession of real estate.

evidence of title: Proof of ownership of property; commonly a certificate of title, an abstract of title with lawyer's opinion, or a Torrens registration certificate.

excise tax: Deed transfer tax paid by the seller and required to be noted on a deed by state law; the rate is $1 per $500 of sales price.

exchange: A transaction in which all or part of the consideration is the transfer of like-kind property (such as investment real estate for investment real estate).

exclusion: Something that is not covered for loss in an insurance policy.

exclusive-agency listing: A listing contract under which the owner appoints a real estate broker as the exclusive agent for a designated period of time to sell the property, on the owner's stated terms, for a commission. The owner reserves the right to sell without paying anyone a commission if the owner sells to a prospect who has not been introduced or claimed by the broker.

exclusive right-to-sell listing: A listing contract under which the owner appoints a real estate broker as the exclusive agent for a designated period of time to sell the property, on the owner's stated terms, and agrees to pay the broker a commission when the property is sold, regardless of who sells the property.

executed contract: A contract in which all parties have fulfilled their promises in the contract.

execution: The signing and delivery of an instrument. Also, a legal order directing an official to enforce a judgment against the property of a debtor.

executory contract: A contract under which something remains to be done by one or more of the parties.

express agreement/contract: An oral or written contract in which the parties state the contract's terms and express their intentions in words.

express authority: An agent's power to act on behalf of a principal, explicitly granted by an agreement between the agent and principal.

extender clause: A carry-over or protection clause in a listing contract that says the listing broker is entitled to commission for a time period after expiration of the listing term if the property is transferred to a prospect that the broker introduced to the property during the listing term; override clause. This clause is void if the property is listed with another broker.

external depreciation: The reduction in a property's value caused by outside factors (those that are off the property).

external obsolescence: *See* obsolescence.

extra-territorial jurisdictions (ETJs): A municipality's right to regulate development in areas adjacent to but not part of the city's corporate limits. Population determines if the power extends for 1 to 3 miles from the corporate limits.

facilitator: The real estate licensee who assists buyers and sellers in reaching an agreement in a real estate transaction without representing interests of either party. The licensee treats both parties equally as customers.

Fannie Mae (FNMA): A quasi-government agency established to purchase any kind of mortgage loans in the secondary mortgage market from the primary lenders.

fascia board: A flat strip of wood or metal that encloses the ends of the rafters; gutters are usually attached to the fascia board.

Federal Emergency Management Agency (FEMA): A federal agency responsible for disaster preparedness, response and recovery. Now under the Department of Homeland Security.

Federal Fair Housing Act: The federal law that prohibits discrimination in housing based on race, color, religion, sex, handicap, familial status, or national origin.

Federal Reserve System: The country's central banking system, which controls the nation's monetary policy by regulating the supply of money and interest rates.

fee-for-service agreement: Arrangement where consumer asks licensee to perform specific real estate services for a set fee; unbundling of services; limited service firms.

fee simple absolute: The maximum possible estate in real property; most complete and absolute ownership; indefinite in duration, freely transferable and inheritable.

fee simple defeasible: *See* defeasible fee estate.

fee simple determinable: An estate in real estate that continues "so long as" a prescribed land use continues. Estate ends automatically upon the termination of the prescribed use; no lawsuit is necessary for reversion.

fee simple subject to a condition subsequent: An estate in real estate that prohibits a specific condition on the property. Grantor has the right to re-enter the property and reclaim ownership through legal proceedings.

FHA loan: A loan insured by the Federal Housing Administration and made by an approved private lender in accordance with the FHA's regulations.

fiduciary: One in whom trust and confidence are placed; a reference to a principal-agent relationship.

financing statement: *See* Uniform Commercial Code.

first substantial contact A flexible moment in time when conversation between a licensee and a consumer begins to address confidential needs, desires and abilities; latest moment to legally disclose agency choices to a consumer.

fixed rental lease: *See* gross lease.

fixture: An item of personal property that has been converted to real property by being permanently affixed to the realty.

flood hazard area: Property identified by flood certification to be in a flood-prone area with a likelihood that a flood may occur once every 100 years and therefore usually requiring flood insurance if federally related financing is involved.

floor joist: A horizontal board laid on edge, resting on the beams that provide the main support for the floor. The subflooring is nailed directly to the joists.

footing: A concrete support under a foundation, chimney, or column that usually rests on solid ground and is wider than the structure being supported. Footings are designed to distribute the weight of the structure over the ground.

foreclosure: A legal procedure whereby property used as security for a debt is sold to satisfy the debt in the event of default in payment of the mortgage note or default of other terms in the mortgage document. The foreclosure procedure brings the rights of all parties to a conclusion and passes the title in the mortgaged property to either the holder of the mortgage or a third party who may purchase the realty at the foreclosure sale, free of all liens affecting the property subsequent to the mortgage.

foreshore: Land at the coast between average high tide and average low tide this is owned by the state of North Carolina.

foundation wall: The masonry or concrete wall below ground level that serves as the main support for the frame structure. Foundation walls form the side walls of the basement or crawlspace.

frame: The wooden skeleton of the house consisting of the floors, walls, ceilings, and roof.

fraud: An intentional misrepresentation of material fact so as to harm or take advantage of another person.

Freddie Mac: A corporation established to purchase primarily conventional mortgage loans in the secondary mortgage market.

freehold estate: An estate in land in which ownership is for an indeterminate length of time, in contrast to a leasehold estate.

friable: A dry, crumbly condition often used to describe old asbestos.

frieze board: A wooden board fastened at the top of the exterior wall under the eave soffit to prevent penetration of weather elements; frequently the base for additional exterior decorative trim.

front footage: The measurement of a parcel of land by the number of feet of street or road frontage, or water frontage.

frontage: The length of property along the street or waterfront.

fructus industrials: *See* emblements.

fructus naturales: Plants that do not require annual cultivation and are considered real property.

full broker: *See* nonprovisional broker.

functional obsolescence: A loss of value to an improvement to real estate arising from functional problems, often caused by age or poor design.

future interest: A person's present right to an interest in real property that will not result in possession or enjoyment until sometime in the future, such as a reversion or right of reentry.

gable: The triangular portion of an end wall rising from the level top wall under the inverted V of a sloping roof that aids water drainage. A gable can be made of weatherboard, tile, or masonry and can extend above the rafters.

gambrel: A curb roof, having a steep slope and a flatter one above, as seen in Dutch colonial architecture.

gap: A defect in the chain of title of a particular parcel of real estate; a missing document or conveyance that raises doubt as to the present ownership of the land.

general agent: One who is authorized to represent the principal in a broad range of matters related to a specific business or activity; a property manager might have this power.

general lien: The right of a creditor to have all of a debtor's current and future property for the next 10 years— both real and personal—sold to satisfy a debt; i.e. judgment lien.

general partnership: *See* partnership.

general warranty deed: A deed in which the grantor fully warrants good clear title to the premises through four covenants in the deed. Used in most real estate deed transfers, a general warranty deed offers the greatest protection to the grantee of any deed.

