

has the right to possession and use of the land over a period of time (usually in excess of 1 year) and makes periodic payments of a portion of the purchase price to the seller. The seller retains legal title to the property until the final payment is made, at which time the buyer will receive a deed to the land vesting fee title in the buyer.

*Mortgage.* Real estate security instrument which pledges land as security for the performance of an obligation such as repayment of a loan. For the purpose of this regulation the term "mortgage" includes deed of trust and deed to secure debt. A real estate mortgage or deed of trust form for the state in which the land to be taken as security is available in any agency office, and will be used to secure a mortgage to the agency.

*National Office.* The National Headquarters Office of FSA or RHS depending on the loan program involved.

*OGC.* The Office of the General Counsel, United States Department of Agriculture.

*Program regulations.* The agency regulations for the particular loan program involved (e.g., 7 CFR part 3550 for single family housing (SFH) loans).

*Quitclaim deed.* A transfer of the seller's interest in the title, without warranties or covenants. This type of deed is used by the agency to convey title to purchasers of inventory property.

*RHS.* The Rural Housing Service, an agency of the United States Department of Agriculture, or its successor agency. RHS is the successor agency to the Rural Housing and Community Development Service (RHCD) which was, in turn, the successor agency to the Farmers Home Administration.

*Seller.* Individual or other entity which convey ownership in real property to an applicant for an agency loan or to the agency itself.

*Special warranty deed.* A deed containing a covenant whereby the grantor agrees to protect the grantee against any claims arising during the grantor's period of ownership.

*State Office.* For FSA, this term refers to the FSA State Office. For RHS, this term refers to the Rural Development State Director.

*Title clearance.* Examination of a title and its exceptions to assure the agency

that the loan is legally secured and has the required priority.

*Title company.* A company that may abstract title, act as an issuing agent of title insurance for a title insurance company, act as a loan closing agent, and perform other duties associated with real estate title clearance and loan closing.

*Title defects.* Any exception or legal claim of ownership (through deed, lien, judgment, or other recorded document), on behalf of a third party, which would prevent the seller from conveying a marketable title to the entire property.

*Trust deed.* A three party security instrument conveying title to land as security for the performance of an obligation, such as the repayment of a loan. For the purpose of this regulation a trust deed is covered by the term "mortgage." A trust deed is the same as a deed of trust.

*Voluntary conveyance.* A method of liquidation by which title to agency security is transferred by a borrower to the agency by deed in lieu of foreclosure.

*Warranty deed.* A deed in which the grantor warrants that he or she has the right to convey the property, the title is free from encumbrances, and the grantor shall take further action necessary to perfect or defend the title.

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#### § 1927.53 Costs of title clearance and closing of transactions.

The borrower or the seller, or both, in compliance with the terms of the sales contract or option will be responsible for payment of all costs of title clearance and closing of the transaction and will arrange for payment before the transaction is closed. These costs will include any costs of abstracts of title, land surveys, attorney's fees, owner's and lender's policies of title insurance, obtaining curative material, notary fees, documentary stamps, recording costs, tax monitoring service, and other expenses necessary to complete the transaction.