Ginnie Mae: A government agency under HUD that plays an important role in the secondary mortgage market. It sells mortgage-backed securities that are backed by pools of FHA and VA loans.

girder: A heavy wooden or steel beam supporting the floor joists and providing the main horizontal support for the floor.

government (rectangular or geodetic) survey system *See* rectangular (government) survey system.

graduated lease: A commercial lease that contracts for pre-set rental increases over the lease period.

graduated payment mortgage (GPM): A loan in which the monthly principal and interest payments increase by a set amount each year for a certain number of years and then level off for the remaining loan term; probable negative amortization in early years.

grantee: A person who receives a conveyance of real property from a grantor.

granting clause: Words in a deed of conveyance that state the grantor's intention to convey the property at the present time. This clause is generally worded as convey and warrant, grant, bargain and sell, or the like.

grantor: (1) The property owner that is transferring title to or an interest in real property to a grantee. (2) A borrower in a deed of trust loan transaction; also called *trustor*.

gross income multiplier (GIM): A figure used as a multiplier of the gross annual income of a property to produce an estimate of the property's value.

gross lease: A lease of property under which a landlord pays all property charges regularly incurred through ownership, such as repairs, taxes, insurance, and operating expenses. Most residential leases are gross leases; also called *flat* or *fixed rental lease*.

gross rent multiplier (GRM): The figure used as a multiplier of the gross monthly income of a property to produce an estimate of the property's value.

ground lease: A lease of land only, on which the tenant usually is required to build as specified in the lease. Such leases are usually long-term net leases.

groundwater: Water under the surface of the earth.

growing-equity mortgage (GEM): A loan in which the monthly payments increase annually, with the increased amount being used to reduce directly the principal balance outstanding and thus shorten the overall term of the loan.

header: The extra thick framing over doors and windows to bear the weight of the building above the opening.

heir: One who might inherit or succeed to an interest in land under the state law of descent when the owner dies without leaving a valid will.

hereditaments Any interests in real estate capable of being inherited.

highest and best use: The possible use of a property that would produce the greatest net income and thereby develop the highest value.

hip roof: A pitched roof with sloping sides and ends.

historic preservation zoning: Zoning to preserve the historic nature of a particular property or neighborhood. Change will require a certificate of appropriateness from the necessary regulatory power.

holdover tenant: A person who retains possession of leased property after the lease has expired; the landlord may continue to accept rent or start eviction procedures.

home equity loan: A loan (sometimes called a *line of credit*) under which a property owners use their residence as collateral and can then draw funds up to a prearranged amount against the property.

homeowners association (HOA): An organization of property owners in a subdivision, planned community, or condominium that makes and enforces rules for the properties within its jurisdiction.

homeowners insurance policy: A standardized package insurance policy that covers a residential real estate owner against financial loss from fire, theft, public liability, and other common risks.

homestead: Land that is owned and occupied as the family home. In many states, a portion of the area or value of this land is protected for exempt from judgments for debts.

house wrap: a synthetic material used to protect buildings.

Housing and Community Development Act of 1974: An act that added gender as a protected class under the Federal Fair Housing Act.

HUD: *See* Department of Housing and Urban Development.

HUD-1 settlement statement: A type of settlement statement, replaced with the Closing Disclosure form in many residential transactions since October 2015.

HVAC: An acronym for heating, ventilation, and air-conditioning.

hypothecation: The pledging of property as security for an obligation or a loan without losing possession of it.

implied agreement/contract: A contract under which the agreement of the parties is demonstrated by their conduct.

implied authority: An agency relationship created when principals and agents, without formally agreeing to the agency, act as if one exists.

implied warranty of habitability: A theory in landlord/tenant law in which the landlord renting residential property implies that the property is habitable and fit for its intended use.

improved land: Land that has a building or buildings on it or land that has been prepared for development, such as with grading, installation of utilities, et cetera.

improved lot: A lot that certain basic required services necessary to utilize it are available, such as electricity, telephone, street access, or water access.

improvement: (1) Any structure, usually privately owned, erected on a site to enhance the value of the property—for example, a fence or a driveway. (2) A publicly owned structure added to or benefiting land, such as a curb, sidewalk, street, or sewer.

income capitalization approach: The process of estimating the value of an income-producing property through capitalization of the annual net income expected to be produced by the property during its remaining useful life.

independent contractor: Someone who is retained to perform a certain act but who is subject to the control and direction of another only as to the end result and not as to the way in which the act is performed. Unlike an employee, an independent contractor pays all expenses and Social Security and income taxes and receives no employee benefits. Most real estate licensees are independent contractors.

index lease: A commercial lease that allows the periodic adjustment of rent based on a named index such as Consumer Price Index (CPI).

iInflation: The gradual reduction of the purchasing power of the dollar, usually related directly to the increases in the money supply by the federal government.

inheritance taxes: State-imposed taxes on a decedent's real and personal property.

in-house sale: A real estate transaction where the listing firm actually produces the buyer for their listing, as opposed to a co-brokered or cross sale that involves two firms.

installment land contract: A contract for the sale of real estate financed by the seller whereby the purchase price is paid in periodic installments by the purchaser, who is in possession of the property even though legal title is retained by the seller until a future date, which may not be until final payment. Also called a *contract for deed* or *land contract*.

insulation: Pieces of plasterboard, asbestos sheeting, compressed wood-wool, fiberboard, or other material placed between inner and outer surfaces, such as walls and ceilings, to protect the interior from heat loss. Insulation works by breaking up and dissipating air currents.
insured: The property owner who is reimbursed by the insurer, the insurance company, for losses caused by a covered event.

insurer: The insurance company, which agrees to reimburse the property owner for losses caused by a covered event.

interest: A charge made by a lender for the use of money.

interim financing: A short-term loan usually made during the construction phase of a building project (in this case, often referred to as a *construction loan*).

Interstate Land Sales Full Disclosure Act: A federal law regulating the interstate advertising and sale or lease of lots in subdivisions with 25 or more lots. Developer must provide a property report and register the subdivision with HUD.

Intestate: The condition of a property owner who dies without leaving a valid will. Title to the property will pass to the decedent's heirs as provided in the state law of descent.

intrinsic value: An appraisal term referring to the value created by a person's personal preferences for a particular type of property.

investment: Money directed toward the purchase, improvement, and development of an asset in expectation of income or profits.

involuntary lien: A lien placed on property without the consent of the property owner; such as a judgment lien.

joint tenancy: A concurrent form of ownership of real estate between two or more parties who have been named in one conveyance as joint tenants. Ownership interest may be unequal. Right of survivorship is not automatic in North Carolina but can be added by an attorney.

joint venture: The joining of two or more people to conduct a specific business enterprise. A joint venture is similar to a partnership in that it must be created by agreement between the parties to share in the losses and profits of the venture. It is unlike a partnership in that the venture is for one specific project only, rather than for a continuing business relationship.

judgment: The formal decision of a court upon the respective rights and claims of the parties to an action or a suit. After a judgment has been entered and recorded with the county recorder, it becomes a general involuntary lien on the current and future real and personal property of the debtor in the county where recorded for the next 10 years.

judicial foreclosure: The form of foreclosure used in lien theory states. See foreclosure.

jumbo loan: A residential mortgage loan in excess of acceptable loan amounts for purchase by Fannie Mae or Freddie Mac; also called *nonconforming loans*.

junior mortgage: A mortgage that is subordinate in right or lien priority to an existing lien on the same realty.

laches: A legal doctrine to bar a legal claim or prevent the assertion of a right because of undue delay or failure to assert the claim or right.

land: The earth's surface, extending downward to the center of the earth and upward infinitely into space, including things permanently attached by nature, such as trees and water.

land contract: *See* installment land contract.

landfill: An enormous burial hole for various types of waste disposal.

lateral support: The support a parcel of land receives from adjacent land; a neighbor's duty to support adjoining land in its natural state.

law of negligence: If a tenant or guest is injured on the landlord's rental property, the landlord, and his/her agent, may be held liable due to their responsibility to maintain common areas and comply with the Residential Rental Agreement Act.

Lead-Based Paint Hazard Reduction Act: A federal law that requires sellers/landlords to disclose the known presence of lead-based paint in residential property to potential buyers/tenants via a required disclosure addendum to sales contracts or leases; delivery of a mandatory EPA pamphlet about lead poisoning is also required. Buyer/ tenant is allowed a 10-day assessment period.

lease: A written or an oral contract between a landlord (the lessor) and a tenant (the lessee) that transfers the right to exclusive possession and use of the landlord's real property to the lessee for a specified period of time and for a stated consideration (rent).

leasehold estate: A tenant's right to occupy real estate during the term of a lease, generally considered a personal property interest; nonfreehold estate.

lease option: A lease under which the tenant has the right to purchase the property either during the lease term or at its end.

lease purchase: The purchase of real property, the consummation of which is preceded by a lease, usually long-term; typically done for tax or financing purposes.

legal description: A description of a specific parcel of real estate complete enough for an independent surveyor to locate and identify it.

legality of object: The purpose of a legally enforceable contract cannot be for illegal actions or acts against public policy.

legally competent parties: People who are recognized by law as being able to contract with others; those of legal age and sound mind; a requirement of a legally enforceable contract.

lessee/lessor: *See* lease.

leverage: The use of borrowed money to finance an investment.

levy: To assess; to seize or collect. To levy a tax is to assess a property and set the rate of taxation. To levy an execution is to officially seize the property of a person to satisfy an obligation.

liability insurance: Insurance providing protection of the property owner against financial claims of others.

license: (1) A privilege or right granted to a person by a state to operate as a real estate broker. (2) The personal revocable nontransferable right to a temporary use of another's land—a personal right that cannot be sold.

lien: A right given by law to certain creditors to have their debts paid out of the property of a defaulting debtor, usually by means of a court sale. An encumbrance on real property that can be general or specific.

lien agent: A title insurance entity that is designated under the North Carolina Mechanic's Lien Law by a real

property owner to receive notifications of possible mechanics' liens from construction project vendors.

lien theory: Some states interpret a mortgage as being purely a lien on real property. The mortgagee thus has no right of possession but must foreclose the lien and sell the property if the mortgagor defaults.

life estate: An interest in real or personal property that is limited in duration to the lifetime of its owner or some other designated person or persons.

life tenant: A person in possession of a life estate.

limited common elements: Common elements of a condominium project reserved for the exclusive use of one or more units, such as parking spaces or storage areas.

limited liability company (LLC): A hybrid business entity with combined characteristics and benefits of a limited partnership and an S corporation.

limited partnership: *See* partnership.

limited services agreement: Also known as a *fee-for-services agreement*, a listing agreement that offers a menu of services and fees for separate broker activities that the client desires (unbundling of services).

liquidated damages: An amount predetermined by the parties to a contract as compensation to an injured party if the other party breaches the contract.

liquidity: The ability to sell an asset and convert it into cash, at a price close to its true value, in a short period of time.

lis pendens: A recorded legal document giving constructive notice that an action potentially affecting title to a particular property has been filed in either a state or a federal court; title is effectively unmarketable during the litigation.

listing agreement: An employment contract between a property owner (as principal) and a real estate firm/broker (as agent) by which the broker is employed to find a ready, willing and able buyer for the owner's real estate on the owner's terms, for which service the owner agrees to pay a commission.

listing broker: The broker/firm in a multiple-listing situation representing the seller, as opposed to the cooperating broker/firm, that brings the buyer to the transaction. The listing broker and the cooperating broker may be the same person/firm.

littoral rights: (1) A landowner's claim to use water in large navigable lakes and oceans adjacent to the property. (2) The ownership rights to land bordering these bodies of water up to the average high-water mark.

Loan Estimate (LE): As of 2015, a form required to be given by lenders to most residential mortgage borrowers outlining loan expenses.

loan fraud: A crime in which the purpose is to misrepresent or omit information on a mortgage application in order to obtain a loan or a larger loan than could have been obtained had the lender known the truth.

loan origination fee: An administrative fee charged to the borrower by the lender for making a mortgage loan; usually computed as a percentage of the loan amount.

loan-to-value (LTV) ratio: The relationship between the amount of the mortgage loan and the value of the real estate being pledged as collateral.

lot-and-block (recorded plat) system: A method of describing real property that identifies a parcel of land by reference to lot and block numbers within a subdivision, as specified on a recorded subdivision plat.

Machinery Act: The North Carolina General Statutes that govern the ad valorem taxation of property.

mailbox rule: A rule of law stating that once written acceptance is placed in control of the mailing service, and out of the control of the offeree, it is considered accepted— not when the acceptance is actually received by the offeror.

mansard roof: An architectural style in which the top floor or floors of a structure are designed to appear to be the roof. Such a roof has two slopes on each of the four sides of the building, with the upper slope less steeply inclined.

manufactured home: A dwelling, also known as a *mobile home* or *house trailer*; built under HUD regulations with a permanent chassis. It is considered personal property until the moving hitch, wheels and axles are removed, the unit is attached to a permanent foundation on land owned by the owner of the manufactured home, and an affidavit attesting to these actions has been filed with the Dept. of Motor Vehicles.

marital life estate: North Carolina law permits that when someone dies without a will, or dies with a will disinheriting a spouse or leaving him or her very little that the surviving spouse may choose an "elective share" of the estate instead.

market: A place where goods can be bought and sold and value established.

marketable title: A good or clear title, reasonably free from the risk of litigation over possible defects.

Marketable Title Act: The act is designed to eliminate obsolete defects in a chain of title. If a chain of title can be traced back for 30 years without a problem, it becomes a marketable title.

market value: The most probable price property will bring in an arm's-length transaction under normal conditions on the open market.

mass appraisal: A valuation technique sometimes used for tax assessment purposes that applies a standard percentage increase or decrease to all property in a given location; sometimes referred to as *horizontal adjustments*.

master plan: A comprehensive plan to guide the long-term physical development of a particular area.

material fact: Any fact that is important or relevant to the issue at hand; mandatory disclosure by all agents in a transaction to all parties of the transaction.

mechanic's lien: A specific, involuntary lien secured by interest in real property to give security to contractors, laborers, and materialmen who have performed work or furnished materials in the erection or repair of a building.

"meeting of the minds": *See* mutual assent.

metes-and-bounds (boundary) description: A legal description of a parcel of land that begins at a well-marked point and follows the boundaries, using directions and distances around the tract, back to the place of beginning.

mill: One-tenth of one cent. Some states use a mill rate to compute real estate taxes; for example, a rate of 52 mills would be $0.052 tax for each dollar of assessed valuation of a property.

Mineral and Oil and Gas Rights Mandatory Disclosure Statement: Since 2015, a separate North Carolina disclosure form that must be completed by most sellers of residential dwellings regarding the status of mineral, oil, and gas rights.

minor: Someone who has not reached the age of majority and therefore does not have legal capacity to transfer title to real property; under 18 years of age in North Carolina.

mitigation: Systems to limit the source of environmental hazards and reduce their effect on humans and the surrounding environment.

modular home: A dwelling consisting of a series of rooms or units built off site according to the North Carolina State Building Code; is considered real property as soon as it is assembled on the land. May be multistoried.

monetary policy: Governmental regulation of the amount of money in circulation through such institutions as the Federal Reserve Board.

monument: A fixed natural or artificial object used to establish real estate boundaries for a metes-and-bounds description.

mortgage: A conditional transfer or pledge of real estate as security for the payment of a debt. Also, the document creating a mortgage lien in a lien theory state.

mortgage banker: A mortgage loan company that originates, services, and sells loans to investors.

mortgage broker: An agent of a lender who brings the lender and borrower together for a fee. A broker may represent several lenders.

mortgagee/mortgagor: A mortgagee is the lender in a mortgage loan transaction; a mortgagor is the borrower in a mortgage loan transaction.

mortgage lien: A lien or charge on the property of a mortgagor that secures the underlying debt obligations.

multiperil policy: An insurance policy that offers protection from a range of potential perils, such as those of fire, hazard, public liability, and casualty.

multiple listing service (MLS): A marketing organization composed of member brokers who agree to share their listing agreements with one another in the hope of procuring ready, willing, and able buyers for their properties more quickly than they could on their own. Most MLSs accept only exclusive right-to-sell or exclusive-agency listings from their member brokers.

mutual assent: A deliberate agreement between parties; offer and acceptance; "meeting of the minds." A requirement of a legally enforceable contract.

National Do Not Call Registry: A national registry, managed by the Federal Trade Commission, that lists the phone numbers of consumers who prefer to limit the telemarketing calls they receive.

National Flood Insurance Program (NFIP): A federal program which aims to reduce the impact of flooding on private and public structures.

NCBA/NCAR 2-T Offer to Purchase and Contract (OPC): A form often used by REALTOR®/licensees and/or North Carolina attorneys to establish a legally binding agreement between the buyer and seller concerning the terms of purchase or transfer of residential real property.

negative amortization: When the debt service payment on a loan is not large enough to pay the interest due; the principal balance actually grows with each payment.

negligent misrepresentation: Unintentionally misinforming any party involved in a transaction about a material fact.

negligent omission: Unintentionally failing to disclose a material fact to any party involved in a transaction.

negotiable instrument: A written promise or order to pay a specific sum of money that may be transferred by endorsement or delivery. The transferee then has the original payee's right to payment.

net lease: A lease requiring that the tenant pay rent plus some or all of the property charges, such as taxes, insurance, utilities, and repairs.

net listing: A listing based on the net price the seller will receive if the property is sold. Under a net listing, the broker can offer the property for sale at the highest price obtainable to increase the commission. While this type of listing is illegal in many states, it is legal but not encouraged in North Carolina.

net operating income (NOI): The income projected for an income-producing property after deducting losses for vacancy and collection and operating expenses.

nonagency: A relationship between a licensee and consumers where the licensee represents neither the buyer not the seller; this relationship is not allowed in North Carolina.

nonconforming use: An existing use of property that is permitted to continue after a zoning ordinance prohibiting it has been established for the area; a use that

has been grandfathered in and is legal. Illegal nonconforming use occurs when zoning in place before the prohibited use.

nonfreehold (leasehold) estate: *See* leasehold estate.

nonhomogeneity: A lack of uniformity; dissimilarity; heterogeneity. Because no two parcels of land are exactly alike, real estate is said to be nonhomogeneic.

nonprovisional broker: A North Carolina real estate licensee that has completed the 90-hour postlicensing education to remove the provisional license status; also called a *full broker*.

North Carolina Condominium Act of 1986: Specifies that a condominium is created and established when the developer of the property executes and records a declaration of its creation in the county where the property is located. The declaration must include any covenants, conditions, or restrictions on the use of the property. Other requirements include disclosure and other consumer protection measures in connection with new residential condominium unit sales.

North Carolina Fair Housing Act of 1983: State fair housing law containing similar prohibitions to those of the federal fair housing law. Unlike the federal law, however, the North Carolina law does not exempt owners who are selling their own property, and it does exempt the rental of a unit in a one-unit to four-unit residential building if the owner or one of the owner's family members lives in one of the units.

North Carolina Human Relations Council: The state agency responsible for enforcing the North Carolina Fair Housing Act.

North Carolina Intestate Succession Act: The state law of descent that dictates distribution of the real and personal property of the deceased that died without a will (intestate).

North Carolina Lead-Based Paint Hazard Management Program: A state regulation that requires the sampling of lead dust by compensated technicians, and can include the renovation, repair, and painting projects that disturb lead-based paint in housing and child-occupied facilities built before 1978; technicians must be certified and must follow specific work practices to prevent lead contamination.

North Carolina Real Estate Commission: The state governmental agency whose primary duties include making rules and regulations to protect the general public involved in real estate transactions, granting licenses to real estate brokers, and suspending or revoking licenses for cause.

North Carolina Residential Property Disclosure Act: The state law that requires sellers to provide a prescribed property disclosure statement to any prospective buyer prior to presentation of first offer on the property. Exemptions include new construction, foreclosed properties, and lease purchases but not for sale by owner transactions.

North Carolina Time Share Act: The portion of North Carolina real estate law that defines time-shares and regulates their development and sales.

North Carolina Uniform Commercial Code (UCC): A North Carolina statute which may protect the buyers from a seller's unpaid debts; however, if a homeowner purchases an item on credit and gives the creditor a security agreement, that item remains personal property and may be removed by the creditor in the event of default.

note: *See* promissory note.

novation: Substituting a new contract for an old one or substituting new parties to an existing contract.

obsolescence: The loss of value due to factors that are outmoded or less useful. Obsolescence may be functional or economic.

occupancy permit: A permit issued by the appropriate local governing body to establish that the property is suitable for habitation by meeting certain safety and health standards.

octennial reappraisal: In North Carolina, the statutory reappraisal of all real property in every county every eight years for tax purposes.

offer: The promise by one party to act or perform in a certain manner if the other party agrees to act or perform as requested; shows an intention to enter into a contract.

offer and acceptance: Two essential components of a valid contract; *See* mutual assent and acceptance.

offeree: The person receiving the offer is the offeree.

offeror: The person who makes the offer is the offeror.

Office of Equal Opportunity (OEO): The federal agency under the direction of the secretary of the Department of Housing and Urban Development, which is in charge of administering the Federal Fair Housing Act.

Office of Thrift Supervision (OTS): Monitors and regulates the savings and loan industry. OTS was created by the Financial Institutions Reform, Recovery, and Enforcement Act (FIRREA).

OLD CAR: The mnemonic for fiduciary duties of obedience, loyalty, disclosure of information, obedience, confidentiality, accounting, disclosure of information, and reasonable skill, care, and diligence **open-end loan** A mortgage loan that is expandable by increments up to a maximum dollar amount, the full loan being secured by the same original mortgage; an equity line mortgage.

open listing: A listing agreement under which the broker's commission is contingent on the broker personally producing a ready, willing, and able buyer before the property is sold by the seller or another broker.

operating expenses: Periodic and necessary expenses essential to the continuous operation and maintenance of an income property.

operating statement: A detailed statement prepared on a periodic basis showing the financial picture of a business through the revenues and expenses; profit and loss statement.

opinion of title: An abstract of title that a lawyer has examined and has certified to be, in the lawyer's opinion, an accurate statement of the facts concerning the property ownership.

option: An agreement between the property owner (optionor) and the possible buyer (optionee), secured by the payment of an option fee, to buy or not buy property within a specific time period at terms that have been negotiated in the underlying contract; also called *option to purchase* or *option contract*.

oral buyer agency: A non-exclusive verbal agency agreement between a firm and a buyer-client. There can be no time limit on oral agency, but it must be reduced to writing prior to presentation of first offer.

overlay district: A type of zoning that is superimposed over another type of zoning and can modify the use of the original zone.

override clause: *See* extender clause.

package insurance: An insurance policy that combines the coverage of property insurance and liability insurance.

package loan: A real estate loan used to finance the purchase of both real property and personal property, such as in the purchase of a furnished home that includes window coverings and major appliances.

panic peddling: *See* blockbusting.

parol evidence rule: A rule of evidence providing that a written agreement is the final expression of the agreement of the parties, not to be varied or contradicted by prior or contemporaneous oral or written negotiations.

partition: The division of cotenants' interests in real property when all parties do not voluntarily agree to terminate the co-ownership; takes place through court procedures.

partnership: An association of two or more individuals who carry on a continuing business for profit as co-owners. Under the law, a partnership is regarded as a group of individuals rather than as a single entity. A general partnership is a typical form of joint venture in which each general partner shares in the administration, profits, and losses of the operation. A limited partnership is a business arrangement whereby the operation is administered by one or more general partners and funded, by and large, by limited or silent partners, who are by law responsible for losses only to the extent of their investments.

party wall: A wall that is located on or at a boundary line between two adjoining parcels of land and is used or is intended to be used by the owners of both properties; walls shared between town houses.

payment cap: The limit on the amount the monthly payment can be increased on an adjustable-rate mortgage when the interest rate is adjusted.

percentage lease: A commercial lease, commonly used for retail tenants; rent is based on the tenant's gross sales at the premises. There is usually a small base monthly rental plus a percentage of any gross sales above a certain amount.

percolation test: A test of the soil to determine whether it will absorb and drain water adequately to use a septic system for sewage disposal; a soil evaluation test.

periodic estate (tenancy): See estate (tenancy) from period to period.

personal property: Items, called *chattels* or *personalty*, that do not fit into the definition of real property; movable objects. Examples would include furniture, clothing, jewelry, money, vehicles, et cetera.

physical deterioration: A reduction in a property's value resulting from a decline in physical condition; can be caused by action of the elements or by ordinary wear and tear.

pier: A column, usually of masonry block or steel-reinforced concrete. Piers are evenly spaced under a structure to support the weight. May also refer to the part of the wall between the windows or other openings that bears the wall weight.

pitch: The slope of a roof measured as the vertical distance in inches (rise) divided by the horizontal distance in feet (run).

plat map: A map of a subdivision indicating the location and boundaries of individual properties. Generally shows lots, blocks, easements, streets, floodplains, et cetera. Usually requires official approval before recordation.

point of beginning (POB): In a metes-and-bounds legal description, the starting point of the survey, situated at one corner of the parcel. All metes-and-bounds descriptions must follow the boundaries of the parcel back to the point of beginning.

police power: The government's right to impose laws, statutes, and ordinances, including zoning ordinances and building codes, to protect the public health, safety, and welfare.

potential gross income: The amount of rental income the property could produce with 100% occupancy and with all tenants paying full rent; also called *scheduled gross income*.

power of attorney: A written instrument authorizing a person, sometimes referred to as an attorney-in-fact, to act as agent for another person to the extent indicated in the instrument.

power of sale foreclosure: The form of foreclosure used in a title theory state, such as North Carolina; also called *nonjudicial foreclosure*.

predatory lending: Unscrupulous, sometimes fraudulent, lending practices usually intending to make repayment impossible; designed to take advantage of unwary borrowers that are frequently the low-income, uninformed, elderly, or non-English-speaking.

preemptive right: A provision giving a person the first right to purchase real property; most often found in commercial leases.

premium: The consideration for an insurance policy.

prepaid item: On a closing statement, (1) expenses paid before they are due, such as hazard insurance or rent; also called *prepaids*; (2) a lump-sum payment to set up a reserve account, such as deposits of taxes and insurance to set up the borrower's mortgage loan escrow account.

prepayment penalty: A charge imposed on a borrower who pays off the loan principal early. This penalty compensates the lender for interest and other charges that would otherwise be lost due to payments made ahead of schedule.

price fixing: *See* antitrust laws.

primary mortgage insurance (PMI): Insurance coverage used for obtaining conventional loans with loan-to-value ratios exceeding 80%.

primary mortgage market: The mortgage market in which loans are originated, consisting of lenders such as commercial banks, savings associations, and mortgage brokers.

principal: (1) A sum loaned or employed as a fund or an investment, as distinguished from its income or profits. (2) The original amount (as in a loan) of the total balance due and payable at a certain date. (3) A main party to a transaction—the person for whom the agent works; the client.

principal meridian: The main imaginary line running north and south and crossing a base line at a definite point; used by surveyors for reference in locating and describing land under the rectangular (government) survey system of legal description.

priority: The order of position or time. The priority of liens is generally determined by the chronological order in which the lien documents are recorded. Property tax and assessment liens have priority even over previously recorded liens.

private mortgage insurance (PMI): Insurance provided by a private carrier that protects a lender against a loss in the event of a foreclosure and deficiency.

probate: A legal process by which a court determines who will inherit a decedent's property and what the estate's assets are.

procuring cause: The effort that began a chain of events that brings about the desired result. Under an open listing, the broker who is the procuring cause of the sale receives the commission.

profit and loss statement: *See* operating statement.

projected or potential gross income (PGI): The anticipated annual revenue of an investment property assuming that the investment property is fully rented for the following 12 months.

promissory note: A financing instrument that states the terms of the underlying obligation, is signed by its maker, and is negotiable (transferable to a third party); a personal IOU.

property insurance: A policy that provides property owner coverage for the basic structure on that property.

property management agreement: An agency contract between the owner of income property and a management firm or an individual property manager that outlines the scope of the manager's authority.

property manager: Broker who for compensation preserves the value of an investment property while generating income as an agent for the owner. Duties include collecting rents, maintaining the property, and keeping up all accounting.

property report: The mandatory federal and/or state documents compiled by developers to provide potential purchasers with material facts about a property prior to its purchase.

proprietary lease: A lease given by the corporation that owns a cooperative apartment building to the shareholder for the shareholder's right as a tenant to an individual apartment.

prorations: Shared expenses, either prepaid or paid in arrears, that are divided equitably between buyer and seller at settlement.

protected class: Any group of people designated as such by statute in consideration of federal and state civil rights and lending legislation; currently includes familial status, marital status, age, race, gender, handicapping condition, color, religion, source of income, and national origin.

protection agreement: An agreement between an unlisted property owner and a broker to secure payment for the broker if the property is sold to the particular

buyer named in the agreement; it does not create a general listing, and may not create agency at all—only compensation for a buyer's agent. Sometimes called a *one-shot listing*.

protective covenant: *See* restrictive covenant.

provisional broker: A real estate licensee who performs real estate activities under the supervision of a licensed real estate broker-in-charge. Must complete postlicensing courses to remove the provisional license status.

public offering statement: The document all prospective time-share purchasers must receive before signing a sales contract. The statement must disclose all material facts about the property, as required by the state.

puffing: Exaggerated or superlative comments or opinions: e.g. "This house has the best view in town!"

pur autre vie: For the life of another. A life estate pur autre vie is a life estate that is measured by the life of a person other than the grantee.

purchase money mortgage: A note secured by a mortgage or deed of trust given by a buyer, as borrower, to a seller, as lender, as part of the purchase price of the real estate.

quantity-survey method: The appraisal method of estimating building costs by calculating the cost of all of the physical components in the improvements, adding the cost to assemble them, and then including the indirect costs associated with such construction.

quiet title: A court action to remove a cloud on the title.

quitclaim deed: A conveyance by which the grantor transfers interest in the real estate, if any, without warranties or obligations; frequently used to remove clouds on the title.

radon: A colorless, odorless radioactive gas that naturally occurs in all areas of the state from the decay of radioactive minerals in the ground; EPA suggests that a reading of 4.0 picocuries or higher is cause for a mitigation system. Considered to be one of the leading causes of lung cancer.

rafter: One of a series of sloping beams that extends from the center ridge board to an exterior wall and provides the main support for the roof.

range: A strip of land six miles wide, extending north and south and numbered east and west according to its distance from the principal meridian in the rectangular (government) survey system of legal description.

rate cap: The limit on the amount the interest rate can be increased at each adjustment period in an adjustable rate loan. The cap may also set the maximum interest rate that can be charged during the life of the loan.

rate lock: A guarantee from mortgage lenders that they will give mortgage loan applicants a certain interest rate, at a certain price, for a specific time period.

ratification: A method of creating an agency relationship in which the principal accepts/confirms the conduct of someone who acted without prior authorization as the principal's agent.

ready, willing, and able buyer: One who is prepared to buy property on the seller's terms and is ready to take positive steps to consummate the transaction; one of the agent's requirements for entitlement to commission.

real estate: Land; a portion of the earth's surface extending downward to the center of the earth and upward infinitely into space, including all things permanently attached to it, whether naturally or artificially.

real estate investment syndicate: *See* syndicate.

real estate investment trust (REIT): Trust ownership of real estate by a group of individuals who purchase certificates of ownership in the trust, which in turn invests the money in real property and distributes the profits back to the investors free of corporate income tax.

real estate license law: The state law enacted to protect the public from fraud, dishonesty, and incompetence when dealing with real estate licensees in the purchase and sale of real estate.

real estate mortgage investment conduit (REMIC): A tax entity that issues multiple classes of investor interests (securities) backed by a pool of mortgages.

real estate recovery fund: A fund established in some states from real estate license revenues to cover claims of aggrieved parties who have suffered monetary damage through the actions of a real estate licensee.

Real Estate Settlement Procedures Act (RESPA): Federal law that ensures that residential buyers and sellers receive full disclosure of all settlement charges when a 1–4 family unit residence is financed by federally-related first mortgage loans. The Act mandates a HUD booklet about closing costs, a loan estimate of closing costs, and a standardized closing statement. The Act, known as *Regulation X*, also prohibits kickbacks from lenders.

reality of consent: If misrepresentation, fraud, mistake of fact, undue influence or duress are absent in contract formation, good contract is formed.

real property: The land plus permanent improvements and the interests, benefits, and rights inherent in real estate ownership.

REALTOR®: A registered trademark term reserved for the sole use of active members of local REALTORS® boards affiliated with the National Association of REALTORS®.

reconciliation: The final step in the appraisal process, in which the appraiser combines the estimates of value received from the sales comparison, cost, and income capitalization approaches to arrive at a final estimate of market value for the subject property.

recording: The act of entering or recording documents into the public record at the recorder's office established in each county. Until recorded, a deed or mortgage ordinarily is not effective against third parties, such as subsequent purchasers or mortgagees.

rectangular (government) survey system: A system established in 1785 by the federal government, providing for surveying and describing land by reference to principal meridians and base lines; used mainly west of the Mississippi River.

redemption period: A 10-day period of time after a foreclosure auction during which a property owner in default has the right to redeem the pledged real estate by paying the loan balance plus interest, and costs; also called the *upset bid period*.

redlining: The illegal practice of a lending institution denying loans or restricting their number for certain areas of a community.

reduction certificate (payoff statement): The document signed by a lender indicating the amount required to pay a loan balance in full and satisfy the debt; used in the settlement process to protect both the seller's and the buyer's interests.

reference to recorded plat: *See* lot-and-block (recorded plat) system.

registration certificate: The document that developers of time-shares in North Carolina must obtain from the North Carolina Real Estate Commission before they can offer a project's time-shares for sale to the public.

regression: An appraisal principle that states that between dissimilar properties, the value of the better quality property is affected adversely by the presence of the lesser quality property.

Regulation X: The rules which implement and interpret the Real Estate Settlement Procedures Act (RESPA) of 1974.

Regulation Z: Implements the Truth in Lending Act requiring credit institutions to inform borrowers of the true cost of obtaining credit.

reliction: Gradual recession of water which uncovers land that usually belongs to the riparian owner.

remainder interest: A future interest in real estate created by the grantor for some third party that will be enjoyed after the termination of a prior estate, such as

when an owner conveys a life estate to one party and the remainder to another.

remainderman: One entitled to receive a remainder interest in some estate sometime in the future.

rent: A fixed, periodic payment made by a tenant of a property to the owner for possession and use, usually by prior agreement of the parties.

rental schedule: A statement of proposed rental rates, determined by the owner, or the property manager, or both, based on a building's estimated expenses, market supply and demand, and the owner's long-range goals for the property.

replacement cost: The construction cost at current prices of a property that is not necessarily an exact duplicate of the subject property but serves the same purpose or function as the original.

reproduction cost: The construction cost at current prices of an exact duplicate of the subject property.

rescission: The legal remedy of canceling, terminating, or annulling a contract and restoring the parties to their original positions. Contracts may be rescinded due to mistake, fraud, or misrepresentation. There is no need to show any money damage.

reserves: A portion of earnings set aside to cover possible future losses.

reserves for replacement: An amount of money budgeted for replacements of short-lived components of an investment property, such as appliances.

Residential Rental Agreement Act: The state law that mandates delivery of habitable residential rental units; obligations of the landlord and the tenant are mutually dependent. Provides tenant with rights and remedies such as the Retaliatory Eviction Doctrine.

Resolution Trust Corporation: The organization created by the Financial Institutions Reform, Recovery, and Enforcement Act (FIRREA) to liquidate the assets of failed savings and loan associations.

restrictive covenant: Private agreements usually imposed by the owner when property is sold that limits the way the real estate ownership may be used; frequently used by owner/developer to maintain specific standards in a subdivision. The covenants are appurtenant. Also called *protective covenants*.

retainer fee: A small fee paid by the client upon creation of a buyer agency relationship as an advance partial compensation for services; it may be nonrefundable or applied to final compensation due depending on the agency agreement.

retaliatory eviction: Illegal eviction of a tenant that has exercised protected rights under the law.

return on investment (ROI): An annual percentage derived from dividing cash invested into net after-tax income.

revenue stamps: *See* excise tax.

reverse mortgage: A loan under which the homeowner receives monthly payments based on the homeowner's accumulated equity rather than a lump sum. The loan must be repaid at a prearranged date, upon the death of the owner, or the sale of the property.

reversionary interest: A future estate that the grantor holds while granting a life estate to another person.

ridge board: A heavy horizontal board, set on edge at the apex of the roof, to which the rafters are attached.

right of first opportunity to purchase: The right of a party to have the first opportunity to purchase or lease real estate for a designated price, if the owner ever decides to sell or lease; if the holder of the right does not opt to purchase, the owner may sell to a third party within a specified time. If sale to third party does not occur, the right is still valid and process restarts.

right of first refusal: The right of a person to have the first opportunity to either purchase or lease real property, if the owner ever decides to sell or lease; no terms are negotiated.

right of survivorship: *See* tenancy by the entirety.

right-of-way: The right given by a landowner to another to use the land as a pathway, without actually transferring ownership.

riparian rights: An owner's rights in land that borders on or includes a stream, river, or lake. These rights include access to and use of the water.

roofing felt: Sheets of flat or other close-woven, heavy material placed on top of the roof boards to insulate and waterproof the roof.

roofing shingle: Thin, small sheet of wood, asbestos, fiberglass, slate, metal, clay, or other material used as the outer covering for a roof. Shingles are laid in overlapping rows to completely cover the roof surface. Shingles are sometimes used as an outer covering for exterior walls.

rules and regulations: Real estate licensing authority orders that govern licensees' activities. They usually have the same force and effect as statutory law.

R-value: The insulation value of materials. The higher the R-value, the more resistant the material is to the transfer of heat.

sales comparison approach: The process of estimating the value of a property by examining and comparing actual sales of comparable properties.

sandwich lease: The sublessor's (original lessee's) interest in the real estate

satisfaction of mortgage: A document acknowledging the full repayment of a mortgage debt.

scheduled gross income (SGI): The amount of rental income the property could produce with 100% occupancy and all tenants paying full rent; also called *potential gross income*.

secondary mortgage market: A market for the purchase and sale of existing mortgages, designed to provide greater liquidity for mortgages; also called the *secondary money market*. Mortgages are first originated in the primary mortgage market.

section: A portion of township under the rectangular (government) survey system. A township is divided into 36 sections, numbered 1 through 36. A section is a square with mile-long sides and an area of one square mile, or 640 acres.

security agreement: *See* Uniform Commercial Code.

security deposit: A payment by a tenant, held by the landlord during the lease term and kept (wholly or partially) on default or destruction of the premises by the tenant.

self-dealing: Also known as a *secret profit*, an illegal act by a licensee who takes advantage of clients by failing to disclose the appropriate value of property.

self-help eviction: Illegal eviction practices used by landlords instead of lawful use of summary ejectment.

Seller Closing Disclosure (SCD): A type of settlement statement that may be used in residential transactions that are governed by TRID regulations.

servient tenement: Land on which an easement exists in favor of an adjacent property (called the *dominant tenement*); also called a *servient estate* or *tract*. Easement runs with the land.

setback: The amount of space local zoning regulations require between a lot line and a building line.

settlement: The process of adjusting and prorating credits, debits, and closing expenses to conclude a real estate transaction; referred to as *closing*.

settlement service provider: An individual or firm that handles the facilitation of closings.

settlement statement: A form that summarizes the flows of money owed by the seller and buyer (or credited to the seller or buyer) at the closing of the transaction.

severalty: The ownership of real property by only one person or entity; also called *sole ownership*.

severance: Changing an item of real estate to personal property by detaching it from the land; for example, cutting down a tree.

sharecropping: In an agricultural lease, the agreement between the landowner and the tenant farmer to split the crop or the profit from its sale, actually sharing the crop.

shared-appreciation mortgage (SAM): A mortgage loan in which the lender, in exchange for a loan with a lower interest rate, participates in the profits (if any) the borrower receives when the property is eventually sold.

sheathing: Insulating material that is applied to the wall framing; siding is applied on top of the sheathing.

shingles: Exterior roofing material frequently made of fiberglass, asphalt, or wood.

short sale: When a lender allows a borrower in default on mortgage loan payments to sell the mortgaged property for less money than necessary to satisfy the loan to avoid the delay and expense of a foreclosure sale; lender usually "forgives" the balance owed after the sale; although the IRS will frequently consider the forgiven amount to be taxable income for the borrower.

siding: Boards nailed horizontally to the vertical studs, with or without intervening sheathing, to form the exposed surface of the outside walls of the building. Siding may be made of wood, metal, or masonry sheets.

sill: The lowest horizontal member of the house frame, which rests atop the foundation wall and forms a base for the studs. The term can also refer to the lowest horizontal member in the frame for a window or door.

situs: The personal preference of people for one location over another, not necessarily based on objective facts and knowledge.

slab: A flat, horizontal reinforced concrete area, usually the interior floor of a building but also an exterior or a roof area.

soffit: The external underside of the eave; usually contains ventilation for the attic and/or roof.

soil suitability test: An engineer's test to determine the ability of the ground to absorb and drain water; used to determine suitability and location of septic system; also called a *percolation* or *perc test*.

sole plate: The bottom of the wall frame that connects the studs to the flooring.

special agent: One who is authorized by a principal to perform a single act or transaction. A real estate broker is usually a special agent of the seller authorized to find a ready, willing, and able buyer for a particular property, or a special agent of the buyer to find a specific type of property to purchase. Special agent has limited authority and cannot bind his principal.

special assessment: A tax or levy customarily imposed against only those specific parcels of real estate that will benefit from a proposed public improvement like a street or sewer.

special warranty deed: A deed in which the grantor only warrants, or guarantees, the title against defects arising during the period of the grantor's tenure and ownership of the property and not against defects existing before that time, generally using the language by, through, or under the grantor but not otherwise.

specific lien: A lien affecting or attaching only to a specific parcel of land or piece of real property; i.e. mortgage lien.

specific performance: A legal action to compel a party to carry out the terms of a contract.

split-level: Usually a house in which two or more floors are located directly above one another, and one or more additional floors, adjacent to them, are placed at a different level; a tri-level.

spot zoning: Zoning that illegally singles out property for either special or more restrictive treatment than is usual under the area zoning ordinance.

square-foot method: The appraisal method of estimating building costs by multiplying the number of

square feet in the improvements being appraised by the cost per square foot for recently constructed similar improvements.

statute of frauds: A state law that requires that certain instruments that convey interest in real estate be in writing to be legally enforceable, such as deeds, real estate sales contracts, and certain leases.

statute of limitations: That law pertaining to the period of time within which certain actions must be brought to court or be lost.

statutory right of redemption: The right of a defaulted property owner to recover the property after its sale by paying the appropriate fees and charges.

steering: The illegal practice of channeling home seekers to particular areas, either to maintain the homogeneity of an area or to change the character of an area, which limits their choices of where they can live.

stigmatized property: Property regarded as undesirable because of events that occurred there; also called *psychologically impacted property*. Some conditions that typically stigmatize a property are murder, gang-related activity, proximity to a nuclear plant, and even the alleged presence of ghosts.

straight-line method: A method of calculating depreciation for tax purposes, computed by dividing the adjusted basis of a property by the estimated number of years of remaining useful life.

straight-piping: An often illegal sewage disposal system that transports raw or partially settled sewage directly to a lake or stream, to a drainage system, or onto the ground.

stud: The vertical members in the wall framing; usually placed 16–24 inches apart and serve as main support for the roof and/or the story above.

subagent: One who is employed by a person already acting as an agent; typically a reference to a provisional broker licensed under a broker (agent) who is employed under the terms of a listing agreement. A subagent has the same duties to the client as the agent.

subdivision: A tract of land divided into two or more parcels by the owner, known as the *subdivider*, for the purpose of sale or development (either now or in the future); all land division involving the dedication of a new street or a change in an existing street.

subdivision and development ordinances: Municipal ordinances that establish requirements for subdivisions and development.

subdivision plat: *See* plat map.

subflooring: Boards or plywood sheets nailed directly to the floor joists, serving as a base for the finish flooring. Subflooring is usually made of rough boards; although some houses have concrete subflooring.

subjacent support: The support of the surface of land by the land's subsurface; duty of the owner of subsurface rights to support the surface of the land.

sublease/sublet: The leasing of premises by a tenant to a third party for part of the lessee's remaining term. *See* assignment.

subordination: Relegation to a lesser position, usually in respect to a right or security.

subordination agreement: A written agreement between holders of liens on a property that changes the priority of mortgage, judgment, and other liens under certain circumstances.

subprime loan: A loan made to a borrower with a credit rating below what is required for regular loans creating greater risk liability for the lender that is countered by higher interest rates and fees; called *B*, *C*, or *D paper*.

subrogation clause: Any rights the insured had to sue the person who caused the damage are assigned to the insurance company that has already paid the insured for the damages.

substitution: An appraisal principle that states that the maximum value of a property tends to be set by the cost of purchasing an equally desirable and valuable substitute

property, assuming that no costly delay is encountered in making the substitution.

subsurface rights: Ownership rights in a parcel of real estate to the water, minerals, gas, oil, and so forth that lie beneath the surface of the property.

success fee: Compensation that is due and payable upon the creation of a valid sales contract for property located by the buyer's agent.

suit to quiet title: A court action intended to establish or settle the title to a particular property, especially when a cloud on the title exists.

summary ejectment: Legal eviction procedure heard before a magistrate for removal of a tenant that has breached the lease terms.

supply: The amount of goods available in the market to be sold at a given price. The term is often coupled with demand.

supply and demand: The appraisal principle that follows the interrelationship of the supply of and demand for real estate. As appraising is based on economic concepts, this principle recognizes that real property is subject to the influences of the marketplace, as is any other commodity.

surety bond: An agreement by an insurance or a bonding company to be responsible for certain possible defaults, debts, or obligations contracted for by an insured party; in essence, a policy insuring one's personal or financial integrity. In the real estate business, a surety bond is generally used to ensure that a particular project will be completed at a certain date or that a contract will be performed as stated.

surface rights: Ownership rights in a parcel of real estate that are limited to the surface of the property and do not include the air above it (air rights) or the minerals below the surface (subsurface rights).

survey: The process by which boundaries are measured and land areas are determined; the on-site measurement of lot lines, dimensions, and position of a house on a lot, including the determination of any existing encroachments or easements.

syndicate: A combination of people or firms formed to accomplish a business venture of mutual interest by pooling resources. In a real estate investment syndicate, the parties own and/or develop property, with the main profit generally arising from the sale of the property.

tacking: Adding or combining successive periods of continuous occupation of real property by adverse possessors. This concept enables someone who has not been in possession for the entire statutory period to establish a claim of adverse possession.

target housing: According to the EPA, housing built before 1978 (with some exceptions).

taxation: The process by which a government or municipal quasi-public body raises monies to fund its operation.

tax credit: An amount by which tax owed is reduced directly.

tax deed: An instrument, similar to a certificate of sale, given to a purchaser at a tax sale. *See* certificate of sale.

tax lien: A statutory lien against real property for nonpayment of taxes. Real and personal property tax liens and assessments take priority over all other liens. Real property tax and assessment liens are specific liens; personal property tax liens are general liens.

tax sale: A court-ordered sale of real property to raise money to cover delinquent taxes.

tenancy by the entirety: A concurrent form of ownership reserved for property owned by spouses. Right of survivorship is mandatory; making the surviving spouse owner in severalty immediately upon the death of a spouse.

tenancy in common: A concurrent form of ownership in which each owner holds an undivided interest in the real property. Ownership interests can be unequal and the right of survivorship is not allowed.

Tenant Security Deposit Act: The state act that regulates the amount and use of money that can be required as a security deposit and how the landlord holds that deposit. The maximum amount of the deposit depends on the term of the tenancy.

tenements: Any structures attached to the land.

term loan: A loan in which only interest is paid during the term of the loan, with the entire principal due with the final interest payment; also called a *straight loan*.

testate: Having made and left a valid will.

tier (township strip): A strip of land six miles wide, extending east and west and numbered north and south according to its distance from the base line in the government rectangular survey system of legal description.

TILA/RESPA Integrated Disclosure (TRID): Rules which integrate the Real Estate Settlement Procedures Act (RESPA) and Truth in Lending Act (TILA) disclosures and regulations. The rule describes the use of the Loan Estimate and the Buyer Closing Disclosure, among other matters. The TRID rules and forms took effect on October 3, 2015.

"time is of the essence": A phrase in a contract that requires the performance of a certain act no later than a stated time or the noncompliant party is in breach and the contract may be voidable by the opposite party.

time-share ownership: Any right to occupy a unit of real property during five or more separated time periods over a period of at least five years.

title: (1) The right to or ownership of land. (2) The evidence of ownership of land.

title insurance: A policy insuring the owner and/or mortgagee against loss by reason of defects in the title to a parcel of real estate, other than encumbrances, defects, and matters specifically excluded by the policy.

title search: The search of public records to determine the current state of ownership of real estate; examining chain of title.

title theory: Describing those states like North Carolina that interpret a mortgage to mean that the lender is the owner of mortgaged land who vests the legal title with the trustee while borrower holds equitable title. Borrower regains legal title upon full payment of the mortgage debt.

top plate: The top part of the wall framing that connects the stud to the ceiling framing.

topographic survey: A survey that measures the features of the earth's surfaces such as hills and valleys plus the location of roads.

Torrens system: A method of evidencing title by registration with the proper public authority, generally called the *registrar*, named for its founder, Sir Robert Torrens.

tort: A wrongful act, injury, or violation of legal right to the person or property of another.

Total Circumstances Test: A method used by judges to determine whether an item is a fixture or personal property.

town house ownership: A hybrid form of ownership where the owner holds fee title to their unit and the ground beneath; horizontal ownership. Frequent use of party walls; row houses. Common areas are usually owned and maintained with other unit owners through a homeowners association.

township: The principal unit of the rectangular (government) survey system. A township is a square with six-mile sides and an area of 36 square miles.

township lines: All the lines in a rectangular survey system that run east and west, parallel to the base line, six miles apart.

trade fixture: An article installed by a tenant under the terms of a lease and removable by the tenant before the lease expires.

transaction broker: The real estate licensee who assists buyers and sellers in reaching an agreement in a real estate

transaction without representing interests of either party. The licensee treats both parties equally as customers.

transfer tax: Tax stamps required to be affixed to a deed by state or local law; excise tax, formerly known as *revenue stamps*.

trust: A fiduciary arrangement whereby property is conveyed to a person or an institution, called a *trustee*, to be held and administered on behalf of another person, called a *beneficiary*. The one who conveys the trust is called the *trustor*.

trustee The holder of bare, legal title in a deed of trust loan transaction on behalf of a beneficiary.

trustee's deed: A deed executed by a trustee conveying land held in a trust.

trust funds: Those monies received on behalf of others by a real estate licensee while acting as an agent in a real estate transaction. Generally, trust funds include earnest money deposits, down payments, tenant security deposits, rents, and monies received from final settlements and must be deposited into a trust account in accordance with North Carolina Real Estate Commission Rules.

Truth in Lending Act: *See* Regulation Z.

U.S. Department of Agriculture: An agency that offers programs to help purchase or operate family farms as well as provide loans to help purchase or improve single-family homes in rural areas—generally areas with a population of fewer than 10,000 that are not suburbs of urban areas.

underground storage tank (UST): A tank and any underground piping connected to the tank that has at least 10% of its combined volume underground; federal UST regulations apply to only those storing either petroleum or certain hazardous substances.

undisclosed dual agency: An illegal agency relationship where buyers and/or sellers are unaware of an individual broker or firm's conflicting duties to their clients.

undivided interest: *See* tenancy in common.

unenforceable contract: A contract that has all the elements of a valid contract, yet neither party can sue the other to force performance of it. For example, a verbal contract is generally unenforceable.

Uniform Commercial Code: A codification of commercial law, adopted in most states, that attempts to make uniform all laws relating to commercial transactions, including chattel mortgages and bulk transfers. When chattels are purchased on credit, security interests are created by an instrument known as a *security agreement*. To give notice of the security interest, a financing statement must be recorded. Article 6 of the code regulates bulk transfers—the sale of a business as a whole, including all fixtures, chattels, and merchandise.

Uniform Electronic Transactions Act (UETA): North Carolina version of the federal E-sign legislation that validates electronic contracts, documents, and signatures.

unilateral contract: A one-sided contract wherein one party makes a promise to induce a second party to do something. The second party is not legally bound to perform; however, if the second party does comply, the first party is obligated to keep the promise.

unit-in-place method: The appraisal method of estimating building costs by calculating the costs of all of the physical components in the structure, with the cost of each item including its proper installation, connection, et cetera.; also called the *segregated cost method*.

universal agent: Person empowered to do anything the principal could do personally; unlimited authority; unusual in real estate.

urea-formaldehyde foam insulation (UFFI): A 1970s foam insulation that released gases that can cause respiratory problems such as skin irritations or asthma attacks.

usury: Charging interest at a higher rate than the maximum rate established by state law.

vacancy and collection losses: The amount of income lost due to empty units or tenants not paying full rent.

vacancy rate: The percentage of the total space that is unoccupied.

valid contract: A contract that complies with all the essentials of a contract and is binding and enforceable on all parties to it.

VA-guaranteed loan: A mortgage loan on approved property made to a qualified veteran by an authorized lender and guaranteed by the Department of Veterans Affairs to limit the lender's possible loss.

value: The power of a good or service to command other goods in exchange for the present worth of future rights to its income or amenities.

variance: Permission obtained from zoning authorities to build a structure or conduct a use that is expressly prohibited by the current zoning laws; an exemption from ordinances due to unique hardship not created by the property owner.

vendee: Vendee is a buyer, usually under the terms of a land contract.

vendee: Vendor is a seller, usually in a land contract.

vicarious liability: Liability for the actions of another party due to the legal relationship between them. Principals and agents can be held responsible for the actions of subagents.

voidable contract: A contract that seems to be valid on the surface but may be rejected or disaffirmed by one or both of the parties.

void contract: A contract that has no legal force or effect because it does not meet the essential elements of a contract.

voluntary lien: A lien placed on property with the knowledge and consent of the property owner; such as a mortgage lien.

walk-through inspection: The final inspection of the property by the buyer prior to closing to assure that the seller has vacated, made required repairs satisfactorily, and delivered the property in the condition it was in at contract.

waste: An improper use or abuse of a property by a possessor who holds less than fee ownership, such as a tenant, life tenant, mortgagor, or vendee. Such waste ordinarily impairs the value of the land or the interest of the person holding the title or the reversionary rights.

water table: Natural water level whether it is above or below ground level.

wetlands: Areas periodically inundated or saturated to the extent that they can or do support vegetation adapted to aquatic conditions.

will: A written document, properly witnessed, providing for the transfer of title to property owned by the deceased.

willful misrepresentation: Intentionally misinforming any party involved in a transaction about a material fact.

willful omission: Intentionally failing to disclose a material fact to any party involved in a transaction.

Working with Real Estate Agents: A mandatory agency information brochure that a licensee must give to and review with consumers in all real estate sales transactions no later than first substantial contact; it does not create agency.

wraparound loan: A method of refinancing in which the new mortgage is placed in a secondary, or subordinate, position. The new mortgage includes both the unpaid principal balance of the first mortgage and whatever additional sums are advanced by the lender. In essence, it is an additional mortgage in which another lender refinances a borrower by lending an amount exceeding the existing first mortgage amount without disturbing the existence of the first mortgage.

writ of attachment: At the request of a creditor, the court retains custody of the unsecured property during the lawsuit to ensure that the property remains available to satisfy a judgment ordered as resolution of the suit by the court. A recorded writ is an encumbrance on the property.

writ of execution: A court order directing the county sheriff to sell a defendant's property as required by judgment or court decree.

yield: The return on investment; amount of profit.

yield spread premium: A fee, usually expressed as a percentage of the loan amount, paid by a lender to a mortgage broker for making a loan at an above-market interest rate with little or no origination fee. The lender will receive an increased yield due to the higher interest rate, thus allowing the compensation of the mortgage broker without an origination fee.

zoning ordinance: An exercise of police power by a municipality to regulate and control the character and use of property. Zoning is local in nature.